1959 No. 1154

The National Insurance (Determination of Claims and Questions) Amendment (No. 2) Regulations, 1959

Made - - - -	2*nd July*, 1959
Laid before Parliament	8*th July*, 1959
Coming into Operation	13*th July*, 1959

The Minister of Pensions and National Insurance and the National Insurance Joint Authority, in conjunction with the Treasury, in exercise of powers conferred by sections 43, 47 and 65 of the National Insurance Act, 1946(**a**), and by section 1 of the Family Allowances and National Insurance Act, 1959(**b**), and of all other powers enabling them in that behalf, hereby make the following regulations:—

PART I

Citation, interpretation and commencement

1. These regulations, which may be cited as the National Insurance (Determination of Claims and Questions) Amendment (No. 2) Regulations, 1959, shall be read as one with the National Insurance (Determination of Claims and Questions) Regulations, 1948(**c**), as amended(**d**) (hereinafter referred to as "the principal regulations") and shall come into operation on the 13th July, 1959.

PART II

Amendment of regulation 1 *of the principal regulations*

2. In paragraph (2) of regulation 1 of the principal regulations there shall be inserted immediately after the definition of "the Family Allowances Act" the following definition:—

"'the Act of 1959' means the Family Allowances and National Insurance Act, 1959;".

Amendment of regulation 2 *of the principal regulations*

3. In regulation 2 of the principal regulations (which regulation relates to persons to determine claims and questions) for paragraph (3) there shall be substituted the following paragraph:—

"(3) Any such question as is mentioned in subsection (2) of section 43 of the Act shall be determined in accordance with the provisions of subsection (1) of section 1 of the Act of 1959 and the regulations made by virtue of that subsection".

(**a**) 9 & 10 Geo. 6. c. 67. (**b**) 7 & 8 Eliz. 2. c. 18.
(**c**) S.I. 1948/1144 (Rev. XVI, p. 331: 1948 I, p. 2720).
(**d**) S.I. 1951/1208, 1952/1310, 1955/1788, 1957/1340, 1958/701, 1959/848 (1951 I, p. 1455; 1952 II, p. 2145; 1955 I, p. 1583; 1957 I, p. 1520; 1958 II, p. 1573; 1959 II, p. 1847); *and see* S.I. 1954/189 (1954 I, p. 1387), reg. 21 and Second Sch.; S.I. 1957/1835 (1957 I, p. 1523), reg. 4 and Sch.

Amendment of regulation 6 of the principal regulations

4.—(1) Regulation 6 of the principal regulations (which provides that certain decisions shall be conclusive for the purposes of proceedings under the Act) shall be amended in accordance with the following provisions of this regulation and shall accordingly have effect as set out in the First Schedule hereto.

(2) Paragraph (2) of the said regulation 6 shall be omitted.

(3) In paragraph (3) of the said regulation 6 there shall be substituted for the words "either of the preceding paragraphs" the words "paragraph (1) of this regulation", and the words "or under the Family Allowances Act, as the case may be" shall be omitted.

(4) In paragraph (4) of the said regulation 6 there shall be substituted for the words "in the preceding paragraphs" the words "in paragraph (1)", and the words "or any application for a reference or for a case stated has been made" and the words "or making such an application" shall be omitted.

Amendment of regulation 11 of the principal regulations

5.—(1) Regulation 11 of the principal regulations (which regulation relates to appeals to local tribunals) shall be amended in accordance with the following provisions of this regulation and shall accordingly have effect as set out in the Second Schedule hereto.

(2) In the proviso to paragraph (1) of the said regulation 11 for the words "subsection (2) of section 43 of the Act" there shall be substituted the words "the proviso to subsection (1) of section 1 of the Act of 1959".

Amendment of regulation 18 of the principal regulations

6.—(1) Regulation 18 of the principal regulations (which regulation relates to the review of decisions of an insurance officer, a local tribunal or the Commissioner) shall be amended in accordance with the following provisions of this regulation and shall accordingly have effect as set out in the Third Schedule hereto.

(2) In sub-paragraph (*c*) of paragraph (1) of the said regulation 18 for the words "the Family Allowances Act and the regulations made thereunder" there shall be substituted the words "the regulations made by virtue of subsection (1) of section (1) of the Act of 1959".

PART III

Addition to the principal regulations

7.—(1) The following provisions shall be added after regulation 23 of the principal regulations:—

"PART V

Transitional provisions

Definitions

24. In this Part of these regulations and in the Schedule thereto, unless the context otherwise requires—

"the Unemployment Insurance Acts" means the Unemployment Insurance Acts, 1935 to 1944;

"the Unemployment Insurance Act" means the Unemployment Insurance Act, 1935(a);

(a) 25 & 26 Geo. 5. c. 8.

