4. BENEFITS

(1) *General.*
(2) *Maternity and Sickness*, p. 2635.
(3) *Overlapping Benefits*, p. 2652.
(4) *Unemployment*, p. 2667.
(5) *Widow's Benefit and Retirement Pensions*, p. 2704.

The National Insurance (General Benefit) Regulations, 1948

1948 No. 1278

Made - - - - 15*th June*, 1948
Laid before Parliament 16*th June*, 1948
Coming into Operation 23*rd June*, 1948

(1) GENERAL

M.N.I. 114.

The National Insurance Joint Authority, in conjunction with the Treasury so far as relates to matters with regard to which the Treasury have so directed, in exercise of the powers conferred by sections 10 (4), 29, 31 (1), 34, 78 (1) and 78 (5) of the National Insurance Act, 1946, and the Minister of National Insurance in conjunction with the Treasury in exercise of the powers conferred by section 47 of that Act, and of all other powers enabling them in that behalf, hereby make the following regulations:—

9 & 10 Geo. 6. c. 67.

Citation, commencement and interpretation.

1.—(1) These regulations may be cited as the National Insurance (General Benefit) Regulations, 1948, and shall come into operation on the 23rd June, 1948.

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

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

"the Industrial Injuries Act" means the National Insurance (Industrial Injuries) Act, 1946;

9 & 10 Geo. 6. c. 62.

"the Minister" means the Minister of National Insurance;

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

"the determining authority" means, as the case may require, an insurance officer, a local tribunal or the National Insurance Commissioner appointed or constituted in accordance with the Determination of Claims and Questions Regulations;

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.

Definitions of "contribution year" and "benefit year".

2.—(1) (*a*) A contribution year in relation to any person shall be the period of fifty-two or fifty-three contribution weeks beginning in any year with the relevant contribution week(**b**) and ending with the contribution week next preceding the relevant contribution week in the following year.

(*b*) In this paragraph the expression "relevant contribution week" means in relation to any person the first complete contribution week in the month of March, June, September or December as may be determined by the Minister to be applicable in his case.

(**a**) S.I. 1948 No. 1144, p. 2720 below.
(**b**) *See* s. 78 (1), National Insurance Act, 1946.

(2) A benefit year in relation to any person shall be the period of fifty-two or fifty-three contribution weeks beginning in any year with the first complete contribution week in the fifth month after the month in which the said relevant contribution week applicable to that person occurs, and ending with the last contribution week beginning in the fourth month after the last mentioned month in the following year.

Calculation of yearly average of contributions.

3. For the purposes of subsection (4) of section 10 of the Act (which subsection relates to the calculation of the yearly average of contributions), the yearly average of contributions paid by or credited to any person in relation to widow's benefit or a retirement pension shall be calculated by dividing, by the number of years comprised in the period over which, under the said subsection, the average is to be calculated, the sum total of the contributions as an insured person paid by or credited to that person in respect of that period other than the following contributions:—

(*a*) contributions which are not paid on their due dates and are not treated in accordance with regulations under the Act as so paid for the purposes of widow's benefit and retirement pension;

(*b*) contributions credited under the Act only for purposes other than for the purposes of widow's benefit and retirement pension;

(*c*) (in relation only to a retirement pension by virtue of a person's own insurance) contributions credited to a widow by reason only of her being in receipt of widow's benefit if, on attaining pensionable age, she is entitled to any benefit specified in paragraph 7 of column 1 of the Schedule to the National Insurance (Overlapping Benefits) Provisional Regulations, 1948(**a**) under or by virtue of any enactment, scheme or instrument specified in the corresponding paragraph of column 2 of that Schedule.

Computation of earnings.

4.—(1) For the purposes of subsection (5) of section 78 of the Act (which subsection empowers the Minister to prescribe the basis on which the amount of a person's earnings for any period shall be calculated or estimated for the purposes of the Act) the following provisions shall apply:—

(*a*) The earnings to be taken into account shall be limited to the net remuneration or profit derived by the person from any gainful occupation or occupations, and, in particular, in so far as the earnings consist of salary or wages, no account shall be taken of—

(i) any sums the deduction of which from salary or wages is authorised by statute;

(ii) the reasonable expenses, if any, incurred by the person in connection with the employment.

(*b*) Where the earnings of a person for any week are, by reason of the circumstances of the occupation in which he is engaged, not immediately ascertainable, the earnings for that week shall be calculated or estimated in such manner and on such basis as may be decided by the determining authority to be appropriate, having regard to all the circumstances of the case.

