STATUTORY INSTRUMENTS

1962 No. 300

NATIONAL INSURANCE

The National Insurance (Contributions) Amendment Regulations, 1962

Made - - - -	13*th February*, 1962
Laid before Parliament	21*st February*, 1962
Coming into Operation	26*th February*, 1962

The Minister of Pensions and National Insurance, in conjunction with the Treasury, in exercise of powers conferred by sections 2 (5), 5 (1), 6 (1), 8 (1) and 60 of the National Insurance Act, 1946(a), and of all other powers enabling him in that behalf, after considering the report of the National Insurance Advisory Committee on the preliminary draft submitted to them, hereby makes the following regulations:—

Citation, interpretation and commencement

1. These regulations, which may be cited as the National Insurance (Contributions) Amendment Regulations, 1962, shall be read as one with the National Insurance (Contributions) Regulations, 1948(b), as amended(c) (hereinafter referred to as "the principal regulations"), and shall come into operation on the 26th February, 1962.

Amendment of regulation 4 *of the principal regulations*

2. The following proviso shall be added at the end of sub-paragraph (*c*) of paragraph (3) of regulation 4 of the principal regulations (which sub-paragraph provides that a period for which a person is disqualified for receiving sickness benefit by reason of being absent from Great Britain shall not be a period of incapacity for work for the purposes of the provisions of the principal regulations relating to the crediting of contributions for periods of such incapacity):—

"Provided that any day in respect of which industrial injury benefit is payable to an insured person under the Industrial Injuries Act shall be treated as a day of incapacity for work."

Regulation substituted for regulations 6 *and* 6A *of the principal regulations*

3. For regulations 6(d) and 6A(e) of the principal regulations there shall be substituted the following regulation:—

"*Widows*

6.—(1) A widow who but for the provisions of this paragraph would be liable to pay a contribution as an insured person, shall be entitled but shall not be liable to pay such a contribution, and if she is an

(a) 9 & 10 Geo. 6. c. 67.
(b) S.I. 1948/1417 (Rev. XVI, p. 164: 1948 I, p. 2767).
(c) The relevant amending regulations are S.I. 1950/330, 1947, 1954/189, 1956/2020, 1957/1835, 2176, 1959/847, 1960/1210, 1961/867 (1950 II, pp. 15, 20; 1954 I, p. 1387; 1956 I, p. 1639; 1957 I, pp. 1523, 1642; 1959 II, p. 1882; 1960 II, p. 2234; 1961 II, p. 1693).
(d) *See* S.I. 1959/847, reg. 7 (1959 II, p. 1882).
(e) *See* S.I. 1957/2176, reg. 4; 1959/847, reg. 8; 1961/867, reg. 2 (1957 I, p. 1642; 1959 II, p. 1882; 1961 II, p. 1693).

employed person her employer shall not be liable to pay such a contribution on her behalf unless before the expiry of the time prescribed(a) for payment he is informed of her desire to pay it—

(*a*) for the week in which the death of her husband occurs and each of the thirteen succeeding weeks ; and

(*b*) if at the end of that period there is pending a claim or application, made by her or on her behalf as a widow, for any benefit or specified benefit referred to in paragraph (2) or paragraph (3) of this regulation other than a widow's basic pension or a contributory old age pension, for each week during any part of which that claim or application remains pending.

(2) A woman who is a non-employed person shall be entitled but shall not be liable to pay a contribution as a non-employed person for any week for the whole or any part of which widow's benefit (not being a widow's basic pension within the meaning of the National Insurance (Pensions, Existing Beneficiaries and Other Persons) (Transitional) Regulations, 1948(b)) is payable to her as the widow of her husband or would be so payable but for the provisions of subsection (3) of section 17 of the Act (which subsection relates to the reduction, based on earnings, of widow's benefit).

(3) A woman who is an employed or self-employed person shall not be liable to pay a contribution as an employed or self-employed person, as the case may be, for any such week as is specified in paragraph (2) of this regulation or for any week for the whole or any part of which a retirement pension by virtue of her husband's insurance (not being a contributory old age pension within the meaning of the last-mentioned regulations) is payable to her as the widow of her husband or would be so payable but for the provisions of subsection (5) of section 20 of the Act (which subsection relates to the reduction, based on earnings, of retirement pensions), and a woman shall not be liable to pay a contribution as an insured person for any week for the whole or any part of which any of the specified benefits as defined in paragraph (4) of regulation 2 of the National Insurance (Overlapping Benefits) Regulations, 1948(c), is payable to her as a widow at a weekly rate which is not less than the weekly rate of widow's pension under the Act which is specified in the second column of Part I of the Second Schedule thereto, if (in each case) it is a week to which a certificate of exception issued or deemed to have been issued by the Minister pursuant to this regulation relates

(4) Where such a certificate has been, or is deemed to have been, issued to a woman to whom any of the said specified benefits was payable as a widow at a weekly rate not less than the weekly rate of widow's pension aforesaid, any subsequent increase in the weekly rate of widow's pension under the Act shall, so long as she remains a widow, be disregarded for the purpose of the application to her of the provisions of the last foregoing paragraph.