" the Health Insurance Acts " means the National Health Insurance Acts, 1936 to 1941 ;

" the Health Insurance Act " means the National Health Insurance Act, 1936(a) ;

" the Contributory Pensions Acts " means the Widows', Orphans' and Old Age Contributory Pensions Acts, 1936 to 1941 ;

" the Contributory Pensions Act " means the Widows', Orphans' and Old Age Contributory Pensions Act, 1936(b) ;

" the repealed Acts " means the Unemployment Insurance Acts, the Health Insurance Acts and the Contributory Pensions Acts (other than those provisions thereof not repealed by the Act) or any one or more of those Acts ;

" the Transitional Regulations " means the National Insurance (Determination of Claims and Questions) (Transitional) Regulations, 1948(c).

Determination of questions arising under the repealed Acts

25. Where a question arising under or in connection with the repealed Acts—

(*a*) arises on or in connection with a claim to any benefit under those Acts ; or

(*b*) affects or may affect any person's right or prospective right to any benefit under the Act or to any benefit the right to which is preserved by or under the Act ; or

(*c*) affects or may affect any person's liability or entitlement to pay or to be credited with a contribution under the Act ;

that question shall, subject to the modifications prescribed in this Part of these regulations, be determined as if it were a question arising under or in connection with the Act and the provisions of the foregoing Parts of these regulations shall apply and shall, for the purpose of such application, be construed accordingly.

Special provisions as to determination of questions by the Minister

26. Where, by virtue of this Part of these regulations or otherwise, any question which arises under or in connection with the repealed Acts or which is dependent upon or affected by the provisions of those Acts falls to be determined under the provisions of the foregoing Parts of these regulations, paragraph (1) of regulation 2 shall have effect as if there were expressly included after the questions specified in sub-paragraphs (*a*), (*b*) and (*c*) thereof the following additional questions, that is to say, any question—

(*d*) whether a person is or was an existing contributor and, if so, for which of the purposes of the repealed Acts ;

(*e*) as to the period during which a person was insured or treated as insured, or was entitled to be a voluntary contributor (including a special voluntary contributor), under the repealed Acts and as to the date of his last entry into insurance thereunder ;

(*f*) arising under or in connection with the Fourth Schedule to the Contributory Pensions Act ;

(a) 26 Geo. 5 & 1 Edw. 8. c. 32. (b) 26 Geo. 5 & 1 Edw. 8. c. 33.
(c) S.I. 1948/1311 (Rev. XVI, p. 80: 1948 I, p. 2732).

(*g*) whether any person was—

(i) a person employed, or

(ii) engaged in an excepted employment or an employment which would but for the Act have been an excepted employment, or

(iii) an exempt person,

within the meaning of the repealed Acts.

Review of existing decisions

27. The provisions of the foregoing Parts of these regulations as to review of decisions given thereunder shall apply to decisions given under the repealed Acts or under the Transitional Regulations as if any such decision as is specified in any paragraph of the first column of the Schedule to these regulations were a decision given under these regulations by the person specified in the corresponding paragraph of the second column thereof:

Provided that for the purpose of the application by virtue of this regulation of the provisions of regulation 19 any benefit under the repealed Acts which is not named in that regulation shall be deemed—

(*a*) in the case of benefit under the Health Insurance Acts to be sickness benefit, and

(*b*) in the case of benefit under the Contributory Pensions Acts to be a guardian's allowance or a retirement pension."

(2) The Schedule contained in the Fourth Schedule to these regulations shall be included in the principal regulations as the Schedule thereto.

Application to pending matters

8.—(1) Subject to the provisions of paragraph (2) of this regulation the foregoing provisions of this Part of these regulations shall apply to the determination on or after the date on which they come into operation of questions and matters arising before that date as they apply to the determination of questions and matters arising thereafter.

(2) Notwithstanding the provisions of the foregoing paragraph and of regulation 9 of these regulations, the provisions which would have applied if this Part of these regulations had not been made shall continue to apply to—

(*a*) the making or continuing and the determination of any appeal which was or which might have been made to a referee before the date on which these regulations come into operation and the appointment of referees for the purpose of any such appeals; and

(*b*) the determination of any question or the review of any decision being a question or decision which, before the date on which these regulations come into operation, the Minister has authorised a referee appointed by him to determine or to review.

Revocation of regulations

9. The National Insurance (Determination of Claims and Questions) (Transitional) Regulations, 1948(**a**), are hereby revoked 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.

