Maternity Benefit (Transitional)

REGULATIONS, DATED 7TH AUGUST, 1953, MADE BY THE MINISTRY OF LABOUR AND NATIONAL INSURANCE, IN CONJUNCTION WITH THE MINISTRY OF FINANCE, UNDER THE NATIONAL INSURANCE ACT (NORTHERN IRELAND), 1953.

1953. No. 121

The Ministry of Labour and National Insurance, in conjunction with the Ministry of Finance so far as relates to matters with regard to which the Ministry of Finance has so directed, in exercise of the powers conferred by paragraphs 3, 8, 10 (2) and 14 of the Second Schedule to the National Insurance Act (Northern Ireland), 1953 (**a**), and of all other powers enabling it in that behalf, hereby makes the following regulations :—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Insurance (Maternity Benefit) (Transitional) Regulations (Northern Ireland), 1953, and shall come into operation on the 10th August, 1953.

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

" the Act of 1953 " means the National Insurance Act (Northern Ireland), 1953 ;

" the principal Act " means the National Insurance Act (Northern Ireland), 1946 (**b**), as amended or extended by or under any other enactment, excluding the Act of 1953 ;

" the Maternity Benefit Regulations " means the National Insurance (Maternity Benefit) Regulations (Northern Ireland), 1948 (**c**), as amended by the National Insurance (Maternity Benefit) Amendment Regulations (Northern Ireland), 1949 (**d**) ;

" the Medical Certification Regulations " means the National Insurance (Medical Certification) Regulations (Northern Ireland), 1948 (**e**), as amended by the National Insurance (Medical Certification) Amendment Regulations (Northern Ireland), 1949 (**f**), and the National Insurance (Medical Certification) Amendment Regulations (Northern Ireland), 1952 (**g**) ;

" the Ministry " means the Ministry of Labour and National Insurance for Northern Ireland ;

" the appointed day " means the day (**h**) appointed by the Minister of Labour and National Insurance for Northern Ireland for the purposes of the Act of 1953 ;

" the determining authority " means, as the case may require, an insurance officer or a local tribunal appointed or constituted in

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(**a**) 1953. c.27. (**b**) 1946. c.23. (**c**) S. R. & O. (N.I.) 1948. No. 238.
(**d**) S. R. & O. (N.I.) 1949. No. 75. (**e**) S. R. & O. (N.I.) 1948. No. 256.
(**f**) S. R. & O. (N.I.) 1949. No. 148. (**g**) S. R. & O. (N.I.) 1952. No. 112.
(**h**) 26th October, 1953. See S. R. & O. (N.I.) 1953. No. 110.

accordance with the National Insurance (Determination of Claims and Questions) Regulations (Northern Ireland), 1948 (a), or an umpire or deputy umpire appointed by the Governor of Northern Ireland for the purposes of the principal Act (b).

" the last day of the allowance period " means, —

(*a*) in relation to a maternity allowance which a woman claims in respect of expectation of her confinement, the last day of the sixth week after the week in which it is to be expected that she will be confined ; or

(*b*) in relation to a maternity allowance which a woman claims by virtue of the fact that she has been confined, the last day of the sixth week after the week in which the confinement occurred ;

and, subject to the next following paragraph, other expressions have the same meanings as in the principal Act.

(3) For the purposes of the interpretation of these regulations, the provisions of paragraphs 6, 10 and 15 of the Second Schedule to the Act of 1953 shall, subject to the provisions of regulation 12, apply as they apply for the purposes of the interpretation of Part II of that schedule.

(4) For the purposes of these regulations, any notice sent by post shall be deemed to have been given on the day on which it was posted.

(5) The Interpretation Act, 1889 (c), applies for the purpose of the interpretation of these regulations in like manner as it applies for the purpose of the interpretation of an Act of the Parliament of Northern Ireland.

Increase of the amount of a maternity grant

2. In any case where —

(*a*) a woman has become entitled before the appointed day to a maternity grant by virtue of a certificate that it is to be expected that she will be confined (whether or not payment thereof had then been made) ;

(*b*) the confinement in expectation of which she became so entitled has not occurred before that day ; and

(*c*) her pregnancy has not been otherwise terminated before that day ;

the amount of the grant shall be increased to nine pounds if, but only if, before the expiration of three months (or such longer period, not exceeding six months, as the determining authority may for good cause allow) beginning with the said day or the date of the confinement (whichever is the later), the beneficiary furnishes, by such means as the determining

(a) S. R. & O. (N.I.) 1948. No. 185.
(b) See s.40 (3) (*c*) National Insurance Act (Northern Ireland), 1946.
(c) 52 & 53 Vict. c.63.

authority shall accept as sufficient, evidence either that she has been confined or that she is pregnant and that it is to be expected that she will be confined.

Cases in which the following provisions as to maternity allowances are to apply

3. The following provisions of these regulations shall have effect in any case where —

(*a*) a woman claims a maternity allowance in respect of expectation of her confinement and the week in which it is to be expected that she will be confined falls within the transitional period ; or

(*b*) a woman claims a maternity allowance by virtue of the fact that she has been confined and the confinement occurred within that period ;

and references therein to a claimant or to a claim shall be construed accordingly.

