1973. No. 395 **[C]**

NATIONAL INSURANCE

Increase of Benefit and Miscellaneous Provisions

REGULATIONS, DATED 28TH SEPTEMBER 1973, MADE BY THE NATIONAL INSURANCE JOINT AUTHORITY AND THE MINISTRY OF HEALTH AND SOCIAL SERVICES, IN CONJUNCTION WITH THE MINISTRY OF FINANCE, UNDER THE NATIONAL INSURANCE ACTS (NORTHERN IRELAND) 1966 TO 1973.

The National Insurance Joint Authority, in exercise of powers conferred by sections 44 and 49(1)(*a*) of the National Insurance Act (Northern Ireland) 1966(**a**), and the Ministry of Health and Social Services on behalf of the Secretary of State, in exercise of powers conferred by sections 48 and 54(1) of, and paragraphs 17 and 18 of Schedule 9 to, that Act, paragraph 3 of Schedule 6 to the National Insurance &c. (No. 2) Act (Northern Ireland) 1969(**b**) and section 1 of the National Insurance Act (Northern Ireland) 1970(**c**), in each case in conjunction with the Ministry of Finance on behalf of the Secretary of State so far as relates to matters with regard to which the Ministry of Finance has so directed, and in exercise of all other powers enabling them in that behalf, hereby make the following regulations being regulations subject to negative resolution in accordance with section 101(3) of the National Insurance Act (Northern Ireland) 1966:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Insurance (Increase of Benefit and Miscellaneous Provisions) Regulations (Northern Ireland) 1973, and shall come into operation on 1st October 1973.

(2) In these regulations—

"the principal Act" means the National Insurance Act (Northern Ireland) 1966;

"the Act of 1969" means the National Insurance &c. (No. 2) Act (Northern Ireland) 1969;

"the Order of 1971" means the Social Services (Parity) Order (Northern Ireland) 1971(**d**);

"the Act of 1973" means the National Insurance and Supplementary Benefit Act 1973(**e**).

Higher rates and amounts of benefit payable under regulations

2. Subject to the provisions of regulations 5 and 7, as from the dates specified in column (1) of Schedule A there shall be substituted for each of the Schedules and for the Table mentioned in column (2) thereof the Schedule set opposite thereto in column (3).

Miscellaneous amendments relating to benefit and to contributions

3.—(1) As from the dates specified in column (1) of Schedule J, there shall in the regulations mentioned in column (2) thereof be made the amendments specified against those regulations mentioned in columns (3) and (4) thereof.

(a) 1966. c. 6 (N.I.).
(b) 1969. c. 19 (N.I.).
(c) 1970. c. 28 (N.I.).
(d) S.R. & O. (N.I.) 1971, No. 224.
(e) 1973. c. 42.

(2) As from 1st October 1973, Schedule 2 to the National Insurance (New Entrants Transitional) Regulations (Northern Ireland) 1948(f) (amounts payable, by way of refund of contributions, to persons entering insurance too late to be able to satisfy contribution conditions for widow's benefit or retirement pension) shall be amended by the addition thereto, at the end, of the provisions set out in Schedule K.

Conditions relating to payment of additional benefit under awards made before the appointed or prescribed day

4. Where an award of any benefit under the principal Act has been made before the day appointed or prescribed for the payment of benefit of the description to which the award relates at a higher weekly rate by virtue of the Act of 1973 or of these regulations, paragraphs 2 and 3 of Schedule 6 to the Act of 1969 (effect of any such award) shall, if the period to which the award relates has not ended before that day, have effect subject to the condition that if the award has not been made in accordance with the provisions of sub-paragraph (2) of the said paragraph 3 (which sub-paragraph authorises the making of such an award providing for the payment of the benefit at the higher weekly rate as from that day) and a question arises as to—

(*a*) the weekly rate at which the benefit is payable by virtue of the Act of 1973 or of these regulations, or

(*b*) whether the conditions for the receipt of the benefit at the higher weekly rate are satisfied,

the benefit shall be or continue to be payable at the weekly rate specified in the award until the said question shall have been determined in accordance with the provisions of the principal Act.

Persons not ordinarily resident in Northern Ireland

5.—(1) Notwithstanding the provisions of these or any other regulations, but subject to the provisions of this regulation, a person who is not ordinarily resident in Northern Ireland immediately before 1st October 1973 (in this regulation referred to as "the said date") shall, unless and until that person becomes ordinarily resident in Northern Ireland, be disqualified for receiving—

(*a*) in the case of a woman who immediately before the said date is a married woman and had not retired from regular employment, any additional retirement pension by virtue of her husband's insurance, if the husband before the said date had retired from regular employment and was not ordinarily resident in Northern Ireland;

(*b*) in the case of a woman who immediately before the said date is a widow, any additional retirement pension by virtue of her husband's insurance, if her husband had died before the said date;

(*c*) in any other case, any additional retirement pension (not being additional retirement pension to which either sub-paragraph (*a*) or (*b*) applies) if that person had retired from regular employment before the said date;

(*d*) any additional widow's benefit if her husband had died or retired before the said date;

(*e*) any additional child's special allowance if her former husband had died before the said date.

(f) S.R. & O. (N.I.) 1948, No. 221 as last amended by reg. 3(2) of and Sch. K to S.R. & O. (N.I.) 1972, No. 221.