(a) S.I. 1948/1311 (Rev. XVI, p. 80: 1948 I, p. 2732).

Given under the official seal of the Minister of Pensions and National Insurance this Second day of July, 1959.

(L.S.)

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

Given under the official seal of the National Insurance Joint Authority this Second day of July, 1959.

(L.S.)

Ian G. Gilbert,
Secretary,
National Insurance Joint Authority.

Dated this Second day of July, 1959.

Graeme Finlay,
P. E. O. Bryan,
Two of the Lords Commissioners of Her Majesty's Treasury.

FIRST SCHEDULE

Regulation 4

CONTAINING REGULATION 6 OF THE PRINCIPAL REGULATIONS AS AMENDED BY THESE REGULATIONS*

Decisions to be conclusive for purposes of proceedings under Act, etc.

6.—(1) Where in any proceedings—

(*a*) for an offence under the Act; or

(*b*) involving any question as to the payment of contributions under the Act; or

(*c*) for the recovery of any sums due to the National Insurance Fund;

any question arises which under paragraph (1) of regulation 2 is to be determined by the Minister (subject to an appeal on a question of law to the High Court), the decision of the Minister shall, unless such an appeal is pending or the time for so appealing has not expired, be conclusive for the purpose of those proceedings.

(3) If any such decision under *paragraph* (1) *of this regulation* has not been obtained and the decision of the question is necessary for the determination of the proceedings, the question shall be referred to the Minister for decision in accordance with the procedure (subject to the necessary modifications) prescribed in this Part of these regulations.

(4) Where any such appeal as is mentioned *in paragraph* (1) of this regulation is pending, or the time for so appealing has not expired, or where any question has been referred to the Minister, the court dealing with the case shall adjourn the proceedings until such time as a final decision upon the question has been obtained.

* The words substituted by these regulations are shown in italics.

SECOND SCHEDULE Regulation 5

CONTAINING REGULATION 11 OF THE PRINCIPAL REGULATIONS AS AMENDED BY THESE REGULATIONS*

Appeals to local tribunals

11.—(1) Where the insurance officer has decided any question adversely to the claimant, the claimant may appeal to the local tribunal, and he shall be notified in writing of the decision and the reasons therefor and of his right of appeal to the local tribunal:

Provided that where one of the questions mentioned in paragraph (1) of regulation 2, or in *the proviso to subsection* (1) *of section* 1 *of the Act of* 1959, has arisen in connection with the decision of the insurance officer, and has been determined, and the insurance officer certifies that the decision on that question is the sole ground of his decision, no appeal shall lie without leave of the chairman of the local tribunal.

(2) An appeal against a decision of an insurance officer shall be brought by giving notice of appeal at a local office within twenty-one days after the date of that decision or within such further time as the chairman of the local tribunal may for good cause allow.

(3) A notice of appeal shall be in writing and shall contain a statement of the grounds upon which the appeal is made.

THIRD SCHEDULE Regulation 6

CONTAINING REGULATION 18 OF THE PRINCIPAL REGULATIONS AS AMENDED BY THESE REGULATIONS*

Review of decisions of insurance officer, local tribunal or Commissioner

18.—(1) Any decision under this Part of these regulations of an insurance officer, a local tribunal or the Commissioner may be reviewed at any time by an insurance officer, or on a reference from an insurance officer, by a local tribunal, if—

(*a*) he or they is or are satisfied, but not without fresh evidence in the case of a decision of the Commissioner, that the decision was given in ignorance of, or was based on a mistake as to, some material fact; or

(*b*) there has been any relevant change of circumstances since the decision was given; or

(*c*) the decision was based on the decision of any question mentioned in paragraph (1) of regulation 2 or in subsection (2) of section 43 of the Act, and the decision of that question is revised in accordance with the provisions of regulation 5 or in accordance with the provisions of *the regulations made by virtue of subsection* (1) *of section* 1 *of the Act of* 1959, as the case may be.

(2) A question may be raised with a view to such a review by means of an application in writing to an insurance officer, stating the grounds of the application.

(3) On receipt of any such application, the insurance officer shall proceed to deal with or refer any question arising thereon in accordance with the provisions of this Part of these regulations.

(4) Any decision given on a review under this regulation, and any refusal to review a decision under this regulation, shall be subject to appeal in like manner as an original decision, and the provisions of this Part of these regulations shall, subject to the necessary modifications, apply in relation to any decision given on a review as they apply to the original decision of a question.

* The words substituted by these regulations are shown in italics.

