(ii) in cases where the determination of any question disposes of a claim or any part thereof, make an award, or decide that an award cannot be made, as to the claim or that part thereof without referring or dealing with, or before the determination of, any other question.

(2) The foregoing provisions of this regulation shall apply to a local tribunal and the Commissioner as they apply to the insurance officer, except that a local tribunal or the Commissioner, instead of themselves or himself referring a question for determination in accordance with sub-paragraph (*a*) of the last foregoing paragraph, shall direct it to be so referred by the insurance officer.

Dated this 28th day of May, 1948.

James Griffiths,
Minister of National Insurance.

R. J. Taylor,
Wm. Hannon,
Two of the Lords Commissioners of His Majesty's Treasury.

EXPLANATORY NOTE

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

These Regulations specify in Part II which questions arising under or in connection with the National Insurance Act, 1946, shall be determined by the Minister of National Insurance and which questions shall be determined by an insurance officer, a local tribunal and the National Insurance Commissioner (hereafter in this Note referred to as "the statutory authorities"). The questions to be decided by the Minister relate mainly to contributions and the classification of insured persons, and the questions to be decided by the statutory authorities relate to right to benefit. Parts III and IV of the regulations prescribe the manner in which questions shall be determined by the Minister and by the statutory authorities respectively.

The National Insurance (Determination of Claims and Questions) (Transitional) Regulations, 1948

1948 No. 1311

Made - - - -	19*th June*, 1948
Laid before Parliament	21*st June*, 1948
Coming into Operation	28*th June*, 1948

M.N.I.127.

The Minister of National Insurance and the National Insurance Joint Authority, acting in conjunction with the Treasury, in exercise of the

powers conferred by section 65 of the National Insurance Act, 1946, and of all other powers enabling them in that behalf, hereby make the following regulations:— 9 & 10 Geo. 6. c. 67.

1.—(1) These regulations may be cited as the National Insurance (Determination of Claims and Questions) (Transitional) Regulations, 1948, and shall come into operation on the 28th June, 1948. Citation, commencement and interpretation.

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

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

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

" the Unemployment Insurance Act " means the Unemployment Insurance Act, 1935; 25 & 26 Geo. 5. c. 8.

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

" the Health Insurance Act of 1936 " means the National Health Insurance Act, 1936; 26 Geo. 5. & 1 Edw. 8. c. 32.

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

" the Contributory Pensions Act of 1936 " means the Widows', Orphans' and Old Age Contributory Pensions Act, 1936; 26 Geo. 5. & 1 Edw. 8. c. 33.

" the Contributory Pensions Act of 1937 " means the Widows', Orphans' and Old Age Contributory Pensions (Voluntary Contributors) Act, 1937; 1 Edw. 8. & 1 Geo. 6. c. 39.

" the repealed enactments " means the Unemployment Insurance Acts, the Health Insurance Acts and the Contributory Pensions Acts (other than those provisions thereof not repealed by the Act);

" the Determination of Claims and Questions Regulations " means the National Insurance (Determination of Claims and Questions) Regulations, 1948(**a**);

" the Transitional Regulations " means the regulations for the time being in force under subsection (2) of section 65 of the Act relating to existing contributors or existing beneficiaries or under subsection (2) of section 71 of the Act relating to new entrants over school age on the appointed day(**b**);

" the Minister " means the Minister of National Insurance;

" insurance officer ", " local tribunal " and " the Commissioner " have the same meanings as in the Determination of Claims and Questions Regulations;

" question " includes, as the case may require, a claim for benefit under the Act or the repealed enactments;

" the Banking Industry Special Scheme " means the approved scheme referred to in the Unemployment Insurance (Banking Industry Special Scheme) Orders, 1924 to 1947(**c**);

(**a**) S.I. 1948 No. 1144, p. 2720 above.

(**b**) 5th July, 1948. *See* S.I. 1948 No. 54, p. 2615 above.

(**c**) S.R. & O. 1924 (No. 817) p. 1784; 1938 (No. 656) II, p. 3372; 1939 (Nos. 306, 822 and 1769) II, pp. 3435–9; 1940 (Nos. 1222 and 1426) I, pp. 1060–3; 1941 (No. 556) I, p. 1154; 1942 (Nos. 1612 and 2389) I, pp. 824–6; 1944 (No. 1421) I, p. 1031; 1946 (Nos. 1392 and 1590) I, p. 1713–5; and 1947 (Nos. 261 and 312) I, pp. 2203–5.

"the Insurance Industry Special Scheme" means the approved scheme referred to in the Unemployment Insurance (Insurance Industry Special Scheme) Orders, 1921 to 1947(a);

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

(3) References in these regulations to any enactment or regulations shall include references to such enactment or regulations as amended by any subsequent enactment, order or regulations.

