STATUTORY INSTRUMENTS

1973 No. 1124

SOCIAL SECURITY

The National Insurance (Death Grant) Regulations 1973

Made - - -	21*st June* 1973
Laid before Parliament	3*rd July* 1973
Coming into Operation	24*th July* 1973

The National Insurance Joint Authority, in exercise of powers conferred by sections 18(2), 39(4), 45 and 49(1) and (2) of the National Insurance Act 1965**(a)**, and now vested in them **(b)**, and the Secretary of State for Social Services**(c)**, in exercise of powers conferred by sections 39(2), 49(1) and 81(3) of, and paragraphs 1, 17, 18 and 19(e) of Schedule 11 to that Act and by section 8 of the National Insurance Act 1969**(d)**, in each case in conjunction with the Treasury so far as relates to matters with regard to which the Treasury have so directed **(e)**, and in exercise of all other powers enabling them in that behalf, and for the purpose only of consolidating the regulations hereby revoked, hereby make the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Insurance (Death Grant) Regulations 1973 and shall come into operation on 24th July 1973.

(2) In these regulations, unless the context otherwise requires:—

"the Act" means the National Insurance Act 1965;

"the New Entrants Regulations" means the National Insurance (New Entrants Transitional) Regulations 1949**(f)**, as amended **(g)**;

"the Residence and Persons Abroad Regulations" means the National Insurance (Residence and Persons Abroad) Regulations 1948**(h)**, as amended **(i)**;

"the General Transitional Regulations" means the National Insurance (General Transitional) Regulations 1948**(j)**;

"the General Benefit Regulations" means the National Insurance (General Benefit) Regulations 1970**(k)**, as amended **(l)**;

(a) 1965 c. 51.
(b) *See* S.I. 1948/211 (Rev. XVI, p. 367: 1948 I, p. 2905) and ss. 104(4)(*b*) and 117(1) of the National Insurance Act 1965 (c. 51).
(c) For transfer of functions from the Minister of Pensions and National Insurance to (eventually) the Secretary of State, *see* Ministry of Social Security Act 1966 (c.20) and S.I. 1968/1699 (1968 III, p. 4585). **(d)** 1969 c. 44.
(e) *See* s. 106(5) of the National Insurance Act 1965 (c. 51).
(f) S.I. 1949/352 (1949 I, p. 2737).
(g) The relevant amending instruments are S.I. 1957/2147, 1958/1239, 1960/1210 (1957 I, p. 1694; 1958 II, p. 1661; 1960 II, p. 2234).
(h) S.I. 1948/1275 (Rev. XVI, p. 88: 1948 I, p. 2864).
(i) The relevant amending instruments are S.I. 1950/1946, 1956/2021, 1958/1084, 1960/1210 (1950 II, p. 27; 1956 I, p. 1687; 1958 II, p. 1581; 1960 II, p. 2234).
(j) S.I. 1948/1503 (Rev. XVI, p.2:1948 I, p. 2880). **(k)** S.I. 1970/1981 (1970 III, p. 6461).
(l) The relevant amending instruments are S.I. 1971/621, 1419, 1972/166 (1971 I, p. 1623; II, p. 3964; 1972 I, p. 588).

"the Existing Contributors Regulations" means the National Insurance (Pensions, Existing Contributors) (Transitional) Regulations 1948**(a)**, as amended **(b)**;

"the Members of the Forces Regulations" means the National Insurance (Members of the Forces) Regulations 1968**(c)**;

"the Mariners Regulations" means the National Insurance (Mariners) Regulations 1967**(d)**;

"the Airmen Regulations" means the National Insurance (Airmen) Regulations 1948**(e)**;

"the Continental Shelf Regulations" means the National Insurance (Continental Shelf) Regulations 1964**(f)**;

"the Overlapping Benefits Regulations" means the National Insurance (Overlapping Benefits) Regulations 1972**(g)**;

"British Islands" means the United Kingdom, the Channel Islands and the Isle of Man;

"the deceased" has the same meaning as in section 39 of the Act;

"contributions" has the same meaning as in the Act save that it does not include graduated contributions;

and other expressions have the same meanings as in the Act.

(3) References in these regulations to any enactment or regulation shall, except in so far as the context otherwise requires, be construed as references to such enactment or regulations as amended or extended by any subsequent enactment, order or regulation and as including references to any enactment or regulation thereby consolidated.

(4) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889**(h)** shall apply in relation to this instrument (including any instrument read as one therewith) and in relation to any revocation effected by it as if this instrument, the regulations revoked by it and any regulations revoked by the regulations so revoked were Acts of Parliament, and as if each revocation were a repeal.

Calculation of yearly average of contributions, etc., for death grant

2.—(1) The yearly average of contributions paid by or credited to any person shall, in relation to death grant, be calculated in the same manner as that provided in regulation 3 of the General Benefit Regulations in relation to widow's benefit and retirement pensions, and accordingly that regulation shall also apply as a separate provision in relation to death grant.