Election to have a claim for a maternity allowance dealt with in accordance with the old provisions

4.—(1) If a claimant elects, in accordance with the following paragraph, to have her claim dealt with in accordance with the old provisions, and does not withdraw, in accordance with regulation 6, the election so made by her, the old provisions shall apply to her in respect of the relevant confinement (that is to say, the confinement in respect of whose actual or expected occurrence the claim is made) and the new provisions shall not apply to her in respect thereof.

(2) Any such election as is mentioned in the preceding paragraph shall be made by a claimant by her giving written notice thereof to the Ministry within the appropriate period determined in accordance with regulation 5 :

Provided that a claimant shall not be entitled to make such an election in relation to her claim if she has previously made and withdrawn such an election in relation to that claim.

Appropriate period for making an election

5.—(1) The appropriate period for the making of an election in relation to a claim shall, subject to the following paragraph, be the day on which the claim is made.

(2) Where, in relation to her claim, a claimant makes an election after the day on which the claim is made but before the expiration of three weeks after —

(*a*) that day ; or

(*b*) the last day of the allowance period ;

whichever day is the later, the appropriate period for the making of an election in relation to that claim shall be extended (subject to the condition specified in regulation 7) so as to end on the day on which the election is made.

Withdrawal of an election

6. A claimant who, in relation to her claim, has made an election in accordance with paragraph (2) of regulation 4 may withdraw the election (subject to the condition specified in regulation 7) by a notice in writing given by her to the Ministry before the expiration of four weeks after the last day of the allowance period or the day on which the claim is made, whichever day is the later.

Election, or withdrawal of an election, after the award of a maternity allowance

7. The condition subject to which there may be made —

(*a*) any extension, in accordance with paragraph (2) of regulation 5, of the appropriate period for the making of an election in relation to a claim ; or

(*b*) any withdrawal, in accordance with regulation 6, of an election previously made in relation to a claim ;

shall be that, if at the time when the notice making or withdrawing the election is given a maternity allowance has been awarded by a decision on the claim, any review of that decision which is to be made solely on the ground that an election has been made or withdrawn shall not be required to be made before the last day of the allowance period.

Signification of an intention not to make an election

8. A claimant who intends not to make an election in relation to her claim shall, if that claim is made in the circumstances specified in any of the paragraphs of the schedule to these regulations, signify that intention by a notice in writing given by her to the Ministry before the expiration of four weeks after the last day of the allowance period or the day on which her claim is made, whichever day is the later.

Election to be deemed to have been made in certain circumstances

9. In any case where a claimant has neither —

(*a*) made an election in accordance with paragraph (2) of regulation 4 to have her claim dealt with in accordance with the old provisions ; nor

(*b*) signified, in accordance with regulation 8, her intention not to do so ;

she shall, in the circumstances specified in any of the paragraphs of the schedule to these regulations, be deemed to have made such an election and continue to be so deemed unless and until she so signifies such an intention.

Adjustment of the rate of a maternity allowance payable in accordance with the old provisions

10.—(1) In any case where, —

(*a*) by virtue of any provision of these regulations, a maternity allowance is payable to a claimant in accordance with the old provisions ; and

(*b*) any other benefit under the principal Act is payable to her in respect of any part of the period of five weeks immediately preceding the sixth week before the relevant week ;

the weekly rate of the allowance shall be adjusted in the circumstances and to the extent specified in the next following paragraph.

(2) If the total amount resulting from the addition of —

(*a*) the amount of the other benefit under the principal Act (excluding any benefit by way of a grant, any increase of benefit in respect of a child or adult dependant and so much of any benefit by way of a widowed mother's allowance as is equivalent to the increase of benefit payable in respect of the only, elder or eldest child of a family) payable to the claimant in respect of those five weeks or any part thereof ; and

(*b*) the amount which, but for this regulation, would be payable to her by way of a maternity allowance ;

exceeds twenty-nine pounds and five shillings, the weekly rate of the allowance shall be reduced to either —

(i) the amount resulting from the division, by the number of complete weeks comprised in the period for which the allowance is payable, of the difference between twenty-nine pounds and five shillings and the amount referred to in sub-paragraph (*a*) of this paragraph ; or

(ii) thirty-two shillings and sixpence ;

whichever is the greater.

(3) For the purposes of the foregoing provisions of this regulation (but without prejudice to the application of sub-paragraph (4) of paragraph 9 of the Second Schedule to the Act of 1953) the amount which, but for this regulation, would be payable to a claimant by way of a maternity allowance shall be determined as if —

(*a*) any adjustment thereof required to be made by virtue of regulations under section 29 of the principal Act (which makes general provision as respects overlapping benefits) were not required to be made ; and

(*b*) paragraph (*a*) of the proviso to subsection (2) of section 14 of the principal Act (which paragraph prevents the payment of a maternity allowance for any week after the death of the beneficiary) had not been enacted ;

and the reference in those provisions to the period for which the allowance is payable shall be construed accordingly.