(*c*) Where under the provisions of the Act the rate of a pension or allowance for any week is to be determined by reference to the earnings of a person in the preceding week, the word "week", wherever it occurs in the Act in connection therewith, shall mean the period of seven days preceding the day of the week prescribed(**b**) for the payment of the pension or allowance.

(**a**) S.I. 1948 No. 1244, p. 2652 below.

(**b**) *See* reg. 10 (4), National Insurance (Claims and Payments) Regulations, 1948 (S.I. 1948 No. 1041, p. 2709 below.)

(2) For the purposes of subsection (1) of section 24 of the Act (which subsection provides for an increase of unemployment benefit, sickness benefit or retirement pension in respect of the wife of a beneficiary if her weekly earnings from any gainful occupation or occupations do not exceed twenty shillings), the weekly earnings of the wife shall, subject to the provisions of paragraph (1) of this regulation, be ascertained in the following manner—

(*a*) in the case of a retirement pension, if there are earnings by the wife in the period of seven days immediately preceding the day in the week prescribed for the payment of the pension, by reference to those earnings;

(*b*) in the case of any other benefit—

(i) where the wife is employed in one employment only in respect of which she receives a regular weekly wage of a fixed amount, by reference to that wage; or

(ii) where the wife is not so employed or does not receive a regular weekly wage of a fixed amount, and a claim for the increase is made in respect of a period of seven days (including the Sunday), by reference to her earnings in that period;

(*c*) in any case not covered by either of the foregoing sub-paragraphs, in such manner as the determining authority may decide to be appropriate, having regard to all the circumstances of the case.

Provisions as to maintenance.

5.—(1) For the purposes of the provisions of Part II of the Act (which relates to benefit), a beneficiary shall not be deemed to be wholly or mainly maintaining another person unless the beneficiary—

(*a*) when unemployed, or incapable of work, or, as the case may be, retired from regular employment, contributes towards the maintenance of that person an amount not less than the amount of the increase of benefit received in respect of that person; and

(*b*) when in employment, or not incapable of work, or, as the case may be, not so retired (except in a case where the dependency did not arise until after that time) contributed more than one half of the actual cost of maintenance of that person:

Provided that where—

(i) a person is partly maintained by each of two or more other persons (being persons entitled to benefit either under the Act or the Industrial Injuries Act, of whom at least one is entitled to benefit under the Act), each of whom would be entitled to an increase of benefit under the relevant Act in respect of that person if he were wholly or mainly maintaining that person; and

(ii) the contributions made by those other persons towards the maintenance of that person amount in the aggregate to sums which would, if they had been contributed by one of them, be sufficient to satisfy the requirements of this regulation;

that person shall be deemed to be wholly or mainly maintained by that one of the said other persons who makes the largest contribution or, if there is no such person, by the elder or eldest of the said other persons, or (if a majority thereof by notice in writing signed by them and addressed to the Minister designate any one of their number) by that one designated so long as the person deemed to be so maintaining that person continues to be entitled to benefit under the Act and to satisfy the condition contained in sub-paragraph (*a*) of this paragraph.

(2) A notice and the designation contained therein given under the proviso to the foregoing paragraph may be revoked at any time by a

fresh notice signed by a majority of such persons, and another one of their number may be designated therein, and accordingly the provisions of that proviso shall apply to the one so last designated.

Exceptions from disqualification for imprisonment, etc.

6.—(1) The provisions of subsection (1) of section 29 of the Act (which subsection provides for disqualification for the receipt of benefit during periods of penal servitude, imprisonment and detention in legal custody) shall have effect subject to the exceptions contained in the next following paragraph.

(2) A person shall not, by reason of undergoing a period of penal servitude, imprisonment or detention in legal custody, be disqualified—

(*a*) for receiving a maternity grant or a guardian's allowance;

(*b*) for receiving sickness benefit, widow's benefit or retirement pension, if, being charged with a criminal offence, either such charge against him is withdrawn, or he is discharged by the magistrates or (not being a criminal lunatic) is acquitted:

Provided that in the case of sickness benefit this exception shall only apply if that person was entitled thereto immediately before the commencement of any such period, or would but for the proviso to subsection (1) of section 11 of the Act (which proviso relates to waiting days) have been so entitled.

Suspension of payment, of benefit during imprisonment, etc.