(2) Regulation 13(2) of the said regulations (suspension of payment of certain benefits pending appeals to the National Insurance Commissioner) shall apply in relation to death grant as it applies in relation to the benefits referred to in sub-paragraph (*b*) of that regulation; and regulation 13(10) of the said regulations (payment of certain benefits in an emergency under arrangements made by the Secretary of State with the consent of the Treasury), other than paragraph (*b*) of the proviso thereto, shall apply in relation to death grant as it applies in relation to the benefits referred to in that regulation.

(a) S.I. 1948/612 (Rev. XVI, p. 18: 1948 I, p. 2834).
(b) The relevant amending instruments are S.I. 1957/1332, 1960/1210 (1957 I, p. 1706; 1960 II, p. 2234).
(c) S.I. 1968/827 (1968 II, p. 2228). **(d)** S.I. 1967/386 (1967 I, p. 1294).
(e) S.I. 1948/1466 (Rev. XVI, p. 108: 1948 I, p. 2616).
(f) S.I. 1964/1855 (1964 III, p. 4047). **(g)** S.I. 1972/604 (1972 I, p. 1994).
(h) 1889 c. 63.

Modification of the Act in relation to period over which yearly average of contributions is to be calculated for death grant in the case of certain persons under pensionable age and over 16

3. The period over which the yearly average of contributions paid by or credited to any person is to be calculated shall, in relation to death grant, in the case of any person becoming insured under the Act on or after 5th July 1948 who immediately before that date was under pensionable age and on that date was over the age of 16, be the same as that specified in regulation 2(1) of the New Entrants Regulations, and accordingly that regulation (other than sub-paragraph (*b*) thereof) shall apply in relation to death grant.

Special provisions for men over 55 *and women over* 50 *immediately before* 5*th July* 1948

4.—(1) The provisions of regulation 4(1)(*a*) and (*b*) of the New Entrants Regulations (postponement of the pensionable age for, and contributions paid by or in respect of, certain persons who immediately before 5th July 1948 were over the age of 55 in the case of men or 50 in the case of women and under pensionable age) shall apply in relation to death grant as they apply for the purposes of retirement pensions and widow's benefit.

(2) The provisions of regulation 10(1)(*a*) and (*b*) of the Existing Contributors Regulations (postponement of pensionable age for, and contributions paid by or in respect of, certain existing pensions contributors) shall apply in relation to death grant as they would apply for the purposes of retirement pensions and widow's benefit if regulation 10(2) of those regulations were omitted.

(3) Where a person attained pensionable age within the period of 26 weeks commencing on 5th July 1948, and by the time he had attained that age had not satisfied the contribution condition for death grant contained in paragraph 5(1)(*a*) of Schedule 2 to the Act, but thereafter further contributions have been or are paid by him, or have been or are credited to him in respect of any period commencing on or after 5th July 1948, which, if taken into account, would satisfy that condition, he shall be deemed to have satisfied that condition as from 5th July 1949, or the end of the week in respect of which the 26th contribution was so paid or credited, whichever is the later.

Children

5. Where the deceased was at death a child but the requirements of section 39(1) of the Act (persons by whom the contribution conditions for death grant may be satisfied) are not satisfied, a death grant shall, subject to the provisions of the Act, be payable in respect of the death of the deceased if the relevant contribution conditions are satisfied by either—

(1) a parent (including a person who has adopted a child pursuant to an order made in the British Islands or an overseas adoption within the meaning of section 4 of the Adoption Act 1968(**a**)) of the deceased, notwithstanding that the deceased was not at death a child of the family of that parent; or

(2) a person who, immediately before the deceased's death, was entitled to an increase of benefit in respect of the deceased under sections 40 or 41 of the Act (increases of benefit for children), or would have been so entitled had he then been entitled to any benefit of which the said section 40 provides an increase:

(**a**) 1968 c. 53.

Provided that—

(*a*) subject to the next following paragraph of this proviso, the amount of a death grant payable by virtue of this regulation shall not exceed the amount of the deceased's funeral expenses;

(*b*) the foregoing paragraph of this proviso shall not apply if the deceased would have been a child of the family of a parent satisfying the relevant contribution conditions but for the provisions of section 20(3) of the Family Allowances Act (condition of a child's being included in a family that the child is in Great Britain).