(4) Where the weekly rate of a maternity allowance determined in accordance with paragraph (2) of this regulation would, but for this paragraph, include a fraction of a penny, that fraction shall be disregarded if it is less than a halfpenny and shall be treated as a penny if it is a halfpenny or more.

(5) In this regulation, the expression " the relevant week " —

(*a*) in a case where the allowance is payable by virtue of a certificate that it is to be expected that the woman will be confined in a week specified in the certificate, means the week so specified ; and

(*b*) in any other case, means the week comprising the date of the confinement.

Continuation of a maternity allowance payable in accordance with the old provisions

11. In any case where —

(*a*) in accordance with any provision of these regulations the old provisions apply to a claimant in respect of a confinement ; and

(*b*) the date of the confinement occurs after the expected week of confinement ; and

(*c*) the payment to the claimant of a maternity allowance would have been continued by virtue of paragraph (*b*) of the proviso to subsection (2) of section 14 of the principal Act if the application of that paragraph had not been excluded by subparagraph (1) of paragraph 10 of the Second Schedule to the Act of 1953,

the allowance shall continue to be payable until the expiration of the sixth week after the week in which the date of the confinement occurs :

Provided that —

(i) if the claimant dies, the allowance shall not be payable for any subsequent week ;

(ii) as respects any period for which the payment of the allowance is so continued, the weekly rate thereof shall be thirty-two shillings and sixpence.

Modification of the old provisions

12.—(1) For the purposes of the application of the old provisions in accordance with Part II of the Second Schedule to the Act of 1953, the Maternity Benefit Regulations and the Medical Certification Regulations shall apply subject to the modifications specified in the following provisions of this regulation.

(2) In paragraph (1) of regulation 3 of the Maternity Benefit Regulations (which prescribes the number of weeks referred to in paragraph (*a*) of subsection (1) of section 14 of the principal Act), for the word " eleven " (which word was substituted for the word " seven " by regulation 2 of the National Insurance (Maternity Benefit) Amendment Regulations (Northern Ireland), 1949), there shall be substituted —

(*a*) the word " twelve " in relation to a case in which the expected week of confinement begins on the 28th December, 1953 ;

(*b*) the word " thirteen " in relation to a case in which that week begins on the 4th January, 1954 ;

(*c*) the word " fourteen " in relation to a case in which that week begins on or after 11th January, 1954.

(3) In the form of certificate of expected confinement set out in Part II of the schedule to the National Insurance (Medical Certification) Regulations (Northern Ireland), 1948 (being one of the forms of certificate set out in the Fourth Schedule to the National Insurance (Medical Certification) Amendment Regulations (Northern Ireland), 1952) for the word " eleventh ", there shall be substituted the word " fourteenth ".

Sealed with the Official Seal of the Ministry of Labour and National Insurance for Northern Ireland this 6th day of August, nineteen hundred and fifty-three, in the presence of

(L.S.) *William Allen,*
Assistant Secretary to the Ministry of Labour and National Insurance for Northern Ireland.

Sealed with the Official Seal of the Ministry of Finance for Northern Ireland this 7th day of August, nineteen hundred and fifty-three, in the presence of

(L.S.) *G. N. Cox,*
Assistant Secretary to the Ministry of Finance for Northern Ireland.

SCHEDULE Regulations 8 and 9.

CIRCUMSTANCES IN WHICH AN ELECTION TO HAVE A CLAIM FOR MATERNITY ALLOWANCE DEALT WITH IN ACCORDANCE WITH THE OLD PROVISIONS IS TO BE DEEMED TO HAVE BEEN MADE

1. The claimant —
   (*a*) has claimed a maternity allowance in respect of expectation of her confinement ; and
   (*b*) does not satisfy either the contribution conditions for a maternity allowance as set out in paragraph 14 of the First Schedule to the Act of 1953 or any contribution conditions which she is required to satisfy in order to become entitled to a maternity allowance at a reduced rate by virtue of regulations under section 24 of the principal Act as amended by the Act of 1953.
2. The claimant —
   (*a*) has claimed a maternity allowance by virtue of the fact that she has been confined ; and
   (*b*) does not satisfy either the contribution conditions for a maternity allowance as set out in paragraph 14 of the First Schedule to the Act of 1953 (subject to any modification thereof in their application to her case by virtue of regulations under subsection (6) of section 14 of the principal Act as amended by the Act of 1953) or any contribution conditions which she is required to satisfy in order to become entitled to a maternity allowance at a reduced rate by virtue of regulations under section 24 of the principal Act as so amended.
3. The claimant —
   (*a*) has claimed a maternity allowance in respect of expectation of her confinement ;
   (*b*) would be entitled to the allowance whether the old provisions or the new provisions were to apply to her in respect of the confinement, but would not be entitled to the allowance in accordance with the new provisions in respect of any period before the seventh week before the week in which it is to be expected that she will be confined ; and
   (*c*) has not claimed an increase of the allowance in respect of a child or an adult dependant.