(2) Notwithstanding as aforesaid, if immediately before the said date a person is not ordinarily resident in Northern Ireland but that person has, or would, but for the absence of any child from Northern Ireland, have in his family immediately before the said date a child in relation to whom the conditions for guardian's allowance specified in section 28 of the principal Act are satisfied, that person and any other person who would otherwise be entitled to any additional guardian's allowance in respect of that child shall be disqualified from receiving any additional guardian's allowance in respect of that child unless and until the child becomes (or is) included in the family of a person who is ordinarily resident in Northern Ireland.

(3) The disqualifications for the receipt of additional benefit contained in this regulation shall not apply to a person for any period during which he is in Northern Ireland.

(4) For the purposes 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 1973 or of these regulations.

(5) A widow who—

(*a*) is not ordinarily resident in Northern Ireland immediately before the said date, and was entitled to widow's benefit immediately before attaining pensionable age, or who would, but for any provision of the principal Act disqualifying her for the receipt of such benefit, have been so entitled; and

(*b*) is or becomes entitled to a retirement pension by virtue of her own insurance the right to which is calculated by taking into account under section 32 of the principal Act her husband's contributions;

shall be disqualified for receiving any additional retirement pension the right to which is so calculated unless and until she becomes ordinarily resident in Northern Ireland if either—

(i) her husband died before the said date; or

(ii) before the said date he had retired from regular employment and was not ordinarily resident in Northern Ireland.

(6) The provisions of paragraph 3(1) of Part II of Schedule 6 to the Act of 1969 shall apply where, notwithstanding the foregoing provisions of this regulation, benefit of an amount higher than the amount awarded to a person has in fact been paid to him.

(7) The disqualification for the receipt of additional retirement pension contained in paragraph (1)(*c*) shall not apply to a woman in relation to a retirement pension by virtue of her husband's insurance, if that husband had not retired from regular employment before the said date and either—

(i) he was her husband immediately before that date; or

(ii) she married him on or after that date.

Amendment of the National Insurance (General Benefit) Regulations

6. For regulation 7 (contribution to maintenance of adult dependant) of the National Insurance (General Benefit) Regulations (Northern Ireland) 1971(**g**) there shall be substituted the following regulation:

(g) S.R. & O. (N.I.) 1971, No. 190.

"Contribution to maintenance of adult dependant

7.—(1) Subject to paragraphs (2) and (3) of this regulation for the purposes of section 42(1) or 42A(1) of the Act (increase of unemployment benefit, sickness benefit, invalidity pension or retirement pension in respect of a wife) or of regulation 5(1)(*c*) or 5A(1)(*b*)(ii) (increase of unemployment benefit, sickness benefit, invalidity pension or retirement pension in respect of a female person having the care of a child or children of the beneficiary's family)—

(*a*) a beneficiary shall not be deemed to satisfy the requirement contained in the said section 42(1) or 42A(1) or the said regulation 5(1)(*c*) or 5A(1)(*b*)(ii) that he is contributing to the maintenance of the wife or female person, as the case may be, at a weekly rate of not less than the appropriate amount set out in column (5) of Part II of Schedule 3 to the Act, unless when in employment, or not incapable of work, or not retired from regular employment, as the case may be (except in a case where the dependency did not arise until after that time) he contributed to her maintenance at a weekly rate of not less than that amount; and

(*b*) in a case where an increase of benefit is, apart from the said requirement, payable at a weekly rate less than that specified in the said column (5), a beneficiary shall, subject to paragraph (*a*), be deemed to satisfy the said requirement, if he is contributing to the maintenance of the wife or female person, as the case may be, at a weekly rate of not less than that of the increase.

(2) Where a person within 1 month of having been or of being deemed to have been entitled to an increase of unemployment benefit or sickness benefit under section 42(1) of the Act or regulation 5(1)(*c*) at the lower of the two weekly rates of increase of those benefits referred to in column (5) of Part II of Schedule 3 to the Act would, if he satisfied the condition imposed by paragraph (1)(*a*) of this regulation and the relevant contribution conditions, be entitled to an increase of benefit under the said section 42(1) or regulation 5(1)(*c*) or under section 42A(1) of the Act or regulation 5A(1)(*b*)(ii) at the highest weekly rate referred to in the said column (5), he shall be deemed to satisfy that condition in relation to the said highest weekly rate if he satisfies it in relation to the said lower of the two weekly rates.

(3) For the purposes of paragraph (2), a person shall be deemed to have been entitled to an increase of unemployment benefit or sickness benefit under section 42(1) of the Act or regulation 5(1)(*c*) at the lower of the two weekly rates of increase of those benefits referred to in column (5) of Part II of Schedule 3 to the Act if (assuming satisfaction of the relevant contribution conditions) he would have been so entitled but for the provisions of section 42(1)(*b*) of the Act or, as the case may be, regulation 5(2)(*b*).".

Transitory provision

7. As respects the period beginning on 1st October 1973 and ending on 3rd October 1973, the rate of a person's unemployment or sickness benefit for any day in the said period payable by virtue of section 18(3) of the principal Act or invalidity pension payable by virtue of Article 3(4) of the Order of 1971 (unemployment benefit, sickness benefit and invalidity pension for persons over pensionable age) shall be determined as if the day from which higher rates of retirement pension are payable by virtue of the foregoing provisions of these regulations were 4th October 1973.

Given under the Official Seal of the National Insurance Joint Authority this 28th day of September 1973.

(L.S.) *D. S. Beaumont,*
Secretary.

Given under the Official Seal of the Ministry of Health and Social Services for Northern Ireland this 28th day of September 1973.

(L.S.) *C. G. Oakes,*
Assistant Secretary.

Given under the Official Seal of the Ministry of Finance for Northern Ireland this 28th day of September 1973.

(L.S.) *C. F. Darling,*
Assistant Secretary.