of State allows. Regulation 3 applies to certain employees whose superannuation rights were already modified, before the passing of the principal regulations, to take account of National Health Insurance, and who are allowed to retain these existing modified rights as long as they remain with the same local authority. It is now provided that they may retain these rights if there is a break of up to twelve months in their employment, or if they are transferred to another authority in consequence of any enactment.

## 17. RESIDENCE AND PERSONS ABROAD

# The National Insurance (Residence and Persons Abroad) Regulations, 1948

## 1948 No. 1275

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| *Made* - - - - | 16*th June*, 1948 |
| *Laid before Parliament* | 17*th June*, 1948 |
| *Coming into Operation* | 24*th June*, 1948 |

M.N.I.111.

The Minister of National Insurance, in conjunction with the Treasury so far as relates to matters with regard to which the Treasury have so directed, in exercise of powers conferred by sections 1, 14, 29, 60 and 71 of the National Insurance Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations:—

9 & 10 Geo. 6. c. 67.

Citation, commencement and interpretation.

**1.**—(1) These regulations may be cited as the National Insurance (Residence and Persons Abroad) Regulations, 1948, and shall come into operation on the 24th June, 1948.

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

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

26 Geo. 5. & 1 Edw. 8. c. 32.

" the Insurance Act " means the National Health Insurance Act, 1936;

26 Geo. 5. & 1 Edw. 8. c. 33.

" the Contributory Pensions Act " means the Widows', Orphans' and Old Age Contributory Pensions Act, 1936;

" the Minister " means the Minister of National Insurance;

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.

52 & 53 Vict. c. 63.

(4) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

*Residence condition*

Condition as to residence in Great Britain.

**2.** For the purposes of subsection (1) of section 1 of the Act (which subsection provides for persons who are in Great Britain becoming insured under the Act subject to such conditions as may be prescribed as to residence in Great Britain), the condition as to residence in Great Britain shall be that a person must have been resident in Great Britain for a continuous period of twenty-six weeks terminating on or after the appointed day(a) and on or after attaining school leaving age:

Provided that—

(*a*) this condition shall not apply to the following persons as from the respective dates mentioned below:—

(i) (subject to the provisions of paragraph (*b*) of this proviso) in the case of a person who, but for the foregoing provision, would be an employed person(b)—as from the date on which he becomes such a person;

(a) 5th July, 1948. *See* S.I. 1948 No. 54, p. 2615 above.

(b) *See* s. 1 (2) (a), National Insurance Act, 1946.

(ii) in the case of a person who, but for the said foregoing provision, would be a self-employed person(**a**) or a non-employed person(**b**) and who notifies the Minister that this condition shall not apply to him—as from the date of such notification;

(iii) in the case of a person over school leaving age and under the age of eighteen who came to Great Britain for the purpose of receiving full time education or of becoming a full time unpaid apprentice not gainfully occupied—as from the date of the commencement of such education or apprenticeship, or, if the education or apprenticeship commenced before, and was still existing on, the appointed day, as from that day;

(*b*) where an employed person (not being an existing contributor within the meaning of any regulations(**c**) made under section 65 of the Act) to whom the provisions of sub-paragraph (i) of the preceding paragraph of this proviso would otherwise apply is not ordinarily resident in the United Kingdom and either the employer of that person is not so ordinarily resident or the employer's principal place of business is not in the United Kingdom, the foregoing condition shall apply with the substitution of fifty-two weeks (weeks commencing before the appointed day being disregarded) for twenty-six weeks if, in the country in which the employed person is ordinarily resident, payments by the employer or the employed person in respect of the period of the employment are being made for the purpose of enabling him to qualify for benefits substantially similar to benefits provided under the Act.

*Payment of contributions in respect of periods abroad*

Contributions in respect of employment outside Great Britain in continuance of employed contributor's employment.