Deaths occurring outside Great Britain

6.—(1) Subject to the provisions of the Act and these regulations, a death grant shall be payable in respect of a death occurring outside Great Britain if the conditions contained in any one of the following sub-paragraphs are satisfied, namely—

(*a*) that the deceased immediately before death was, or but for any failure to make a claim would have been, entitled to sickness benefit or invalidity benefit under the Act, or to industrial injury benefit under the Industrial Injuries Act; or

(*b*) that the deceased immediately before death was, or but for any failure to make a claim would have been, entitled to widow's benefit or a retirement pension under the Act, or to industrial death benefit under the Industrial Injuries Act, or would have been entitled to a retirement pension had he then retired from regular employment and made the necessary claim, or was a child in respect of whom a child's special allowance or a guardian's allowance was payable; or

(*c*) that the deceased was a widow who was, immediately before her death, entitled to any personal death benefit by way of pension or allowance in respect of the death of her husband under any Personal Injuries Scheme, any Service Pensions Instrument or any 1914-1918 War Injuries Scheme; or

(*d*) that the deceased immediately before death was entitled to industrial disablement benefit under the Industrial Injuries Act; or

(*e*) that the deceased immediately before death was liable or entitled, as the case may be, to pay contributions either under the provisions of regulation 3(2) or regulation 5(2) of the Residence and Persons Abroad Regulations, or under regulation 3(3) of the General Transitional Regulations (circumstances in which contributions are payable by or in respect of persons for periods when they are outside Great Britain), and not less than 45 contributions were paid by or credited to him in respect of a contribution year, being either the last complete contribution year before his death or the contribution year immediately preceding that year; or

(*f*) that the deceased immediately before death was a serving member of the forces within the meaning of regulation 1(2) of the Members of the Forces Regulations; or

(*g*) that the deceased immediately before death was either—

(i) employed as a mariner within the meaning of regulation 1(2) of the Mariners Regulations (other than a mariner excepted from insurance by regulation 2(2) of those regulations) or as an airman within the meaning of regulation 1(2) of the Airmen Regulations (other than an airman excepted from insurance by regulation 2(2) of those regulations), or

(ii) a person who (then being otherwise entitled to unemployment benefit, or then being so entitled but for any failure to make a claim) by virtue of the relevant provisions of either of the said regulations was not disqualified for receiving any such benefit by reason of his absence from Great Britain; or

(*h*) that the deceased's death occurred in a designated area within the meaning of the Continental Shelf Regulations and that his absence from Great Britain immediately before his death was due to his being or having been in prescribed employment within the meaning of those regulations; or

(*i*) that the deceased immediately before death was either the wife or husband or child (to whom the provisions of section 39(1) of the Act are applicable) of a person who, had he then died, would have satisfied the conditions contained in any one of the foregoing paragraphs, and such wife or husband or child, as the case may be, was then resident with that person, and for this purpose the expression "child of the family" contained in the said section 39(1) shall be deemed to include a child who would be included in that expression but for the provisions of section 20(3) of the Family Allowances Act (condition of a child's being included in a family that the child is in Great Britain); or

(*j*) that the deceased immediately before death was ordinarily resident in Great Britain, and the death occurred within a period of 13 weeks or, in the case of a death occurring in the Channel Islands, within a period of 6 months from the date when he last left Great Britain; or

(*k*) that the deceased was a woman who immediately before death was residing in Great Britain with her husband and he was then an insured person satisfying the relevant contribution conditions; or

(*l*) that the deceased was a child (including a person treated as a child under section 39(3) of the Act) who immediately before death was residing in Great Britain with an insured person by virtue of whose satisfaction of the relevant contribution conditions a death grant is payable in respect of the deceased's death; or

(*m*) that the deceased died during or as the result of a confinement in respect of which she was not, or but for any failure to make a claim would not have been, disqualified for receiving maternity benefit (to which she was otherwise entitled) by reason of her absence from Great Britain.

(2) In this regulation, the expressions "personal death benefit", "Personal Injuries Scheme", "Service Pensions Instrument" and "1914-1918 War Injuries Scheme" have the same meanings as in the Overlapping Benefits Regulations.

Absence from Great Britain

7. A person shall not be disqualified for receiving death grant by reason of being absent from Great Britain.

Imprisonment and detention in legal custody

8. A person shall not be disqualified for receiving a death grant by reason of undergoing a period of imprisonment or detention in legal custody, but the payment of the grant shall be suspended during any such period:

Provided that the grant may nevertheless be paid during any such period to any person appointed by the Secretary of State to receive and deal with any sum payable on behalf of the beneficiary on account of the grant, and the receipt of any person so appointed shall be a good discharge to the Secretary of State and the National Insurance Fund for any sum so paid.

Partial satisfaction of contribution conditions, and reduced amount of death grant

9.—(1) Where a death grant would be payable but for the fact that the relevant contribution conditions are not satisfied as respects the yearly average of contributions paid or credited, the grant shall nevertheless be payable in accordance with the next succeeding paragraph if the yearly average of contributions paid or credited is not less than 13.