FOURTH SCHEDULE Regulation 7

(*Note.*—The following provisions are by regulation 7 (2) of these regulations incorporated in the principal regulations as the Schedule thereto.)

"SCHEDULE Regulation 27

Decisions under the repealed Acts or the Transitional Regulations	Person by whom decisions to be treated as given
1. (*a*) A decision of any Minister under section 161 of the Health Insurance Act, section 17 of the Contributory Pensions Act, section 4, section 5 or section 74 of the Unemployment Insurance Act or regulation 2 (1) (*a*) of the Transitional Regulations.	1. (*a*) and (*b*) The Minister.
(*b*) A decision of a referee or of any Minister under the repealed Acts or the Transitional Regulations on any question which would have fallen to be decided by the Minister had it arisen after the date on which Part V of these regulations came into operation.	
2. A decision of an insurance officer under the Unemployment Insurance Acts or the Transitional Regulations, or of the corresponding person authorised under the provisions of a special scheme under the Unemployment Insurance Acts to determine claims in the first instance.	2. An insurance officer.
3. A decision of a court of referees under the Unemployment Insurance Acts or the National Insurance (Increase of Contributory Pensions) Regulations, 1946(a), or of a local tribunal under the Transitional Regulations, or of the corresponding tribunal authorised under the provisions of a special scheme under the Unemployment Insurance Acts to determine claims on appeal.	3. A local tribunal.
4. A decision (not being such a decision as is specified in paragraph 1 (*b*) of this column) of a referee under the Health Insurance Acts or the Contributory Pensions Acts or the Transitional Regulations, or a decision of the Umpire under the Unemployment Insurance Acts or the National Insurance (Increase of Contributory Pensions) Regulations, 1946(a), or of the Commissioner under the Transitional Regulations.	4. The Commissioner.
5. Any other decision under the repealed Acts or the Transitional Regulations which under the provisions of those Acts or those Regulations, as the case may be, might have been the subject of revision or review.	5. An insurance officer."

(a) S.R. & O. 1946/1508, 1947/154, (Rev. XVI, p. 246: 1946 I, p. 1066; 1947 I, p. 1494), 1947/542 (Rev. XVI, p. 263: 1947 I, p. 1495).

EXPLANATORY NOTE

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

In consequence of the transfer, pursuant to section 1 of the Family Allowances and National Insurance Act, 1959, of the functions of determining questions as to the right to allowances arising under the Family Allowances Act, 1945, from the Minister of Pensions and National Insurance with appeal to referees appointed under that Act to insurance officers or local tribunals subject to appeal to the Commissioner appointed under the National Insurance Act, 1946, certain provisions of the National Insurance (Determination of Claims and Questions) Regulations, 1948, have become inappropriate. Part II of these Regulations amends regulations 2, 6, 11 and 18 of those regulations so as to take account of the provisions of the Family Allowances (Determination of Claims and Questions) Regulations, 1959, whereby such transfer is effected.

By Part III of these Regulations the ordinary system of adjudication for matters arising under the National Insurance Act, 1946, is, with the necessary modifications, made applicable to transitional matters arising under that Act, in place of the special system prescribed by the National Insurance (Determination of Claims and Questions) (Transitional) Regulations, 1948, which are revoked.

Preliminary drafts of these Regulations were submitted to the National Insurance Advisory Committee in accordance with section 77 of the National Insurance Act, 1946, and their reports thereon, dated the 3rd June and the 1st July, 1959, are contained in House of Commons Paper No. 244 (Session 1958–59) published by Her Majesty's Stationery Office.

1959 No. 2119

The National Insurance (Non-participation—Appeals and References) Regulations, 1959

Made - - - -	12*th December*, 1959
Laid before Parliament	17*th December*, 1959
Coming into Operation	18*th December*, 1959

The Minister of Pensions and National Insurance in exercise of powers conferred by section 43 of the National Insurance Act, 1946(a), and section 13 of the National Insurance Act, 1959(b), 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 and after consultation with the Council on Tribunals, hereby makes the following regulations:—

Citation, interpretation and commencement

1.—(1) These regulations, which may be cited as the National Insurance (Non-participation—Appeals and References) Regulations, 1959, shall come into operation on the 18th December, 1959.

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

"the Act" means the National Insurance Act, 1946;

"the Certificates Regulations" means the National Insurance (Non-participation—Certificates) Regulations, 1959(c);

(a) 9 & 10 Geo. 6. c. 67. (b) 7 & 8 Eliz. 2. c. 47. (c) S.I. 1959/1860 (Pt. II, p.1867, of this vol.).