1973. No. 280 [C]

NATIONAL INSURANCE

Death Grant

REGULATIONS, DATED 17TH AUGUST 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 1969.

The National Insurance Joint Authority, in exercise of powers conferred by sections 17(2), 38(4), 44 and 48(1)(*b*) and (2) 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 38(2), 47(1), 48(1)(*a*) and 80(3) of, and paragraphs 1, 17, 18 and 20(*e*) of Schedule 9 to, that Act and section 8(1) of the National Insurance &c. (No. 2) Act (Northern Ireland) 1969(**b**), 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 said Act of 1966:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Insurance (Death Grant) Regulations (Northern Ireland) 1973 and shall come into operation on 1st October 1973.

(2) In these regulations—

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

"the New Entrants Regulations" means the National Insurance (New Entrants Transitional) Regulations (Northern Ireland) 1948(**c**);

"British Islands" means the United Kingdom, the Channel Islands and the Isle of Man;

"contributions" has the same meaning as in the Act save that it does not include graduated contributions under the Act;

"the deceased" has the same meaning as in section 38 of the Act.

Calculation of yearly average of contributions, etc., for death grant

2.—(1) The yearly average of contributions paid by or credited to any person shall, in relation to death grant, be calculated in the same manner as that provided in regulation 3 of the National Insurance (General Benefit) Regulations (Northern Ireland) 1971(**d**) in relation to widow's benefit and retirement pensions, and accordingly that regulation shall also apply as a separate provision in relation to death grant.

(**a**) 1966. c. 6 (N.I.).
(**b**) 1969. c. 19 (N.I.).
(**c**) S.R. & O. (N.I.) 1948, No. 221.
(**d**) S.R. & O. (N.I.) 1971, No. 190.

(2) Regulation 13(2) of the said regulations (suspension of payment of certain benefits pending appeals to the Commissioner) shall apply in relation to death grant as it applies in relation to the benefits referred to in sub-paragraph (*b*) of that regulation; and regulation 13(9) of the said regulations (payment of certain benefits in an emergency under arrangements made by the Ministry with the consent of the Ministry of Finance), other than paragraph (*b*) of the proviso thereto, shall apply in relation to death grant as it applies in relation to the benefits referred to in that regulation.

Modification of the Act in relation to period over which yearly average of contributions is to be calculated for death grant in the case of certain persons under pensionable age and over 16

3. The period over which the yearly average of contributions paid by or credited to any person is to be calculated shall in relation to death grant be, in the case of any person becoming insured under the Act on or after 5th July 1948 who immediately before that date was under pensionable age and on that date was over the age of 16, the same as that specified in regulation 2(1)(e) of the New Entrants Regulations, and accordingly that regulation, other than sub-paragraph (*b*) thereof, shall apply in relation to death grant.

Special provisions for men over 55 and women over 50 immediately before 5th July 1948

4.—(1) The provisions of regulation 4(1)(*a*) and (*b*)(f) of the New Entrants Regulations (postponement of pensionable age for, and contributions paid by or in respect of, certain persons who immediately before 5th July 1948 were over the age of 55 in the case of men or 50 in the case of women and under pensionable age) shall apply in relation to death grant as they apply for the purposes of retirement pensions and widow's benefit.

(2) The provisions of regulation 10(1)(*a*) and (*b*) of the National Insurance (Pensions, Existing Contributors) (Transitional) Regulations (Northern Ireland) 1948(g) (postponement of pensionable age for, and contributions paid by or in respect of, certain existing pensions contributors) shall apply in relation to death grant as they would apply for the purposes of retirement pensions and widow's benefit if regulation 10(2) of those regulations were omitted.

(3) Where a person attained pensionable age within the period of 26 weeks commencing on 5th July 1948, and by the time he had attained that age had not satisfied the contribution condition for death grant contained in paragraph 5(1)(*a*) of Schedule 2 to the Act, but thereafter further contributions have been or are paid by him, or have been or are credited to him in respect of any period commencing on or after 5th July 1948, which, if taken into account, would satisfy that condition, he shall be deemed to have satisfied that condition as from 5th July 1949, or the end of the week in respect of which the twenty-sixth contribution was so paid or credited, whichever is the later.

