EXPLANATORY NOTE

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

In consequence of the transfer, pursuant to section 1 of the Family Allowances and National Insurance Act, 1959, of the functions of determining questions as to the right to allowances arising under the Family Allowances Act, 1945, from the Minister of Pensions and National Insurance with appeal to referees appointed under that Act to insurance officers or local tribunals subject to appeal to the Commissioner appointed under the National Insurance Act, 1946, certain provisions of the National Insurance (Determination of Claims and Questions) Regulations, 1948, have become inappropriate. Part II of these Regulations amends regulations 2, 6, 11 and 18 of those regulations so as to take account of the provisions of the Family Allowances (Determination of Claims and Questions) Regulations, 1959, whereby such transfer is effected.

By Part III of these Regulations the ordinary system of adjudication for matters arising under the National Insurance Act, 1946, is, with the necessary modifications, made applicable to transitional matters arising under that Act, in place of the special system prescribed by the National Insurance (Determination of Claims and Questions) (Transitional) Regulations, 1948, which are revoked.

Preliminary drafts of these Regulations were submitted to the National Insurance Advisory Committee in accordance with section 77 of the National Insurance Act, 1946, and their reports thereon, dated the 3rd June and the 1st July, 1959, are contained in House of Commons Paper No. 244 (Session 1958–59) published by Her Majesty's Stationery Office.

1959 No. 2119

The National Insurance (Non-participation—Appeals and References) Regulations, 1959

Made - - - -	12*th December*, 1959
Laid before Parliament	17*th December*, 1959
Coming into Operation	18*th December*, 1959

The Minister of Pensions and National Insurance in exercise of powers conferred by section 43 of the National Insurance Act, 1946(a), and section 13 of the National Insurance Act, 1959(b), and of all other powers enabling him in that behalf, after considering the report of the National Insurance Advisory Committee on the preliminary draft submitted to them and after consultation with the Council on Tribunals, hereby makes the following regulations:—

Citation, interpretation and commencement

1.—(1) These regulations, which may be cited as the National Insurance (Non-participation—Appeals and References) Regulations, 1959, shall come into operation on the 18th December, 1959.

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

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

"the Certificates Regulations" means the National Insurance (Non-participation—Certificates) Regulations, 1959(c);

(a) 9 & 10 Geo. 6. c. 67. (b) 7 & 8 Eliz. 2. c. 47. (c) S.I. 1959/1860 (Pt. II, p.1867, of this vol.).

" the Minister " means the Minister of Pensions and National Insurance ;

" the Adjudicator " means the adjudicator appointed in accordance with subsection (3) of section 13 of the National Insurance Act, 1959, for the purposes of Part II thereof ;

" the Registrar " means an officer appointed in accordance with regulation 2 of the Certificates Regulations ;

" Part III question " means a question whether an employment is, under any certificate, to be treated as a non-participating employment in relation to any person or as to the period for which it is to be so treated which is referred to the Registrar by the Minister under Part III of the Certificates Regulations ;

and other expressions have the same meaning 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(a), applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

Clerk to the Adjudicator

2. The Minister shall appoint a clerk to the Adjudicator from among the officers of the Ministry of Pensions and National Insurance who shall perform such duties in connection with appeals and references from the Registrar under Part II of the said Act of 1959 as may be required for the purposes of these regulations.

Notice of appeal or reference to the Adjudicator

3.—(1) An appeal by any person mentioned in regulation 13 of the Certificates Regulations against a decision of the Registrar shall be brought by giving notice of appeal to the clerk to the Adjudicator within one month after the date on which the decision is sent to that person or within such longer period as the Adjudicator may for special reason allow.

(2) A notice of appeal shall be in writing and shall contain a statement of the grounds upon which the appeal is made.

(3) The clerk to the Adjudicator shall send copies of the notice of appeal to the Registrar and, in the case of a Part III question, to the Minister, to any person to whom notice was given under regulation 8 of the Certificates Regulations and to any other person to whom the Adjudicator directs notice to be given.

(4) Where the Registrar refers a question to the Adjudicator in accordance with the provisions of the Certificates Regulations notice of such reference shall be given to the employer or, in the case of a Part III question, to the Minister, to any person to whom notice was given under the said regulation 8 and to any other person to whom the Adjudicator directs notice to be given.