(5) The following provisions shall apply in relation to the issue and operation of certificates of exception pursuant to this regulation:—

(*a*) A woman desiring the issue of such a certificate shall apply to the Minister therefor and the Minister shall issue a certificate if

(a) S.I. 1948/1274, reg. 6 (Rev. XVI, p. 148: 1948 I, p. 3037).
(b) S.I. 1948/55 (Rev. XVI, p. 36: 1948 I, p. 2822).
(c) S.I. 1948/2711 (Rev. XVI, p. 196: 1948 I, p. 2657).

he is satisfied that she is, or that if she were an employed or self-employed person she would be, entitled subject to the issue thereof to exception from liability to pay contributions.

(*b*) The period to which the certificate relates shall commence—

(i) if application for the certificate is made not later than thirteen weeks after the applicant's being notified of the award to her of any benefit or specified benefit by virtue whereof she is entitled to such a certificate, at the beginning of the week in which she was so notified ; and

(ii) if application for the certificate is not so made, at the beginning of the week in which the application is made :

Provided that if in any case it appears to the Minister that the making of application for the certificate has been delayed by reason of an error on the part of the applicant as to her right to exception from liability to pay contributions or to apply for a certificate, or as to the effect upon her rights under the Act of obtaining or failing to obtain such a certificate or of paying or failing to pay contributions, he may direct that the period to which the certificate relates shall commence at the beginning of such earlier week as he considers appropriate in the circumstances.

(*c*) Where a woman entitled by virtue of paragraph (3) of this regulation, subject to the issue of a certificate, to exception from liability to pay contributions was, immediately before the death of her husband occurring on or after the 26th February, 1962, an employed person who had elected not to be liable to pay contributions as an employed person, or a self-employed or non-employed person who had not elected to be liable to pay contributions as a self-employed or non-employed person—

(i) a certificate shall be deemed to have been issued to her by the Minister pursuant to this regulation and to relate to the period commencing at the beginning of the week in which the death of her husband occurs ; and

(ii) any certificate of election not to pay contributions as an employed person issued to her as a married woman shall be treated for the purposes of this regulation as a certificate of exception issued pursuant to this regulation ;

unless she notifies the Minister that she does not wish to be excepted from liability to pay contributions.

(*d*) Any certificate issued or deemed to be issued under the regulations for which this regulation is substituted, and in operation immediately before the 26th February, 1962, shall be deemed for the purposes of this regulation to be a certificate issued by the Minister pursuant to this regulation and to relate to the period commencing on the 26th February, 1962.

(*e*) A person to whom a certificate is issued pursuant to this regulation, or to whom a certificate, issued under other provisions, is deemed to have been issued pursuant to this regulation, shall produce it without delay to any employer who may employ her while it is in operation.

(*f*) A person to whom a certificate is issued or deemed to be issued pursuant to this regulation—

(i) may give notice to the Minister at any time that she desires it to be cancelled, in which event the certificate shall cease to be in operation from such date as the Minister may determine;

(ii) upon giving such notice shall surrender to the Minister any certificate issued to her pursuant to this regulation or issued to her under other provisions and deemed to have been issued pursuant to this regulation; and

(iii) if she is an employed person shall inform her employer forthwith of any cancellation of her certificate and of the date from which it ceased to be in operation.

(6) For the purposes of regulation 18—

(*a*) any contribution as an insured person paid in respect of any week commencing—

(i) on or after the 26th February, 1962, by a woman excepted from liability to pay that contribution by virtue of any of the provisions of this regulation; or

(ii) before the 26th February, 1962, by a woman entitled, either absolutely or subject to application for and issue of a certificate, to exception from liability to pay that contribution by virtue of the corresponding provisions of any regulations formerly in force;

shall be treated as a contribution paid under the erroneous belief that it was payable if it was paid in error and the error was of a description specified in the proviso to sub-paragraph (*b*) of paragraph (5) of this regulation; and

(*b*) an application for the return of any contribution so treated shall be deemed to be made within the appropriate time specified in paragraph (4) of the said regulation 18 if it is made within six years from the date on which the said woman discovered her error."

Addition to the principal regulations

4. The following regulation shall be inserted immediately after regulation 21(a) of the principal regulations:—

"*Treatment for the purpose of any benefit of contributions paid late through ignorance or error*

21A. In the case of a contribution paid after the due date, where—

(*a*) the contribution is paid after the time when it would, under the following provisions of these regulations, have been treated as paid for the purposes of the right to a benefit; and

(*b*) the failure to pay the contribution before that time is shown to the satisfaction of the Minister to be attributable to ignorance or error on the part of the insured person which was not due to any failure on his part to exercise due care and diligence;

the Minister may direct that for the purposes of the following provisions of this Part of these regulations the contribution shall be treated as having been paid on such earlier day as he may consider appropriate in the circumstances and those provisions shall have effect subject to any such direction."