7.—(1) The payment to any person of any benefit—

(*a*) which is excepted from the operation of subsection (1) of the said section 29 by virtue of the provisions of the last preceding regulation; or

(*b*) which is payable otherwise than in respect of a period during which he is undergoing penal servitude, imprisonment or detention in legal custody;

shall be suspended while that person is undergoing penal servitude, imprisonment or detention in legal custody:

Provided that a maternity grant or a guardian's allowance to which this paragraph applies and any other benefit to which sub-paragraph (*b*) of this paragraph applies may nevertheless be paid during any such period to any person appointed for the purpose by the Minister to receive and deal with any sums payable on behalf of the beneficiary on account of that benefit, and the receipt of any person so appointed shall be a good discharge to the Minister and the National Insurance Fund for any sum so paid.

(2) Where, by virtue of the last preceding paragraph, payment of benefit is suspended for any period, the period of suspension shall not be taken into account in calculating any period under the provisions of regulation 12 of the National Insurance (Claims and Payments) Regulations, 1948(**a**) (which regulation relates to the extinguishment of the right to sums payable by way of benefit which are not obtained within the prescribed time).

Interim payments, arrears and repayments.

8.—(1) Subject to the provisions of this regulation, benefit shall be payable in accordance with an award, notwithstanding that an appeal against the award is pending, and, subject as aforesaid and to the provisions of regulations 20 and 21 of the Determination of Claims and Questions Regulations shall be treated as having been duly paid and shall not be recoverable under the provisions of the Act or otherwise.

(2) Where an appeal to the National Insurance Commissioner from an award of a local tribunal is made within twenty-one days of the date on which an award was given, payment of the benefit (or that part of the benefit) to which the appeal relates shall, in the case of any of

(**a**) S.I. 1948 No. 1041, p. 2709 below.

the following benefits, be suspended until the appeal has been determined:—

(*a*) unemployment benefit, provided the ground of the appeal is that the claimant ought to be disqualified for receiving benefit by reason of the provisions of subsection (1) of section 13 of the Act (which subsection relates to disqualification for unemployment benefit in respect of unemployment due to a trade dispute); and

(*b*) maternity benefit, widow's benefit, a guardian's allowance, or a retirement pension.

(3) Where it appears to the Minister that a question has arisen whether—

(*a*) the conditions for the receipt of benefit payable under an award are or were fulfilled; or

(*b*) an award of benefit ought to be revised in accordance with the Determination of Claims and Questions Regulations;

he may direct that payment of the benefit shall be suspended in whole or in part until that question has been determined:

Provided that this paragraph shall not apply in any case where the question which has arisen is whether the claimant has ceased to be entitled to receive unemployment benefit by reason of any of the provisions of paragraphs (*b*) to (*e*) of subsection (2) of section 13 of the Act (which provisions relate to disqualification for receiving unemployment benefit).

(4) Where two or more claims are made for unemployment benefit or for sickness benefit by an insured person in respect of different periods in the same period of interruption of employment, and (at the date when a claim in respect of any such first mentioned period is determined, or the decision in respect thereof is revised, in favour of that person by the determining authority) benefit of the same description has been received by him in respect of any days in the said period of interruption of employment subsequent to the days to which that determination or the said revised decision relates, then, if it is shown that by reason of subsection (1), or, as the case may be, subsection (2) of section 12 of the Act (which subsections relate respectively to exhaustion of unemployment benefit and sickness benefit) benefit would be overpaid if the benefit payable under the said determination or the said revised decision were paid, the following provisions shall apply:—

(*a*) Any such benefit so subsequently paid which on the foregoing basis would have been overpaid shall be treated as having been paid on account of the benefit payable under the said determination or the said revised decision, and the amount due under that determination or decision shall be reduced accordingly; and

(*b*) for the purposes of requalification for unemployment or sickness benefit under subsection (3) of the said section 12, the last day for which the insured person was entitled to any such benefit shall be taken to be the day on which, having regard to the said determination or the said revised decision and the provisions of this regulation, his right to the appropriate benefit is exhausted under that section.

(5) Where on appeal or review a decision is reversed or varied or revised and by reason thereof any sum on account of unemployment benefit or sickness benefit, as the case may be, is shown to have been paid to any person for days for which he was not entitled thereto, then, in determining for the purposes of the said section 12 whether that person has exhausted his right to the appropriate benefit and what is the last day

for which he was entitled thereto, any days for which any such sum has been so paid in pursuance of the original decision shall be treated as if they were days for which that person was entitled to that benefit notwithstanding the provisions of sub-paragraphs (*b*) and (*c*) of paragraph (1) of regulation 6 of the National Insurance (Unemployment and Sickness Benefit) Regulations, 1948(a):

Provided that—

(*a*) if any sum was so paid to such a person and that sum or any part thereof is recovered, then there shall be excluded for the purposes of the said determination under the said section 12 a number of days (to the nearest whole number) equal to the number to be obtained by dividing the amount recovered by the daily rate at which the benefit was paid; and

(*b*) for the purposes of requalification for unemployment or sickness benefit under the said subsection (3) of the said section 12, the provisions of sub-paragraph (*b*) of the immediately preceding paragraph shall apply.