Procedure before the Adjudicator

4.—(1) An oral hearing of the appeal or reference shall be granted by the Adjudicator at the request of the Registrar or of any person who has a right of appeal.

(2) If, in accordance with the provisions of the foregoing paragraph, a request for an oral hearing has been granted, or if, notwithstanding that no request has been made, the Adjudicator is otherwise satisfied that an oral

(a) 52 & 53 Vict. c. 63.

hearing is desirable, reasonable notice of the time and place of the hearing shall be given to every person by whom notice of appeal was given or to whom notice of a reference by the Registrar or a copy of the notice of appeal was sent.

(3) In any case in which an oral hearing of an appeal is held such hearing shall be in public except insofar as the Adjudicator for special reasons otherwise directs.

(4) Any person to whom notice of the hearing has been given shall be entitled to be heard at the hearing and to be represented thereat by any other person whether legally qualified or not and, for the purpose of the proceedings at the hearing, such representative shall have all the rights and powers to which the person whom he represents is entitled under these regulations.

(5) Any person having the right to be heard who appears at a hearing by the Adjudicator may call witnesses and shall be given an opportunity of putting questions directly to any witness called at the hearing.

(6) The Adjudicator may, if he thinks fit, require any persons to attend at a hearing to give evidence or to produce documents reasonably required for determining the issue before him and may take evidence on oath and for that purpose administer oaths.

(7) If any person to whom notice of the hearing has been duly given should fail to appear either in person or by a representative at the hearing the Adjudicator may proceed to determine the issue notwithstanding the absence of any such person or representative, or may give such directions with a view to the determination of the issue as he thinks proper.

(8) If it appears to the Adjudicator that any appeal or reference which is made to him involves a question of special difficulty, the Adjudicator may direct that in dealing with the appeal or reference or any part thereof he shall have the assistance of an assessor or assessors having the necessary professional qualifications, whom he shall select from a panel appointed by the Minister after consultation with the appropriate professional bodies.

(9) The decision of the Adjudicator shall be in writing and signed by him and a copy thereof shall be sent as soon as may be practicable to the employer, to the Registrar and to the Minister or, in the case of a Part III question, to the Registrar, to the Minister and to any person to whom notice of the hearing was given under paragraph (2) of this regulation, and any person to whom a copy is sent shall be informed of the reasons for the decision.

(10) Subject to the provisions of these regulations, the procedure in connection with the consideration and determination of any appeal or reference to the Adjudicator shall be such as he shall determine.

Review of decisions

5.—(1) Any decision given by the Registrar or the Adjudicator on a Part III question may, on a reference by or an appeal from a decision of the Registrar under regulation 12 of the Certificates Regulations, be reviewed by the Adjudicator on the grounds for review of decisions by the Registrar under that regulation, that is to say, if—

(*a*) the Adjudicator is satisfied that the decision was given in ignorance of or was based on a mistake as to some material fact; or

(*b*) new facts are brought to his notice.

(2) Where a decision is referred for review under this regulation, notice shall be given to the person to whom the decision relates, to the employer of that person during any period in question, to the Minister and to any other person to whom the Adjudicator directs notice to be given.

(3) The provisions of these regulations shall apply to the reference under regulation 12 of the Certificates Regulations of a decision to the Adjudicator for review as they apply to the reference to him of a Part III question.

Dated this twelfth day of December, 1959.

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 prescribe the procedure for determination by the Adjudicator appointed under Part II of the National Insurance Act, 1959 of any question whether an employment is to be treated as a non-participating employment for the purposes of that Act or as to the persons in relation to whom or the period for which it is to be so treated. (The National Insurance (Non-participation—Certificates) Regulations, 1959, provide for the submission to the Adjudicator of any such question on appeal from a decision of or on reference by the Registrar.) The Regulations include provision for oral hearings and other procedural matters and contain a power for the Adjudicator, on a reference or appeal to him, to review decisions given by himself or the Registrar on questions whether any employment is to be treated as a non-participating employment in relation to any person or the period for which it is to be so treated.

The report of the National Insurance Advisory Committee on the preliminary draft of these Regulations, dated 11th December, 1959, is contained in the House of Commons Paper No. 49 (Session 1959–60) published by Her Majesty's Stationery Office.