52 & 53 Vict. c. 63.

(4) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

Certain special questions to be determined by the Minister.

2.—(1) As from the appointed day, any such question in relation to the repealed enactments as is specified in the Schedule to these regulations—

(*a*) if it arises on or after that day, shall be determined by the Minister in accordance with the procedure (subject to any necessary modifications) prescribed in Part III of the Determination of Claims and Questions Regulations in like manner as if the question were a question mentioned in paragraph (1) of regulation 2 of those regulations; or

(*b*) if it arises before that day shall be determined in the same manner as it would, but for the Act, have been determined under those enactments.

(2) Any other question in relation to the repealed enactments (other than under the Unemployment Insurance Acts) arising in connection with a claim for benefit by virtue of the Transitional Regulations which could not have arisen in connection with a claim for benefit under the Act otherwise than by virtue of those regulations shall be determined by the Minister in accordance with the provisions of regulation 6.

Special provision in relation to determination after the appointed day of claims for benefit under the Unemployment Insurance Act.

3. If any question as to the right to benefit under the Unemployment Insurance Acts (other than any question to which paragraph (1) of regulation 2 applies) arises after the appointed day, or, if it arises before that day, has not been finally determined before that day, then as from the appointed day anything in relation to that question which is authorised or required under or by virtue of those Acts to be done by or to an insurance officer, a court of referees, or the Umpire under those Acts shall be done by or to an insurance officer, a local tribunal, or the Commissioner as the case may require, under the Act:

Provided that if any such question relates to the right to benefit under the Banking Industry Special Scheme or the Insurance Industry Special Scheme, then for the references in this regulation to an insurance officer and to a court of referees under the Unemployment Insurance Acts there shall be substituted references to the corresponding person or tribunal authorised under the provisions of the appropriate scheme to determine claims in the first instance and on appeal respectively.

(a) S.R. & O. 1921 (No. 1281) p. 1390; 1935 (Nos. 97 and 1074) pp. 1702 and 1741; 1936 (Nos. 105 and 731) II, pp. 3523–4; 1937 (Nos. 218) p. 2351; 1938 (Nos. 11, 190, 291 and 589) II, pp. 3404–9; 1939 (Nos. 823 and 1314) II, pp. 3441–4; 1940 (Nos. 1223 and 1453) I, pp. 1064–7; 1941 (No. 557) I, p. 1157; 1942 (No. 1613) I, p. 827; 1945 (No. 1026) I, p. 1244; 1946 (Nos. 734, 1393 and 1591) I, pp. 1717–21; and 1947 (Nos. 262 and 313) I, pp. 2206–2208.

Determination after appointed day of claims for benefit under the Health Insurance Acts.

4. If any question as to the right to benefit under the Health Insurance Acts (other than any question to which paragraph (1) or (2) of regulation 2 applies) arises after the appointed day, or, if it arises before that day, has not been finally determined before that day, then as from the appointed day that question shall be determined by the Minister in accordance with the provisions of regulation 6.

Determination after the appointed day of claims for pension under the Contributory Pensions Acts.

5. If any question as to the right to a pension under or by virtue of the Contributory Pensions Acts (other than any question to which paragraph (1) or (2) of regulation 2 applies) arises after the appointed day, or, if it arises before that day, has not been finally determined before that day, then as from the appointed day that question shall be determined in the same manner as it would, but for the repeal of those Acts, have been determined under section 30 of the Contributory Pensions Act of 1936(a) or, as the case may be, under regulation 12 of the National Insurance (Increase of Contributory Pensions) Regulations, 1946(b) (which section and regulation relate respectively to the determination of claims and appeals relating to pensions and of questions and appeals relating to retirement and earnings):

Provided that—

(*a*) for the references in the said regulation 12 to a court of referees and the Umpire there shall be substituted references to a local tribunal and the Commissioner respectively, and the provisions of that regulation shall apply accordingly;

(*b*) if any such question is one which would have fallen to be decided under section 163 of the Health Insurance Act of 1936, in accordance with proviso (*b*) to subsection (2) of the said section 30, that question shall be determined by the Minister in accordance with regulation 6.

Procedure for determination by Minister of certain special questions.

6.—(1) The Minister may himself determine or, if he thinks fit, authorise a referee appointed by him to determine any question arising for determination by him under paragraph (2) of regulation 2, regulation 4, or proviso (*b*) to regulation 5.

(2) The procedure for determining any such question shall, in so far as is practicable, be the procedure which would, but for the Act, have been applicable for the determination of that question under the Health Insurance Acts or, as the case may be, the Contributory Pensions Acts, but, subject thereto, the procedure shall be such as may be determined by the Minister or, as the case may require, the referee appointed by him:

Provided that the decision of a referee shall be sent in the first instance to the Minister, who shall forward it to the claimant as soon as may be practicable.

