1957 No. 2164

The National Insurance (Increase of Benefit and Miscellaneous Provisions) Amendment Regulations, 1957

Made - - - -	*12th December,* 1957
Laid before Parliament	*19th December,* 1957
Coming into Operation	*20th December,* 1957

The Minister of Pensions and National Insurance, in conjunction with the Treasury, in exercise of the powers conferred by section 29 of the National Insurance Act, 1946(a), and 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 (Increase of Benefit and Miscellaneous Provisions) Amendment Regulations, 1957, shall be read as one with the National Insurance (Increase of Benefit and Miscellaneous Provisions) Regulations, 1955(b) (hereinafter referred to as "the principal regulations") and shall come into operation on the 20th December, 1957.

Amendment of regulation 17 of the principal regulations

2.—(1) Regulation 17 of the principal regulations (which relates to persons not resident in Great Britain) shall be amended in accordance with the following provisions of this regulation and shall accordingly have effect as set out in the Schedule to these regulations.

(2) At the end of the said regulation 17, the following provision shall be added:—

"(6) For the purposes of any disqualification contained in the said regulation 24, the said regulation 13 or this regulation for the receipt of additional retirement pension by virtue of her husband's insurance, a retirement pension by virtue of a widow's own insurance to which she becomes entitled by virtue of paragraph (*b*) of subsection (1) of section 2 of the National Insurance Act, 1957(c), (which paragraph provides that in certain cases a widow may have account taken of her husband's contributions in calculating the yearly average of the contributions paid by or credited to her for the purpose of her right to a retirement pension by virtue of her own insurance) shall be treated as if it were a retirement pension by virtue of her husband's insurance."

Revocation of provisional regulations

3. The National Insurance (Increase of Benefit and Miscellaneous Provisions) Amendment Provisional Regulations, 1957(d), are hereby revoked but

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(a) 9 & 10 Geo. 6. c. 67.
(b) S.I. 1955/493 (1955 I, p. 1586).
(c) 5 & 6 Eliz. 2. c. 26.
(d) S.I. 1957/1301.

without prejudice to anything duly done or suffered, or to any right, privilege, obligation or liability acquired, accrued or incurred thereunder.

Dated this Eleventh day of December, 1957.

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

Dated this Twelfth day of December, 1957.

Harwood Harrison,
Anthony Barber,
Two of the Lords Commissioners of Her Majesty's Treasury.

SCHEDULE Regulation 2 (1)

Regulation 17 of the Principal Regulations as Amended*

Persons not resident in Great Britain

17.—(1) Notwithstanding the provisions of these or any other regulations, but subject to the provisions of this regulation, if a person is not resident in Great Britain immediately before the 25th April, 1955, then unless and until that person becomes resident in Great Britain the following provisions shall apply:—

(*a*) if immediately before the said 25th April that person is entitled to a retirement pension or a contributory old age pension, he shall be disqualified for receiving any additional retirement pension:

Provided that, where a woman and her husband are then both not resident in Great Britain and she is not, but her husband is, then so entitled, she shall, unless and until she becomes so resident, be disqualified for receiving any additional widow's benefit or additional retirement pension by virtue of her husband's insurance;

(*b*) if immediately before the said 25th April that person is entitled to a widow's allowance, a widowed mother's allowance or a widow's pension, that person shall be disqualified for receiving any additional widow's benefit or additional retirement pension by virtue of her husband's insurance.

(2) Notwithstanding as aforesaid, if a person is not resident in Great Britain immediately before the said 25th April but that person is entitled to a guardian's allowance in respect of a child immediately before that date, any person who would otherwise be entitled to any additional guardian's allowance in respect of that child shall be disqualified for receiving such addition in respect of that child unless and until the child becomes (or is) included in the family of a person who is resident in Great Britain.

(3) For the purposes of the foregoing provisions of this regulation, references to additional benefit of any description are to be construed as referring to additional benefit of that description by virtue (either directly or indirectly) of any provision of the Act of 1954 or any regulations made in consequence of that Act.

(4) The disqualifications for the receipt of additional benefit by virtue of the National Insurance Act, 1951, contained in regulation 24, as amended, of the Increase of Benefit Regulations, 1951, of additional benefit by virtue of the Family Allowances and National Insurance Act, 1952, contained in regulation 13 of the National Insurance (Increase of Benefit and Miscellaneous Provisions)

* The words added by these regulations are shown in italics.

Regulations, 1952, and of additional benefit by virtue of the Act of 1954 contained in this regulation, shall not apply—

(*a*) to a person for any period on or after the said 25th April during which he is in Great Britain ; or

(*b*) to a woman who, immediately before the said 25th April, is entitled to a retirement pension by virtue of her own insurance or to a retirement pension by virtue of her husband's insurance, in relation to a retirement pension by virtue of her husband's insurance, or to a retirement pension by virtue of her own insurance, as the case may be, to which she thereafter becomes entitled.

(5) For the purposes of this regulation, a person shall be treated as entitled to any benefit immediately before the said 25th April if he would then have been so entitled but for any one or more of the following causes, namely:—

(*a*) any delay or failure to make a claim ;

(*b*) any disqualification for the receipt of benefit ;

(*c*) any provision of either the principal Act, or any regulations made thereunder, relating to earnings ;

(*d*) the cohabitation of a widow with a man as his wife ;

(*e*) the absence of any child from Great Britain ; or

(*f*) the provisions of subsection (4) of section 21 of the principal Act (which relates to the disentitlement of a woman to more than one retirement pension for the same period).

(6) *For the purposes of any disqualification contained in the said regulation* 24, *the said regulation* 13 *or this regulation for the receipt of additional retirement pension by virtue of her husband's insurance, a retirement pension by virtue of a widow's own insurance to which she becomes entitled by virtue of paragraph* (*b*) *of subsection* (1) *of section* 2 *of the National Insurance Act,* 1957, *(which paragraph provides that in certain cases a widow may have account taken of her husband's contributions in calculating the yearly average of the contributions paid by or credited to her for the purpose of her right to a retirement pension by virtue of her own insurance) shall be treated as if it were a retirement pension by virtue of her husband's insurance.*

EXPLANATORY NOTE

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

These Regulations, which revoke and replace the National Insurance (Increase of Benefit and Miscellaneous Provisions) Amendment Provisional Regulations, 1957, amend the National Insurance (Increase of Benefit and Miscellaneous Provisions) Regulations, 1955. Under section 2 (1) of the National Insurance Act, 1957, a widow who immediately before attaining pensionable age is entitled to widow's benefit no longer becomes entitled to a retirement pension by virtue of her husband's insurance, but is allowed for certain periods to elect to have account taken of her husband's contributions in calculating her yearly average for the purpose of her right to a retirement pension by virtue of her own insurance. A widow resident abroad when benefit rates were increased in 1951, 1952 or 1955 is under the existing regulations precluded from obtaining by virtue of her husband's insurance the increased rate of retirement pension then enacted unless she subsequently becomes resident in Great Britain. The present Regulations apply this provision to a retirement pension payable under section 2 (1) by virtue of taking account of her husband's contributions.

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 14th November, 1957, is contained in House of Commons Paper No. 33 (Session 1957-58) published by Her Majesty's Stationery Office.