(6) Where—

(*a*) on appeal against an award of benefit, a decision is reversed or varied, so that such benefit is not payable or is payable at a less rate; and

(*b*) on review, the decision on that appeal is revised so as to make such benefit payable, or payable at a higher rate, from a date before the decision on appeal;

any benefit paid in pursuance of the award before the decision on appeal shall, to the extent to which it would not have been payable if the decision on appeal had been given in the first instance, be treated as having been paid on account of any benefit made payable for the same period by the decision on review, except in so far as it has, in pursuance of the decision on appeal, been repaid or treated as paid on account of the benefit awarded by that decision.

(7) Where, in accordance with a decision given on a review or appeal, any benefit is required to be repaid to the National Insurance Fund or, as the case may be, to a local education authority, then, without prejudice to any other method of recovery, such benefit shall be recoverable by deduction from any benefit then or thereafter payable to the person by whom it is to be repaid or any persons entitled to receive his benefit on his death.

(8) Where, under arrangements made by the Minister with the consent of the Treasury for the purpose of dealing with any emergency, payment by way of unemployment benefit or, as the case may be, sickness benefit or maternity benefit has been made to any person pending the determination of a claim therefor, without due proof of the fulfilment of the relevant conditions or otherwise than in accordance with the provisions of the Act and the orders and regulations made thereunder, the payment so made shall, for the purposes of the said provisions, be deemed to be a payment of such benefit duly made:

Provided that this paragraph shall apply, in a case in which the conditions for the receipt of any such benefit were not fulfilled, subject to the following provisions:—

(*a*) If it is shown at any time to the satisfaction of the determining authority that any person to whom such a payment has been made

(a) S.I. 1948 No. 1277, p. 2676 below.

has not acted in good faith in all respects as to the obtaining and receipt thereof, he shall be liable to repay to the National Insurance Fund any sum so paid; and

(*b*) if it is so shown that any such person was entitled to some benefit other than unemployment benefit or, as the case may be, sickness benefit or maternity benefit for the period in respect of which the payment was made, such payment (in so far as it does not exceed the amount of such other benefit) shall not be deemed to be a payment of the benefit in question, but a payment of such other benefit duly made.

(9) If the Minister pays to any married woman who has failed to give notice of her marriage in accordance with the regulations for the time being in force under section 59 of the Act any sum by way of benefit not properly payable to her, or in excess of the amount properly payable to her, the Minister shall, if he was not aware of the marriage, without prejudice to any other method of recovery, be entitled to deduct the amount so paid or paid in excess from the amount of any benefit subsequently payable to her.

Disqualifications to be disregarded for certain purposes.

9.—(1) Where a person of any class mentioned in the first column of the Schedule to these regulations would be entitled to the benefit set opposite to that class in the second column of that Schedule but for the operation of any provision of the Act disqualifying him for the receipt of that benefit, that person shall be treated as if entitled to that benefit for the purpose of the provisions of the Act set opposite thereto in the third column of the said Schedule and of any regulations made thereunder:

Provided that a person shall not be so treated for the purpose of the provisions of subsection (4) of section 23 of the Act (which subsection relates to priority of title between husband and wife in relation to an increase of retirement pension for a child) if that person is disqualified for receiving such increase by reason of the provisions of paragraph (*b*) of subsection (1) of section 29 of the Act.

(2) In determining whether the condition contained in subsection (1) of section 28 of the Act (which subsection makes a claim a condition of right to benefit) is satisfied, a person who would be entitled to any benefit but for the operation of any provision of the Act disqualifying him for the receipt thereof, and who ceases to be so disqualified within a period of three months from the commencement of the disqualification, shall be treated as if entitled thereto.

Given under the official seal of the National Insurance Joint Authority this 15th day of June, nineteen hundred and forty-eight.

(L.S.)

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

Given under the official seal of the Minister of National Insurance this 15th day of June, nineteen hundred and forty-eight.

(L.S.)