(2) Where the full amount of the death grant under Schedule 4 to the Act is one of the amount's first set out in columns (2), (3), (4), (5) and (6) of Schedule 1 to these regulations, then the grant shall be reduced to the amount specified in the appropriate column of the said Schedule 1 which corresponds with the yearly average of contributions paid or credited as shown in column (1) of that Schedule.

Revocation of regulations and general savings

10.—(1) The regulations specified in column (1) of Schedule 2 to these regulations are hereby revoked to the extent mentioned in column (3) of that Schedule.

(2) Anything whatsoever done under or by virtue of any regulation revoked by these regulations shall be deemed to have been done under or by virtue of the corresponding provisions of these regulations, and anything whatsoever begun under any such regulation may be continued under these regulations as if begun under these regulations.

(3) Nothing in paragraph (2) of this regulation shall be taken as affecting the general application by regulation 1(4) of these regulations of the rules for the construction of Acts of Parliament contained in section 38 of the Interpretation Act 1889 (effect of repeal) with regard to the effect of revocations.

Given under the official seal of the National Insurance Joint Authority.

(L.S.)

Keith Joseph,
Secretary of State for Social Services, a member of the National Insurance Joint Authority.

20th June 1973.

Keith Joseph,
Secretary of State for Social Services.

20th June 1973.

Tim Fortescue,
Oscar Murton,
Two of the Lords Commissioners of Her Majesty's Treasury.

21st June 1973.

SCHEDULE 1 Regulation 9(2)

Showing reduced amount of death grant payable if the contribution conditions are not fully satisfied.

(1)	(2)	(3)	(4)	(5)	(6)
	and the age of deceased at death was				
	over 18				
Yearly average of contributions paid or credited	and, if a man was under 55 on 4th July 1948 or; if a woman was under 50 at that date	and, if a man was over 55 and under 65 on 4th July 1948 or; if a woman, was over 50 and under 60 at that date	between 6 and 18	between 3 and 6	under 3
	Full amount of death grant payable under Schedule 4 to the National Insurance Act 1965				
	£30·00	£15·00	£22·50	£15·00	£9·00
	Reduced amount of death grant payable:—				
30–44	£22·50	£11·25	£16·87	£11·25	£6·75
13–29	£15·00	£7·50	£11·25	£7·50	£4·50

SCHEDULE 2 Regulation 10(1)

Regulations revoked (1)	Reference (2)	Extent of revocation (3)
The National Insurance (Death Grant) Regulations 1949	S.I. 1949/1204 (1949 I, p. 2708)	The whole regulations
The National Insurance (Death Grant) Amendment Regulations 1949	S.I. 1949/1696 (1949 I, p. 2717)	The whole regulations
The National Insurance (Child's Special Allowance) Regulations 1957	S.I. 1957/1835 (1957 I, p. 1523)	In the Schedule, the entry relating to regulation 5(*b*) of the National Insurance (Death Grant) Regulations 1949, as amended
The National Insurance (Death Grant) (Consequential Provisions) Regulations 1957	S.I. 1957/2179 (1957 I, p. 1527)	The whole regulations
The National Insurance (Graduated Contributions and Non-participating Employments—Miscellaneous Provisions) Regulations 1960	S.I. 1960/1210 (1960 II, p. 2234)	In the Schedule, the entry relating to the National Insurance (Death Grant) Regulations 1949
The National Insurance (Continental Shelf) Regulations 1964	S.I. 1964/1855 (1964 III, p. 4047)	Regulation 4
The National Insurance (Determination of Claims and Questions) (No. 2) Regulations 1967	S.I. 1967/1570 (1967 III, p. 4350)	In the Schedule the entry relating to the National Insurance (Death Grant) Regulations 1949
The Family Allowances, National Insurance, Industrial Injuries and Miscellaneous Provisions (Decimalisation of the Currency) Regulations 1970	S.I. 1970/46 (1970 I, p. 243)	Regulation 8 and Schedule 6

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations are made for the purpose only of consolidating Regulations hereby revoked, and accordingly, by virtue of section 108(9)(*c*) of the National Insurance Act 1965, no reference of them has been made to the National Insurance Advisory Committee.

These Regulations contain miscellaneous provisions affecting death grants. Regulation 1 relates to the citation, commencement and interpretation of the Regulations. Regulations 2-4 contain provisions relating to the contribution conditions for death grant. Regulation 5 contains special provisions relating to death grant in respect of children. Regulation 6 relates to the circumstances in which death grant is payable where the death occurs outside Great Britain. Regulations 7 and 8 relate to exception from disqualification for receiving death grant where the persons concerned are either absent from Great Britain or are imprisoned or detained in legal custody. Regulation 9 and Schedule 1 relate to payment of death grant at reduced rates, where the contribution conditions are only partially satisfied. Regulation 10 and Schedule 2 contain transitional provisions and provisions relating to the revocation of the former Regulations.

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