**3.**—(1) Where a person employed in an employed contributor's employment(**d**) ceases to be so employed in Great Britain but is employed (whether by the same or a different employer) outside Great Britain in continuation of an employed contributor's employment, that employment outside Great Britain shall be treated as an employed contributor's employment for the period for which contributions are payable in respect of it under sub-paragraph (*a*) of paragraph (2) of this regulation, provided the employer has a place of business in Great Britain, and the person concerned is ordinarily resident therein.

(2) Where under the preceding paragraph employment outside Great Britain is treated as an employed contributor's employment, the following provisions shall apply with respect to the payment of contributions under the Act:—

(*a*) Weekly contributions at the appropriate rates specified in Part I and Part II of the First Schedule to the Act (which Parts respectively specify the contributions payable by employed persons and the employers of such persons) shall be payable in respect of such employment during the period of twelve months from the commencement thereof.

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(**a**) *See* s. 1 (2) (b), National Insurance Act, 1946.

(**b**) *See* s. 1 (2) (c), National Insurance Act, 1946.

(**c**) *See* National Insurance (Pensions, Existing Contributors) (Transitional) Regulations, 1948 (S.I. 1948 No. 612, p. 2834 above); National Insurance (Sickness Benefit, Maternity Benefit and Miscellaneous Provisions) (Transitional) Regulations, 1948 (S.I. 1948 No. 1276, p. 2639 above); and National Insurance (Unemployment Benefit) (Transitional) Regulations, 1948 (S.I. 1948 No. 1279, p. 2685 above).

(**d**) *See* s. 1 (2), National Insurance Act, 1946.

(*b*) After the completion of the period for which contributions are payable under the preceding sub-paragraph, the insured person shall, for any week thereafter during the whole of which he is outside Great Britain, be entitled to pay contributions as a non-employed person, provided he exercises the option to pay any such contributions within twenty-six weeks from the date on which he so ceases to be liable to pay contributions.

(3) Where a person to whom sub-paragraph (*b*) of the preceding paragraph is applicable has while outside Great Britain paid contributions as a non-employed person in accordance with the provisions of that sub-paragraph, and returns to Great Britain, any contribution so paid shall be treated as if it were a contribution paid by him in respect of an employed contributor's employment, provided that in respect of each contribution year commencing after the appointed day during the whole of which he was outside Great Britain not less than forty-five contributions of any class have been paid by or credited to him as an insured person.

Special provision relating to persons outside Great Britain on the appointed day.

**4.** Where a person (not being a person insured by virtue of any provision of the Act) is on the appointed day over school leaving age and under pensionable age, and is then gainfully occupied in an employment outside Great Britain which is in continuation of employment in Great Britain, and which, had the employment in Great Britain ceased on that day, would have been treated as an employed contributor's employment under paragraph (1) of regulation 3, then, as from the appointed day, that person shall be insured under the Act, and that employment outside Great Britain shall be treated as an employed contributor's employment for the purposes of regulation 3, as if that employment were in continuation of an employed contributor's employment:

Provided that where any such person commenced the said employment outside Great Britain before the 1st January, 1946, the provisions of regulation 3 shall not apply to him, and for the purposes of this proviso, the expression " the said employment " shall include any previous period of employment which was continuous with the employment existing at the appointed day and which would have been treated as an employed contributor's employment if the Act and these regulations had been in operation during that period.

Contributions as a non-employed or self-employed person in respect of periods outside Great Britain.

**5.**—(1) Where an insured person is throughout any contribution week outside Great Britain and is not in that week an employed person, he shall not be liable to pay any contributions as an insured person for that week.

(2)—(*a*) Subject to the conditions specified in sub-paragraph (*b*) of this paragraph, an insured person shall, for any week during the whole of which he is outside Great Britain, and for which by virtue of paragraph (1) of this regulation he is not liable to pay a contribution as an insured person, be entitled to pay a contribution as a non-employed person or, if he so desires and is gainfully occupied in that week, as a self-employed person.