(3) The Minister may, on new facts being brought to his notice, review, or, if he thinks fit, authorise a referee appointed by him to review, any decision given under this regulation.

(a) *See* s. 14, Widows', Orphans' and Old Age Contributory Pensions (Voluntary Contributors) Act, 1937.

(b) S.R. & O. 1946 (No. 1508) I, p. 1066; and *see* 1947 (Nos. 154 and 542) I, pp. 1494–1495.

Reference to the Minister of special questions.

7. If on consideration of any question an insurance officer is of opinion that there arises any such question as is mentioned in paragraph (1) or (2) of regulation 2, he shall—

(*a*) refer the latter question for determination in accordance with the appropriate paragraph; and

(*b*) deal with any other questions as if the question so referred had not arisen:

Provided that the insurance officer may—

(i) postpone the reference of or dealing with any question until after other questions have been determined;

(ii) in cases where the determination of any question disposes of a claim or any part thereof, make an award, or decide that an award cannot be made, as to the claim or that part thereof without referring or dealing with, or before the determination of, any other question.

Courts of referees to make recommendations for the purposes of extended unemployment benefit.

8. Courts of referees constituted under the Unemployment Insurance Act may at any time before the appointed day exercise the powers of a local tribunal under section 62 of the Act and the regulations for the time being in force in relation thereto with regard to making recommendations for the purpose of unemployment benefit in the case of existing contributors within the meaning of regulation 2 of the National Insurance (Unemployment Benefit) (Transitional) Regulations, 1948(a).

Modification of the Act and regulations thereunder.

9. The provisions of the Act and the regulations for the time being in force thereunder shall have full force and effect subject to the modifications contained in these regulations.

Given under the official seal of the Minister of National Insurance this 19th day of June, nineteen hundred and forty-eight.

(L.S.)

James Griffiths,
Minister of National Insurance.

Given under the official seal of the National Insurance Joint Authority this 19th day of June, nineteen hundred and forty-eight.

(L.S.)

C. D. Curtis,
Secretary,
National Insurance Joint Authority.

C. James Simmons,
Joseph Henderson,
Two of the Lords Commissioners of His Majesty's Treasury.

(a) S.I. 1948 No. 1279, p. 2685 above.

SCHEDULE

Questions to be determined by the Minister under regulation 2 (1)

1. Whether any employment or any class of employment was employment within the meaning of any of the repealed enactments, or whether a person was a person employed within the meaning of any of those enactments.

2. Whether any employment or class of employment was an excepted employment or any particular class of excepted employment within the meaning of the Health Insurance Acts, or is an employment which would, but for the Act, have been an excepted employment or any particular class of excepted employment within the meaning of those Acts.

3. Whether any employment which was, or is alleged to have been, the normal occupation of any person within the meaning of the Fourth Schedule to the Contributory Pensions Act of 1936 was employment in respect of which contributions under that Act would have been payable if that Act had been in force, or, as the case may be, was employment of such a kind as is specified in paragraph (*f*) or paragraph (*g*) of Part I of the First Schedule to the Health Insurance Act of 1936.

4. Whether a person was engaged in an excepted employment within the meaning of the Unemployment Insurance Acts or the Health Insurance Acts, or is engaged in an employment which would, but for the Act, have been an excepted employment within the meaning of the Health Insurance Acts.

5. As to who was the employer of any person employed within the meaning of the Unemployment Insurance Acts or the Health Insurance Acts or engaged in an excepted employment within the meaning of the Health Insurance Acts.

6. Whether a person or class of persons was a person or class of persons to whom a special scheme under the Unemployment Insurance Acts applied.

7. Whether any person was entitled to be a voluntary contributor under the Health Insurance Act of 1936 or the Contributory Pensions Acts other than a special voluntary contributor within the meaning of subsection (5) of section 1 of the Contributory Pensions Act of 1937.

8. Whether any person was an exempt person under the Health Insurance Acts or the Unemployment Insurance Acts.

9. As to the rate of contribution which was payable by or in respect of any person under any of the repealed enactments (other than the rate of contribution which was payable by a voluntary contributor under the Contributory Pensions Act of 1936 by virtue of the provisions of the Contributory Pensions Act of 1937), and as to the rates of contributions which were so payable in respect of an employed person by the employer and that person respectively.

EXPLANATORY NOTE

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

These Regulations prescribe the procedure for dealing with transitional matters relating to claims and questions under the National Insurance Act, 1946, and the person or tribunal who is to decide any such matter.