James Griffiths,
Minister of National Insurance.

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

Regulation 9.

SCHEDULE

of provisions for the purposes of which disqualifications under the Act are to be disregarded.

Class of persons (1)	Benefit for which person is disqualified (2)	Section of the Act for the purpose of which disqualification is to be disregarded (3)	Subject matter (4)
A widow ...	Widow's benefit	18 (3)	Widows' pensions for widows under pensionable age who on ceasing to be entitled to widow's benefit are incapable of self-support.
		21 (1) (*b*)	Retirement pensions by virtue of husbands' insurance for widows entitled, immediately before attaining pensionable age, to widow's benefit in respect of their husbands' death.
		21 (6)	Calculation of yearly average of contributions for retirement pensions for widows by virtue of their own insurance, who are not entitled to widow's benefit immediately before attaining pensionable age.
	Widow's allowance.	17 (2) (*b*)	Period for which a widowed mother's allowance is payable (being a period for which she is not entitled to a widow's allowance).
	Widow's allowance or widowed mother's allowance.	17 (2) (*c*)	Period for which a widow's pension is payable (being a period for which she is not entitled to a widow's allowance or a widowed mother's allowance).
		18 (2)	Widow's pension for a widow ceasing to be entitled to a widow's allowance or a widowed mother's allowance when pregnant by late husband.

Class of persons (1)	Benefit for which person is disqualified (2)	Section of the Act for the purpose of which disqualification is to be disregarded (3)	Subject matter (4)
A widow ...	Widowed mother's allowance.	18 (1)	Widows' pensions for certain widows ceasing to be entitled to widowed mother's allowances when over the age of forty but under pensionable age.
A widow ...	Widow's pension under section 18 (3).	18 (4)	Widows' pensions for certain widows ceasing to be entitled to widows' pensions under section 18 (3) at a time when they are over the age of fifty but under pensionable age.
The husband of a widow.		17 (1) (*a*)	Widow's allowance for widow of husband who at the date of his death was not entitled to a retirement pension.
A widow ...	Retirement pension.	21 (2) proviso.	Cessation on remarriage of a retirement pension to which a widow is entitled immediately before remarriage by virtue of husband's insurance.
One of two spouses.	Increase of retirement pension for a child.	23 (4)	Priority of title between husband and wife to increase of retirement pension for a child.

EXPLANATORY NOTE

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

These Regulations contain miscellaneous provisions of a general character affecting benefits under the National Insurance Act, 1946, and relate to definitions of " contribution year " and " benefit year " for the purposes of that Act (regulation 2); the calculation of the yearly average of contributions for the purposes of widow's benefit and retirement pension (regulation 3); the basis for the computation of earnings in relation to benefit (regulation 4); the circumstances in which a person shall be deemed to be wholly or mainly maintaining another person (regulation 5); exceptions from disqualification for receipt of benefit during periods of penal servitude, imprisonment or detention in legal

custody (regulation 6); the suspension of payment of benefit during imprisonment and such detention (regulation 7); special provisions relating to the interim payment of benefits, arrears and repayment of benefit (regulation 8); and the disregarding of disqualifications for benefit for the purposes of certain provisions of the National Insurance Act, 1946 (regulation 9).

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(2) MATERNITY AND SICKNESS

The National Insurance (Maternity Benefit) Regulations, 1948

1948 No. 1166

Made - - - -	*2nd June*, 1948
Laid before Parliament	*2nd June*, 1948
Coming into Operation	*9th June*, 1948

104.

The National Insurance Joint Authority, in exercise of the powers conferred by sections 14 (3) and (6), 15 and 16 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.

Citation, commencement and interpretation.

1.—(1) These regulations may be cited as the National Insurance (Maternity Benefit) Regulations, 1948, and shall come into operation on the 9th June, 1948.

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

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

" the Minister " means the Minister of National Insurance;

" the determining authority " means an insurance officer, a local tribunal or the National Insurance Commissioner, as the case may require, appointed or constituted in accordance with the National Insurance (Determination of Claims and Questions) Regulations, 1948(a);

" certificate of expected confinement " means the certificate by a qualified practitioner(b) referred to in paragraph (*a*) of subsection (1) of section 15 of the Act;

" week " means a contribution week(c);

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.

(4) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. 52 & 53 Vict. c. 63.

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

(b) *See* s. 16 (1) (c), National Insurance Act, 1946, and reg. 5 of these regulations.

(c) *See* s. 78 (1), National Insurance Act, 1946.