1960 No. 1210

The National Insurance (Graduated Contributions and Non-participating Employments—Miscellaneous Provisions) Regulations, 1960

Made - - - -	15*th July*, 1960
Laid before Parliament	25*th July*, 1960
Coming into Operation	28*th July*, 1960

The Minister of Pensions and National Insurance and the National Insurance Joint Authority(a), in conjunction with the Treasury, in exercise of powers conferred by the National Insurance Act, 1946(b), the National Insurance (Industrial Injuries) Act, 1946(c), the National Insurance Act, 1957(d) and sections 2 (4) and 7 of the National Insurance Act, 1959(e), and of all other powers enabling them in that behalf, after considering the report of the National Insurance Advisory Committee on the preliminary draft submitted to them and after reference to the Industrial Injuries Advisory Council of Part III of that draft, hereby make the following regulations:—

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations, which may be cited as the National Insurance (Graduated Contributions and Non-participating Employments—Miscellaneous Provisions) Regulations, 1960, shall come into operation on the 28th July, 1960.

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

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

" the Act of 1959 " means the National Insurance Act, 1959;

" the Collection of Contributions Regulations " means the National Insurance and Industrial Injuries (Collection of Contributions) Regulations, 1948(f);

" the Contributions Regulations " means the National Insurance (Contributions) Regulations, 1948(g);

and other expressions have the same meanings as in the National Insurance Acts, 1946 to 1959.

(3) References in these regulations to any enactments or regulations shall include references to such enactments or regulations as amended by any subsequent enactment, order or regulations, and to any enactments, orders or regulations which replace them by provisions which deal with the same subject matter and are (so far as material) to the like effect.

(a) *See* National Insurance Act, 1946, s. 63 (2), and S.I. 1948/211 (Rev. XVI, p. 367: 1948 I, p. 2905).
(b) 9 & 10 Geo. 6. c. 67.
(c) 9 & 10 Geo. 6. c. 62.
(d) 5 & 6 Eliz. 2. c. 26.
(e) 7 & 8 Eliz. 2. c. 47.
(f) S.I. 1948/1274 (Rev. XVI, p. 148: 1948 I, p. 3037).
(g) S.I. 1948/1417 (Rev. XVI, p. 164: 1948 I, p. 2767).

(4) The rules for the construction of Acts of Parliament contained in the Interpretation Act, 1889(a), shall apply to the interpretation of these regulations as they apply to the interpretation of an Act of Parliament.

PART II

PROVISIONS AS TO PARTICIPATING AND NON-PARTICIPATING EMPLOYMENTS

Computation of remuneration for graduated contributions purposes

2.—(1) A payment made on account of a person's remuneration in an employed contributor's employment which is not a non-participating employment (hereafter in this Part of these regulations referred to as a " participating employment "), at a time when that person is employed in a non-participating employment under the same employer, shall be excluded from the computation of that person's remuneration.

(2) Where, at the time of a payment on account of a person's remuneration in a participating employment, that employment and his employment in a non-participating employment under the same employer have both come to an end, the payment shall be excluded from the computation of his remuneration if the last payment made on account of his remuneration in that participating employment before that participating employment came to an end fell to be so excluded under the provisions of the last foregoing paragraph.

(3) For the purpose of paragraph (1) of this regulation, at the time of a payment on account of his remuneration in a participating employment a person shall be deemed not to be employed in a non-participating employment if—

(*a*) his employer is not and has not been liable to pay weekly employer's contributions in respect of that non-participating employment for the contribution week in which that payment is made and for the thirteen contribution weeks immediately preceding, and his failure to be so liable does not arise by virtue of the provisions of subsection (1) of section 4, or of any regulations(b) made under paragraph (*a*) of subsection (1) of section 9, of the Act (which provide respectively that not more than one employer's contribution shall be payable in respect of any person for any week and as to the persons who are to be treated as employers); or

(*b*) that payment is made in a contribution week for which his employer is not liable as aforesaid, being part of a continuous period which is to last thirteen weeks or more for which he will not be so liable and for which his failure to be so liable does not arise by reason of that person's being, in those weeks, incapable of work or by virtue of the said provisions or of any such regulations.

(4) In this regulation " remuneration " has the same meaning as in the Act of 1959.

Rate of weekly contribution

3. Where a person is in the same contribution week employed both in a non-participating employment and in a participating employment, and a contribution is payable in respect of him for that week by an employer who employs him only in participating employment in that week, that contribution and any contribution payable by him for that week shall be payable at the rate appropriate to a participating employment.

(a) 52 & 53 Vict. c. 63.
(b) S.I. 1948/1274, regs. 8 to 10 (Rev. XVI, p. 148: 1948 I, p. 3037).

