STATUTORY INSTRUMENTS

1962 No. 1270

NATIONAL INSURANCE

The National Insurance (Guardian's Allowances) Amendment Regulations 1962

Made - - - -	15*th June* 1962
Laid before Parliament	21*st June* 1962
Coming into Operation	26*th June* 1962

The Minister of Pensions and National Insurance, in exercise of powers conferred by section 6 of the Family Allowances and National Insurance Act 1961(a), in consequence of the said Act of 1961 and in exercise of all other powers enabling him in that behalf, hereby makes the following regulations:—

Citation, interpretation and commencement

1. These regulations, which may be cited as the National Insurance (Guardian's Allowances) Amendment Regulations 1962, shall be read as one with the National Insurance (Guardian's Allowances) Regulations 1948(b) as amended(c) (hereinafter referred to as " the principal regulations ") and shall come into operation on the 26th June 1962.

Provisions added to the principal regulations

2. The following provisions shall be added after regulation 5 of the principal regulations:—

" *Children whose surviving parents are in prison or legal custody*

5A.—(1) Subject to the following provisions of this regulation and to the provisions of regulation 7, where one of a child's parents is dead and the survivor of them is serving a sentence of imprisonment of not less than five years or of imprisonment for life, or is in legal custody as a person sentenced or ordered to be kept in custody during Her Majesty's pleasure or until the directions of Her Majesty are known, any guardian's allowance which would be payable in respect of the child if both his parents were dead shall be payable as if they were dead.

(2) For the purposes of this regulation, in relation to any sentence of imprisonment—

(*a*) no account shall be taken of any period of the sentence served before the death of the deceased parent;

(*b*) no account shall be taken of any reduction in the period of the sentence by virtue of any enactment providing for it to be treated as reduced in respect of any period of custody before sentence;

(*c*) any continuous period (other than a period before the death of the deceased parent) immediately preceding the imposition of the sentence, being a period throughout which the offender was in custody and not serving a sentence of imprisonment, shall be aggregated with the sentence;

(a) 10 & 11 Eliz. 2. c. 6. (b) S.I. 1948/2687 (Rev. XVI, p. 189 : 1948 I, p. 2781).
(c) S.I. 1957/1830 (1957 I, p. 1542).

(*d*) consecutive sentences shall be aggregated:

Provided that there shall be excluded from aggregation with a later sentence such period (if any) of an earlier sentence (not being a sentence of five years or more) as was served before the imposition of the later sentence.

(3) A guardian's allowance awarded by virtue of the provisions of this regulation shall not be payable for any period after the surviving parent has ceased to be serving such a sentence of imprisonment or to be in such legal custody as is referred to in paragraph (1).

(4) Subject to the provisions of the next following paragraph, a person shall be deemed not to have ceased to be serving such a sentence or to be in such custody as is referred to in paragraph (1) if he is transferred to a hospital or is temporarily released or is unlawfully at large.

(5) A person shall be deemed to have ceased to be serving such a sentence as is referred to in paragraph (1) if—

(*a*) he is at any time after the commencement of his sentence not in prison and there has expired a period which, measured from the date on which he was last in prison, is equal to the length of his sentence which on that date remained to be served; or

(*b*) he is released on licence or the remainder of his sentence is remitted:

Provided that if he thereafter returns to prison to resume service of the sentence he shall be treated as serving a sentence of the length which remains to be served at the time of his return.

(6) Where the sentence (or the conviction by virtue of which it is imposed) or order for custody referred to in paragraph (1) is subject to a right of appeal or a right to apply for leave to appeal, no award of a guardian's allowance in respect thereof by virtue of the provisions of this regulation shall be made until the time limited for the making of that appeal or application has expired, or, if such an appeal is made, until the appeal has been adjudicated upon or withdrawn, and no benefit shall be payable by virtue of such an award in respect of any period before the earliest date on which that award could have been made.

(7) In determining whether for the purpose of any right to guardian's allowance by virtue of the provisions of this regulation a child is to be treated as a child of the claimant's family, no account shall be taken of any contributions made by the surviving parent towards the cost of providing for that child.

(8) Where a surviving parent contributes towards the cost of providing for his child, the weekly rate of any guardian's allowance payable by virtue of the provisions of this regulation shall be reduced by an amount equal to the rate of that contribution for the calendar week ending last before the week for which the allowance is payable:

Provided that for this purpose—

(*a*) if the surviving parent normally so contributes at a weekly rate of 32s. 6d. or more, he shall be treated as continuously so contributing at that rate notwithstanding that for occasional weeks he does not so contribute at that rate or at all;

(*b*) the provisions of section 22 (2) of the Family Allowances Act 1945(a) shall apply as they apply for the purpose of that Act.

(a) 8 & 9 Geo. 6. c. 41.

(9) The Minister may require repayment to the National Insurance Fund by a surviving parent to whom paragraph (1) of this regulation applies of any sums paid in respect of guardian's allowance due in accordance with the provisions of this regulation in respect of a child of that parent.

(10) In a case for which the conditions for payment of guardian's allowance are modified by the foregoing provisions of these regulations so as to make guardian's allowance payable in respect of a child not on the death of a child's parents but on the death of two persons who are not the child's parents, or of whom one is not the child's parent, this regulation shall apply as if those persons were the child's parents.

(11) In this regulation, references to imprisonment include corrective training and preventive detention, and this regulation shall apply, subject to the necessary modifications, in relation to surviving parents outside Great Britain only where they are serving a sentence of imprisonment of not less than five years or of imprisonment for life."

Dated 15th June 1962.

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

EXPLANATORY NOTE

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

These Regulations, which amend the National Insurance (Guardian's Allowances) Regulations 1948, and are made in consequence of the Family Allowances and National Insurance Act 1961, provide for the payment of a guardian's allowance in respect of a child in certain cases where one parent is dead and the surviving parent is in prison or legal custody. They also make provision for the repayment by the surviving parent to the National Insurance Fund of sums paid by virtue of the Regulations. The remaining provisions are of a minor or consequential character.