(*b*) The conditions referred to in the preceding sub-paragraph are:—

(i) either that, subject to the provisions of sub-paragraph (*c*) of this paragraph, not less than one hundred and fifty-six contributions of any class under the Act had been paid by him as an insured

person, or, alternatively, that he had been resident in Great Britain for a continuous period of not less than three years at any time before the week in question; and

(ii) that in either case he exercises the option to pay contributions in respect of any period during which he is outside Great Britain before the expiration of twenty-six weeks from the date on which the period commenced, or, in the case of a person to whom the proviso to regulation 4 applies, within such longer period as the Minister may allow.

(*c*) For the purposes of the first of the alternative conditions contained in sub-paragraph (*b*) (i) of this paragraph, the following provisions shall apply:—

(i) in the case of a person who became insured under the Insurance Act or the Contributory Pensions Act before the 30th September, 1946, and who continued to be an insured person under either of those Acts up to immediately before the appointed day, and in respect of whom the contributions paid before that day under those Acts since his last entry into insurance were not less than one hundred and four, the said condition shall be deemed to be satisfied;

(ii) in the case of a person who became so insured on or after the said 30th September, or in respect of whom less than one hundred and four such contributions were so paid before the appointed day, and who continued to be an insured person under the Insurance Act or the Contributory Pensions Act up to immediately before that day, any such contributions shall count towards the satisfaction of the said condition; and

(iii) in either of the foregoing cases, if more than one contribution has been paid under the said Acts for any one week, any such contributions shall for the purposes of this sub-paragraph be treated as if they were one contribution.

(3) This regulation shall not apply to a person to whom the provisions of sub-paragraph (*b*) of paragraph (2) of regulation 3 are applicable.

Special provisions for payment of contributions in respect of periods abroad by persons returning to Great Britain.

**6.**—(1) (*a*) Where a person who (being a person who immediately before the appointed day was over school leaving age and under pensionable age) was resident in Great Britain before the appointed day but outside Great Britain on that day returns to Great Britain thereafter but within three years of that day or within such longer period as the Minister may in any particular case determine, he shall, subject to his becoming an insured person and to the provisions of these regulations, be entitled to pay contributions as a non-employed person in respect of the period or part of the period between the appointed day and his return to Great Britain; and any contributions so paid shall be treated as having been paid in respect of continuous weeks ending with the week immediately preceding the day of such return.

(*b*) Notwithstanding anything contained in regulation 2, a person who on his return to Great Britain pays contributions under the foregoing provisions of this paragraph, shall thereupon be entitled to pay contributions as a non-employed person for the whole or part of any period during which the provisions relating to residence contained in that regulation apply in his case.

(2) Where a person desires under the preceding paragraph to pay contributions as a non-employed person, he must exercise the option to do so within twenty-six weeks of his return to Great Britain.

(3) Any such person shall be deemed to be an insured person under the Act for the period or periods in respect of which contributions have been paid or treated as having been paid in accordance with the provisions of paragraph (1) of this regulation.

*Payment of benefit to persons absent from Great Britain*

Modifications of the Act in relation to payment of benefit abroad.

**7.** The following provisions shall apply in relation to the payment of benefit to or in respect of persons absent from Great Britain:—

(1) A person shall not be disqualified for receiving sickness benefit or maternity allowance—

(*a*) by reason of being temporarily absent from Great Britain (being in the Isle of Man or the Channel Islands) during the period of six months from the date on which such absence commences; or

(*b*) by reason of being temporarily absent from Great Britain (not being in the Isle of Man or the Channel Islands) for the specific purpose of being treated for incapacity which commenced before he left Great Britain, during such period as the Minister may allow, having regard to the particular circumstances of the case, subject to the qualification that payment of the benefit shall be suspended until that person returns to Great Britain, unless he has nominated a person in Great Britain (who is approved by the Minister) to receive payment of the benefit on his behalf.