Calculation of excess graduated contributions

4. For the purposes of subsection (5) of section 7 of the Act of 1959 (which provides that a question as to the amount by which the graduated contributions paid in any income tax year, by a person employed both in a non-participating employment and in another employed contributor's employment, exceed the amount prescribed(**a**) under subsection (3) of section 2 of that Act shall be determined as if, in addition to those contributions, he had paid certain further graduated contributions) a person's employment in a non-participating employment shall be treated as continuing until, and as coming to an end at, the time at which it is treated(**b**) for the purpose of the provisions of Part II of the Act of 1959 relating to payments in lieu of contributions as having come to an end:

Provided that the Minister, in any case in which he extends or has extended the period during which, for the purpose of the said provisions of Part II of the Act of 1959, a person's employment is not to be treated as having come to an end or an interruption therein is to be disregarded(**c**), may direct that the employment shall be treated for the purposes of the said subsection (5) of section 7 as coming to an end at such earlier time as he may specify, being a time not earlier than that at which but for the extension it would have been treated for those purposes as coming to an end.

PART III

AMENDMENT OF THE COLLECTION OF CONTRIBUTIONS REGULATIONS

Additional and amended definitions

5.—(1) In paragraph (2) of regulation 1 of the Collection of Contributions Regulations (which makes provision for their interpretation) the following definition shall be inserted immediately after the definition of " the Acts ":—

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

(2) In the definition of " contributions " in the said paragraph (2) the following words shall be inserted immediately after the words " Industrial Injuries Act ":—

" save that it does not include graduated contributions under the Act of 1959 ".

(3) In the said paragraph (2) the following definitions shall be inserted immediately after the definition of " insurance card ":—

" ' non-participating employment ' has the same meaning as in the Act of 1959;

' participating employment ' means any employed contributor's employment which is not a non-participating employment; ".

Employment by two or more employers

6. In regulation 8 of the Collection of Contributions Regulations (which provides which of two or more employers shall be treated as a person's employer for the purposes of the provisions of the National Insurance Acts, 1946, relating to contributions) the following paragraph shall be added after paragraph (3):—

" (3A) In the application of the foregoing paragraphs of this regulation to an insured person who is employed both in a non-participating employment

(**a**) S.I. 1960/921, (Pt. II, p. 2210, of this vol.), reg. 9.
(**b**) S.I. 1960/1103, (Pt. II, p. 2244, of this vol), regs. 2 (2) and 18 (5).
(**c**) S.I. 1960/1103, (Pt. II, p. 2244, of this vol.), reg. 18.

and in a participating employment in the same contribution week, his employment in the participating employment shall be disregarded unless either—

(*a*) if it were so disregarded no contribution under the Act would be payable in respect of him for that week by virtue of any non-participating employment; or

(*b*) the first employer employing him in that week did not employ him in a non-participating employment at any time therein."

PART IV

AMENDMENT OF THE CONTRIBUTIONS REGULATIONS

Additional and amended definitions

7.—(1) In paragraph (2) of regulation 1 of the Contributions Regulations (which makes provision for their interpretation) the following definition shall be inserted immediately after the definition of " the Industrial Injuries Act ":—

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

(2) In the said paragraph (2) the following definition shall be inserted immediately after the definition of " an employed contributor's employment ":—

" ' contribution ' has the same meaning as in the Act save that it does not include a graduated contribution; ".

(3) In the said paragraph (2) the following definition shall be substituted for the definition of " due date "(a):—

" ' due date ' in Part IV of these regulations means in relation to any contribution (including any graduated contribution), the date on which that contribution was due to be paid, and in relation to any payment in lieu of contributions, the date on which that payment became due."

(4) In the said paragraph (2) the following definitions shall be inserted immediately after the definition of " week "(b):—

" ' graduated contribution ', ' income tax year ' and ' payment in lieu of contributions ' have the same meanings as in the Act of 1959; ".

Disposal of contributions improperly paid

8. Regulation 17 of the Contributions Regulations (which relates to the disposal of contributions improperly paid) shall become paragraph (1) of that regulation and shall be numbered accordingly, and immediately after it there shall be added the following paragraph:—

" (2) In this regulation references to " contributions " include references to graduated contributions and to payments in lieu of contributions and references to " the Act " include references to the Act of 1959."