(a) *See* S.I. 1950/330, reg. 3; 1960/1210, reg. 11 (1950 II, p. 15; 1960 II, p. 2234).

Amendment of regulation 22 of the principal regulations

5. In sub-paragraph (*b*) of paragraph (2) of regulation 22(**a**) of the principal regulations (which sub-paragraph provides that for the purposes of any right to unemployment and sickness benefit, in determining the number of contributions paid or credited in respect of the last complete contribution year before the beginning of the benefit year which includes the day for which benefit is claimed, a contribution paid after the due date and during the said benefit year shall be treated as not paid in relation to the right to benefit in respect of any day before the expiry of a period of 42 days from the date of payment) there shall be inserted immediately after " 42 days (including Sundays) from " the words " and including ".

Amendment of regulation 27 of the principal regulations

6. In paragraph (1) of regulation 27(**b**) of the principal regulations (which paragraph makes provision as to the application of regulations 22 to 26 in relation to contributions which persons are entitled, but not liable, to pay) there shall be substituted for the number " 22 " the number " 21A ".

Revocation of regulations

7. The regulations specified in the Schedule to these regulations are hereby revoked to the extent mentioned in the third column of that Schedule but this revocation shall not affect the previous operation thereof, or anything duly done or suffered or any right, privilege, obligation or liability acquired, accrued, or incurred thereunder.

Dated this Twelfth day of February, 1962.

John Boyd-Carpenter,
Minister of Pensions and National Insurance.

Dated this Thirteenth day of February, 1962.

John Hill,
W. S. I. Whitelaw,
Two of the Lords Commissioners of Her Majesty's Treasury.

(**a**) *See* S.I. 1950/330, reg. 3 (1950 II, p. 15).
(**b**) *See* S.I. 1950/1947, reg. 5 (1950 II, p. 20).

Regulation 7

SCHEDULE

REGULATIONS REVOKED

Statutory Instrument	Citation	Extent of Revocation
S.I. 1948/1275 (Rev. XVI, p. 88: 1948 I, p. 2864)	The National Insurance (Residence and Persons Abroad) Regulations, 1948.	The references to regulations 6 and 6A of the National Insurance (Contributions) Regulations, 1948, contained in the Schedule(a).
S.I. 1957/2177 (1957 I, p. 1689)	The National Insurance (Residence and Persons Abroad) Amendment (No. 2) Regulations, 1957.	The whole of the regulations.
S.I. 1961/867 (1961 II, p. 1963)	The National Insurance (Contributions) Amendment Regulations, 1961.	The whole of the regulations.

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations amend the National Insurance (Contributions) Regulations, 1948.

Regulation 2 provides that a day in respect of which industrial injury benefit is payable to a person is to be treated as a day of incapacity for work for the purposes of the provisions relating to the crediting of contributions for weeks of incapacity for work, notwithstanding that person's absence from Great Britain.

Regulation 3 replaces the previous provisions as to the exception of widows from liability to pay contributions. It also provides for a period of 14 weeks at the commencement of widowhood during which the widow (without needing to apply for a certificate of exception) is to be entitled, but not liable, to pay contributions and for an extension of that period if a claim to widow's benefit, or to a widow's pension under the National Insurance (Industrial Injuries) Act, 1946, or to certain war or Service pensions and allowances, is pending when the period ends. It contains transitional and procedural provisions in connection with the issue of certificates of exception, including provision as to the date from which such certificates shall operate, and makes provision as to the refund of contributions paid in error by widows. The regulation does not replace the former provisions concerning the crediting of contributions to widows, which are now replaced by provisions in the National Insurance (Married Women) Amendment Regulations, 1961.

Regulation 4 provides for the mitigation or avoidance of the adverse consequences on a person's benefit rights of the late payment of contributions, where the lateness was attributable to ignorance or error for which he was not to blame, and Regulation 5 makes clear that the date of payment is included in the period of 42 days during which a late paid

(a) *See* S.I. 1957/1300, 2177 (1957 I, pp. 1687, 1689).

contribution, paid during the same benefit year as a day for which unemployment or sickness benefit is claimed, does not count towards satisfaction of the contribution condition relating to the number of contributions paid or credited in respect of the last complete contribution year.

The other provisions are formal or consequential.

The report of the National Insurance Advisory Committee on the preliminary draft of these Regulations (described on its publication as the preliminary draft of the National Insurance (Contributions) Amendment (No. 2) Regulations, 1961) dated the 12th January, 1962, is contained in the House of Commons Paper No. 107 (Session 1961-62) published by Her Majesty's Stationery Office.