9. GUARDIAN'S ALLOWANCES

The National Insurance (Guardian's Allowances) Regulations, 1948

1948 No. 2687

Made - - - -	*13th December*, 1948
Laid before Parliament	*13th December*, 1948
Coming into Operation	*17th December*, 1948

M.N.I. 152.

The National Insurance Joint Authority, in exercise of the powers conferred by section 19 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 (Guardian's Allowances) Regulations, 1948, and shall come into operation on the 17th December, 1948. Citation, commencement and interpretation.

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

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

" insurance officer ", " local tribunal " and " the Commissioner " have the same meanings as in 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 Commissioner ;

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.

2. Subject to the provisions of regulation 7, where a child has been adopted within the meaning of the Adoption of Children Act, 1926, or of the Adoption of Children (Scotland) Act, 1930, there shall be substituted for the condition contained in paragraph (*a*) of subsection (1) of section 19 of the Act that the parents (including any step-parent) of the child are dead, that condition set out below which is appropriate to the circumstances of the case, namely,— Adopted children. 16 & 17 Geo. 5. c. 29. 20 & 21 Geo. 5. c. 37.

(*a*) if the child was adopted by a person who was not married at the date of the adoption order, the condition that that person is dead, and that, if that person married after the date of the adoption order, the spouse whom that person so married is also dead ; or

(*b*) if the child was adopted by two spouses jointly, or by one of two spouses with the consent of the other, the condition that both of those spouses are dead, and that, if either of them remarried, the person whom either of such spouses remarried is also dead ;

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

(*c*) if the child was adopted by one of two spouses without the consent of the other, the condition that the spouse who adopted the child is dead, and that, if at the death of that spouse the spouse who did not consent to the adoption has in fact assumed joint responsibility for the child, such other spouse is also dead ; and further that, if the spouse who adopted the child remarried, the person to whom that spouse was remarried is also dead.

Illegitimate children.

3.—(1) Subject as aforesaid, where a child (other than a child to whom the preceding regulation applies) is illegitimate, there shall be substituted for the said condition that the parents (including any step-parent) of the child are dead the condition or conditions set out below appropriate to the circumstances of the case, namely,—

(*a*) if any person has been found by a court of competent jurisdiction to be the father of the child, or if there is no such finding but in the opinion of the determining authority the paternity of the child has been admitted or established, the condition that the father and the mother of the child are dead, and, where applicable, the further condition specified in paragraph (2) of this regulation ; or

(*b*) in any other case, the condition that the mother is dead, and where applicable, the further condition specified in the said paragraph (2).

(2) For the purposes of this regulation, the further condition shall be that, if the mother of such a child is married at the time of her death and the child is a child of her husband's family at that time, the husband is also dead.

Children of divorced persons.

4.—(1) Subject as aforesaid, where the marriage of a child's parents was terminated by divorce, there shall be substituted for the said condition that the parents (including any step-parent) of the child are dead the condition or conditions set out below appropriate to the circumstances of the case, namely,—

(*a*) where, at the death of one of the parents, the child was not in the custody of, or being maintained by, the other parent and there was no order of a court imposing any liability for custody or maintenance of the child on the other parent, the condition that one parent is dead ; and

(*b*) if one or both of the parents has remarried and at the date of the death of either parent the child is included in the family of the person whom either parent has remarried, the condition that any such person is also dead.

(2) In the application of this regulation, the expression " parents " shall include persons who adopt children in the circumstances specified in regulation 2 and persons who marry any such persons, and the expression " step-parent " shall be construed accordingly.

Children whose parents cannot be traced.

5.—(1) Subject as aforesaid, where at the date of the death of one of the parents of a child the other parent cannot be traced, there shall be substituted for the condition that the parents (including any step-parent) of the child are dead the condition that one of the parents is dead.

(2) For the purposes of this regulation, the provisions of paragraph (2) of regulation 4 shall apply.

Insurance condition.

6. Except in relation to regulation 5, there shall be substituted for the condition contained in paragraph (*b*) of subsection (1) of the said section 19 that one at least of the parents of the child was an insured person, the condition that the person or, as the case may be, one at least of the persons to whom the appropriate substituted condition contained in these regulations is applicable, was an insured person.

Special saving.

7. Notwithstanding anything contained in these regulations, the parent or the step-parent of a child shall not be entitled to a guardian's allowance in respect of that child.

Revocation of provisional regulations.

8. The National Insurance (Guardian's Allowances) Provisional Regulations, 1948(a), are hereby revoked but without prejudice to anything duly done or suffered, or to any right, privilege, obligation or liability acquired, accrued, or incurred, thereunder.

Given under the official seal of the National Insurance Joint Authority this 13th day of December, nineteen hundred and forty-eight.

(L.S.) *S. S. Menneer,*
Secretary,
National Insurance Joint Authority.

EXPLANATORY NOTE

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

These Regulations provide for modifications of the conditions for guardian's allowance in relation to adopted and illegitimate children, and children whose parents have been divorced or cannot be traced.

The preliminary draft of these Regulations was submitted to the National Insurance Advisory Committee in accordance with section 77 of the National Insurance Act, 1946, and their report thereon, dated the 21st October, 1948, is contained in the House of Commons Paper No. 32, published by His Majesty's Stationery Office.

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10. LOCAL ADVISORY COMMITTEES

The National Insurance (Local Advisory Committees) Regulations, 1948

1948 No. 1741

Made - - - -	*26th July,* 1948
Laid before Parliament	*27th July,* 1948
Coming into Operation	*30th July,* 1948

M.N.I.101.

The Minister of National Insurance, in exercise of the powers conferred by section 42 of the National Insurance Act, 1946, and of all other 9 & 10 Geo. 6. c. 67.

(a) S.I. 1948 No. 1358.