Return of contributions paid and payments in lieu of contributions made in error

9. In regulation 18 of the Contributions Regulations (which relates to the return of contributions paid in error) the following paragraph shall be added after paragraph (5):—

" (6) The provisions of this regulation apply to graduated contributions and to payments in lieu of contributions as they apply to contributions

(a) *See* S.I. 1950/330, reg. 2 (1950 II, p. 15). (b) *See* S.I. 1959/847 (1959 II, p. 1882), reg. 2.

under the Act and as if the reference to the provisions of the Act in paragraph (1) were a reference to the provisions of the Act of 1959, subject to the following rules, namely:—

(*a*) the time within which a person desiring to apply for the return of any graduated contribution paid under the said erroneous belief shall make the application is six years from the end of the income tax year in which the payment of remuneration was made on which that contribution was based, or such longer time as the Minister may allow if he is satisfied that that person had good cause for not applying within those six years;

(*b*) the time within which a person desiring to apply for the return of any payment in lieu of contributions made under the said erroneous belief shall make the application is six years from the date on which the payment was made, or such longer time as the Minister may allow if he is satisfied that that person had good cause for not applying within those six years;

(*c*) for the purposes of paragraph (2) and paragraph (3) of this regulation one half of the amount of any payment in lieu of contributions made in respect of any person shall be treated as an employer's contribution and the other half thereof shall be treated as a contribution as an insured person paid on behalf of that person, and any sum recovered or retained by virtue of the provisions of section 10 of the Act of 1959 (which relates to an employer's right of recovery where a refund is payable to or in respect of an insured person under a recognised superannuation scheme) shall be treated as a sum recovered from that person;

(*d*) the provisions of this paragraph shall apply to any part of a graduated contribution or of a payment in lieu of contributions as they apply to that contribution or that payment respectively; and

(*e*) for the purposes of this regulation, where the graduated contributions paid by a person, in respect of his remuneration from two or more employments in any income tax year, exceed the amount prescribed(**a**) under subsection (3) of section 2 of the Act of 1959, the excess shall be treated as representing contributions paid under the erroneous belief that they were payable by that person under the Act."

Recovery of contributions and of payments in lieu of contributions

10.—(1) In regulation 19 of the Contributions Regulations (which relates to the recovery of contributions on prosecutions) the following paragraph shall be substituted for paragraph (4):—

" (4) Where an employer or an insured person is convicted of any such offence as is mentioned in paragraph (1) or paragraph (2) of this regulation, and an order is made under Part I of the Criminal Justice Act, 1948(**b**), placing the offender on probation or discharging him absolutely or conditionally, the foregoing provisions of this regulation shall apply as if the conviction were deemed to be a conviction for all purposes."

(2) In the said regulation 19 the following paragraph shall be substituted for paragraph (8):—

" (8) (*a*) Nothing in this regulation shall be construed as preventing the recovery of any sums due to the National Insurance Fund or the Industrial Injuries Fund by means of civil proceedings.

(*b*) In this regulation, save in paragraph (2) thereof, references to " contributions " include references to graduated contributions and to

(**a**) S.I. 1960/921, (Pt. II, p. 2210, of this vol.), reg. 9. (**b**) 11 & 12 Geo. 6. c. 58.

payments in lieu of contributions and, save in paragraphs (1) and (2), references to " the Act " include references to the Act of 1959."

(3) In the said regulation 19 the following paragraph shall be substituted for paragraph (9):—

" (9) This regulation shall, in its application to Scotland, have effect subject to the following modifications:—

(*a*) for any reference to a summons or warrant there shall be substituted a reference to a complaint;

(*b*) for paragraph (4) there shall be substituted the following paragraph:—

" (4) Where an employer or an insured person is convicted on indictment of, or is charged before a court of summary jurisdiction with, any such offence as is mentioned in paragraph (1) or paragraph (2) of this regulation, and an order is made under Part I of the Criminal Justice (Scotland) Act, 1949(**a**), discharging him absolutely or placing him on probation, the foregoing provisions of this regulation shall apply as if—

(*a*) the conviction on indictment were deemed to be a conviction for all purposes; or, as the case may be,

(*b*) the making of the order by the court of summary jurisdiction were a conviction."; and

(*c*) paragraph (5) shall be omitted."

Employed persons' contributions paid late or unpaid

11.—(1) In regulation 21(**b**) of the Contributions Regulations (which relates to the treatment for the purpose of benefit of a contribution payable by an employer on behalf of an insured person which is paid late or is not paid, without consent, connivance or negligence on the part of the insured person) the following paragraph shall be added immediately after paragraph (1):—

" (1A) The provisions of this regulation apply to a graduated contribution and to a payment in lieu of contributions as they apply to a contribution under the Act and as if, in the case of a payment in lieu of contributions, that payment were payable by the employer on behalf of the person in respect of whom it is payable:

Provided that where by virtue of this paragraph any graduated contribution falls to be treated as paid on the due date, the amount to be so treated shall not exceed such amount as is shown to the satisfaction of the Minister to have been payable."