(2) A person shall not be disqualified for receiving a widow's benefit, a guardian's allowance or a retirement pension, by reason of being absent from Great Britain—

(*a*) if he is in any other part of His Majesty's dominions; or

(*b*) if, being absent from His Majesty's dominions, his absence therefrom does not exceed twelve months, but in that event the disqualification shall only not apply in respect of the last six months of such a period of absence, and this sub-paragraph shall be subject to the further conditions that payment of benefit shall be suspended until that person returns to Great Britain or to any other part of His Majesty's dominions, and that, for the purpose of determining the period of such absence, any temporary presence in His Majesty's dominions shall be disregarded.

(3) Where by virtue of the foregoing provisions of this regulation a husband or wife is not disqualified for receiving a benefit although absent from Great Britain, he or she shall not be disqualified for receiving any increase (where payable) of that benefit in respect of his or her spouse by reason of the spouse being absent from Great Britain, provided the spouse is residing with the husband or wife, as the case may be.

**8.**—(1) A woman shall not be disentitled to a maternity grant or an attendance allowance by reason of the confinement occurring—

(*a*) in the Isle of Man or the Channel Islands; or

(*b*) elsewhere outside Great Britain, if at the time of the confinement she is ordinarily resident in Great Britain;

and any such woman shall, in addition, not be disqualified for receiving any such benefit by reason of her being absent from Great Britain.

(2) Notwithstanding the foregoing provisions of this regulation, where such a woman is absent from Great Britain, the Isle of Man and the Channel Islands, payment of the benefit or grant shall be suspended until she returns to Great Britain, unless she has nominated a person in Great Britain (who is approved by the Minister) to receive payment of the benefit or grant on her behalf.

Suspension of payment of benefit.

**9.**—(1) The payment of benefit to or in respect of any person which is payable otherwise than in respect of a period of absence from Great Britain shall be suspended while the beneficiary is absent from Great Britain, unless the benefit is one (and only so long as it is one) which, by reason of the foregoing provisions of these regulations, the person is not disqualified for receiving or not disentitled to when so absent.

(2) Where by virtue of the foregoing provisions of these regulations payment of benefit is suspended for any period, then, in the case of maternity benefit, the first six months of that period, and in the case of any other benefit, the period of suspension, shall not be taken into account in calculating any period under the provisions of regulation 12 of the National Insurance (Claims and Payments) Regulations, 1948(a) (which regulation relates to the extinguishment of the right to sums payable by way of benefit which are not obtained within the prescribed time).

Administrative arrangements as to contributions and benefits.

**10.**—(1) Contributions and benefit which become payable by virtue of these regulations shall be paid and collected, or, as the case may be, paid, at such times and in such manner and subject to the furnishing of such information and evidence as the Minister may determine or require from time to time.

(2) Any option which may be exercised by virtue of regulation 3, 5 or 6 shall be made in writing and addressed to the Minister.

Dated this 16th day of June, 1948.

*James Griffiths,*
Minister of National Insurance.

*R. J. Taylor,*
*Wm. Hannan,*
Two of the Lords Commissioners of His Majesty's Treasury.

## EXPLANATORY NOTE

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

These Regulations deal with four main subjects, namely, (1) the condition as to residence in Great Britain which must ordinarily be complied with before a person can become insured under the National Insurance Act, 1946 (regulation 2); (2) payment of contributions in respect of periods abroad (regulations 3 to 6); (3) the right on return to Great Britain of persons employed in employed contributor's employment abroad to convert contributions paid abroad as a non-employed person into employed person's contributions (regulation 3 (3)); and (4) the removal in some cases of the statutory disqualification for the receipt of benefit for periods of absence from Great Britain and for the suspension of payment of benefit in certain cases (regulations 7 to 9).

(a) S.I. 1948 No. 1041, p. 2709 above.