(2) In paragraph (2) of the said regulation 21 there shall be substituted for the words " the last foregoing paragraph " the words " this regulation ".

Late payment of graduated contributions and payments in lieu of contributions

12. After regulation 25(**b**) of the Contributions Regulations there shall be added the following regulation:—

" *Treatment for the purpose of benefit of late paid graduated contributions and payments in lieu of contributions*

25A.—(1) For the purpose of any right to benefit (including any increase in the amount of benefit under subsection (5) of section 4 of the Act of 1959

(**a**) 12, 13 & 14 Geo. 6. c. 94. (**b**) *See* S.I. 1950/330, reg. 3 (1950 II, p. 15).

where a person does not retire from regular employment on attaining pensionable age) a graduated contribution paid after the due date shall be treated—

(*a*) if paid before the end of the sixth income tax year following the income tax year in which the payment of remuneration was made on which that contribution was based—as paid on the due date;

(*b*) if paid at any other time—as not paid.

(2) For the purpose aforesaid, a payment in lieu of contributions made after the due date shall be treated—

(*a*) if made before the end of the sixth income tax year following the income tax year in which it became due—as made on the due date;

(*b*) if made at any other time—as not made."

PART V
AMENDMENT OF MISCELLANEOUS PROVISIONS

Amendments as to classification

13.—(1) In paragraph (2) of regulation 1 of the National Insurance (Classification) Regulations, 1948(**a**) (which makes provision for their interpretation) the following definition shall be inserted immediately after the definition of " The Act ":—

" ' the purposes of the Act ' includes the purposes of the provisions of the National Insurance Act, 1959, relating to graduated contributions and to non-participating employments; ".

(2) At the end of paragraph (2) of regulation 2 of the last-mentioned regulations (which provides for persons to be treated as self-employed in respect of certain employments specified in Part II of the First Schedule to those regulations) there shall be added the following proviso:—

" Provided that for the purpose of graduated contributions paragraph 10(**b**) of that Part shall not apply to the employment of a person on any day or days in any contribution week in continuation of employment by the same employer in which services are or would be rendered normally for more than eight hours in a week."

Amendments as to the determination of claims and questions

14.—(1) In paragraph (2) of regulation 1 of the National Insurance (Determination of Claims and Questions) Regulations, 1948(**c**), (which makes provision for their interpretation) the following definition shall be inserted immediately after the definition of " insurance officer ":—

" ' contributions ' includes graduated contributions and payments in lieu of contributions under the National Insurance Act, 1959; ".

(2) In paragraph (1) of regulation 2 of the last-mentioned regulations (which provides that certain questions shall be determined by the Minister in accordance with Part III of those regulations) there shall be added immediately after the word " shall ", where that word first occurs, the words " , subject to the provisions of Part III of the National Insurance (Non-participation—Certificates) Regulations, 1959(**d**),".

Amendments as to late entrants into insurance

15.—(1) In the respective sub-paragraphs (*b*) of paragraph (1) of regulation 4 of the National Insurance (New Entrants Transitional) Regulations, 1949(**e**), and of regulation 10 of the National Insurance (Pensions, Existing Contributors) (Transitional) Regulations, 1948(**f**), (which provide that certain persons entering

(**a**) S.I. 1948/1425 (Rev. XVI, p. 95: 1948 I, p. 2738).
(**b**) *See* S.I. 1957/2175, reg. 3 (1957 I, p. 1623).
(**c**) S.I. 1948/1144 (Rev. XVI, p. 331: 1948 I, p. 2720). (**d**) S.I. 1959/1860 (1959 II, p. 1867).
(**e**) S.I. 1949/352 (1949 I, p. 2737). (**f**) S.I. 1948/612 (Rev. XVI, p. 18: 1948 I, p. 2834).

insurance less than ten years before attaining pensionable age shall not be liable to pay contributions as employed or self-employed persons for any period after attaining that age) there shall be added immediately after the words " (or, in the case of a woman, sixty) ", where those words first occur, the words " and no graduated contribution under the National Insurance Act, 1959, shall be payable in respect of any such person's employment by reason of any payment of remuneration made after his attaining the said age ".

(2) In the respective heads (iii) of sub-paragraph (*c*) of paragraph (1) of the said regulation 4 and of the said regulation 10 (which provide that the provisions of the preceding sub-paragraph shall not apply to a person who has elected not to be qualified for a retirement pension, except in so far as they confer exemption from liability to pay contributions), there shall be substituted for all the words following " in so far as they confer " the words " on that person or on his employer exemption from liability to pay contributions (including graduated contributions)."

Amendments as to residence and persons abroad

16.—(1) In paragraph (2) of regulation 3 of the National Insurance (Residence and Persons Abroad) Regulations, 1948(**a**), (which contains provisions with respect to the payment of contributions under the Act where a person's employment outside Great Britain in continuation of an employed contributor's employment is itself treated as an employed contributor's employment) the words " under the Act " shall be omitted, and immediately before the words " shall be payable " in sub-paragraph (*a*) thereof there shall be inserted the words " and graduated contributions under the National Insurance Act, 1959,".

(2) In paragraph (1) of regulation 10 of the last-mentioned regulations (which provides for the manner in which contributions are to be paid and collected), immediately after the word " Contributions " there shall be inserted the words " (other than graduated contributions) ".

Amendment as to seasonal workers

17. In paragraph (2) of regulation 1 of the National Insurance (Seasonal Workers) (No. 2) Regulations, 1950(**b**), (which makes provision for their interpretation) immediately before the words " expressions have the same meanings as in the National Insurance (Seasonal Workers) Regulations, 1950 " there shall be inserted the words " ' contribution ' does not include a graduated contribution under the National Insurance Act, 1959, and other ".

Additional provision as to the interpretation of various regulations

18. In the respective paragraphs (2) of regulation 1 of each of the regulations specified in the Schedule hereto (which make provision for the interpretation of those regulations) immediately before the words " and other expressions have the same meanings as in the Act " there shall be inserted the following words:—

" ' contributions ' has the same meaning as in the Act save that it does not include graduated contributions under the National Insurance Act, 1959; ".

Given under the Official Seal of the Minister of Pensions and National Insurance this fourteenth day of July, nineteen hundred and sixty.

(L.S.)

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

(a) S.I. 1948/1275 (Rev. XVI, p. 88: 1948 I, p. 2864). (b) S.I. 1950/1915 (1950 II, p. 32).

Given under the Official Seal of the National Insurance Joint Authority this fourteenth day of July, nineteen hundred and sixty.

(L.S.)

D. J. Carter,
Secretary,
National Insurance Joint Authority.

Dated this fifteenth day of July, nineteen hundred and sixty.

Michael Hughes-Young,
J. D. Gibson-Watt,
Two of the Lords Commissioners
of Her Majesty's Treasury.

SCHEDULE Regulation 18

Statutory Instrument	Citation
S.I. 1953/848 (1953 I, p. 1336)	The National Insurance (Additional Days of Unemployment Benefit) Regulations, 1953.
S.I. 1949/1204 (1949 I, p. 2708) ...	The National Insurance (Death Grant) Regulations, 1949.
S.I. 1948/1278 (Rev. XVI, p. 179: 1948 I, p. 2626).	The National Insurance (General Benefit) Regulations, 1948.
S.I. 1948/1503 (Rev. XVI, p. 2: 1948 I, p. 2880).	The National Insurance (General Transitional) Regulations, 1948.
S.I. 1954/189 (1954 I, p. 1387)	The National Insurance (Maternity Benefit and Miscellaneous Provisions) Regulations, 1954.
S.I. 1949/352 (1949 I, p. 2737)	The National Insurance (New Entrants) (Transitional) Regulations, 1949.
S.I. 1948/612 (Rev. XVI, p. 18: 1948 I, p. 2834).	The National Insurance (Pensions, Existing Contributors) (Transitional) Regulations, 1948.
S.I. 1948/1275 (Rev. XVI, p. 88: 1948 I, p. 2864).	The National Insurance (Residence and Persons Abroad) Regulations, 1948.
S.I. 1948/1277 (Rev. XVI, p. 212: 1948 I, p. 2676).	The National Insurance (Unemployment and Sickness Benefit) Regulations, 1948.
S.I. 1948/1261 (Rev. XVI, p. 207: 1948 I, p. 2704).	The National Insurance (Widow's Benefit and Retirement Pensions) Regulations, 1948.

EXPLANATORY NOTE

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

These Regulations contain in Part II provisions as to the payment of graduated and weekly contributions in the case of persons employed in both participating and non-participating employments and as to the calculation in such cases of the excess graduated contributions which, under the National Insurance Act, 1959, are refundable and do not count for benefit.

Parts III to V contain miscellaneous amendments of various Regulations made under the National Insurance Acts, in order to adapt them to the new graduated scheme.

The report of the National Insurance Advisory Committee on the preliminary draft of these Regulations, dated the 7th July, 1960, is contained in the House of Commons Paper No. 265 (Session 1959–60) published by Her Majesty's Stationery Office.