Children

5. Where the deceased was at death a child but the requirements of section 38(1) of the Act (persons by whom the contribution conditions for death grant may be satisfied) are not satisfied, a death grant shall, subject to the provisions of the Act, be payable in respect of the death of the deceased if the relevant contribution conditions are satisfied by either—

(e) See Sch. to S.R. & O. (N.I.) 1958, No. 108.
(f) See Sch. to S.R. & O. (N.I.) 1957, No. 182 as amended by S.R. & O. (N.I.) 1960, No. 194.
(g) S.R. & O. (N.I.) 1948, No. 129 as amended by reg. 4 of S.R. & O. (N.I.) 1957, No. 181 and reg. 15 of S.R. & O. (N.I.) 1960, No. 194.

(*a*) a parent (including a person who has adopted a child pursuant to an Adoption Order made in the British Islands or a foreign Adoption Order within the meaning of section 4 of the Adoption (Hague Convention) Act (Northern Ireland) 1969(**h**)) of the deceased, notwithstanding that the deceased was not at death a child of the family of that parent; or

(*b*) a person who, immediately before the deceased's death, was entitled to an increase of benefit in respect of the deceased under sections 39 or 40 of the Act (increases of benefit for children) or would have been so entitled had he then been entitled to any benefit of which the said section 39 provides an increase:

Provided that—

(i) subject to head (ii), the amount of a death grant payable by virtue of this regulation shall not exceed the amount of the deceased's funeral expenses;

(ii) head (i) shall not apply if the deceased would have been a child of the family of a parent satisfying the relevant contribution conditions but for section 19(3) of the Family Allowances Act (condition of a child's being included in a family that the child is in Northern Ireland).

Deaths occurring outside Northern Ireland

6.—(1) Subject to the provisions of the Act and these regulations, a death grant shall be payable in respect of a death occurring outside Northern Ireland if the conditions contained in any one of the following sub-paragraphs are satisfied—

(*a*) that the deceased immediately before death was, or but for any failure to make a claim would have been, entitled to sickness benefit or invalidity benefit under the Act, or to industrial injury benefit under the Industrial Injuries Act; or

(*b*) that the deceased immediately before death was, or but for any failure to make a claim would have been, entitled to widow's benefit or a retirement pension under the Act, or to industrial death benefit under the Industrial Injuries Act, or would have been entitled to a retirement pension had he then retired from regular employment and made the necessary claim, or was a child in respect of whom a child's special allowance or a guardian's allowance was payable; or

(*c*) that the deceased was a widow who was, immediately before her death, entitled to any personal death benefit by way of pension or allowance in respect of the death of her husband under any Personal Injuries Scheme, any Service Pensions Instrument or any 1914-1918 War Injuries Scheme; or

(*d*) that the deceased immediately before death was entitled to industrial disablement benefit under the Industrial Injuries Act; or

(*e*) that the deceased immediately before death was liable or entitled, as the case may be, to pay contributions under regulation 3(2) or 4(2) of the National Insurance (Residence and Persons Abroad) Regulations (Northern Ireland) 1973(**i**) (circumstances in which contributions are payable by or in respect of persons for periods when they are outside Northern Ireland) and not less than 45 contributions were paid by or credited to him in respect of a contribution year, being either the last complete contribution year before his death or the contribution year immediately preceding that year; or

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(**h**) 1969. c. 22 (N.I.). (**i**) S.R. & O. (N.I.) 1973, No. 175.

(*f*) that the deceased immediately before death was a serving member of the forces within the meaning of regulation 1(2) of the National Insurance (Members of the Forces) Regulations 1968(**j**); or

(*g*) that the deceased immediately before death was either—

(i) employed as a mariner within the meaning of regulation 1(2) of the National Insurance (Mariners) Regulations (Northern Ireland) 1967(**k**) (other than a mariner excepted from insurance by regulation 2(2) of those regulations) or as an airman within the meaning of regulation 1(2) of the National Insurance (Airmen) Regulations (Northern Ireland) 1948(**l**) (other than an airman excepted from insurance by regulation 2(2) of those regulations); or

(ii) a person who (then being otherwise entitled to unemployment benefit, or then being so entitled but for any failure to make a claim) by virtue of the relevant provisions of either of the said regulations was not disqualified for receiving any such benefit by reason of his absence from Northern Ireland; or

(*h*) that the deceased immediately before death was either the wife or husband or child (to whom the provisions of section 38(1) of the Act are applicable) of a person who, had he then died, would have satisfied the conditions contained in any one of the foregoing paragraphs, and such wife or husband or child, as the case may be, was then resident with that person, and for this purpose the expression "child of the family" contained in the said section shall be deemed to include a child who would be included in that expression but for section 19(3) of the Family Allowances Act; or

(*i*) that the deceased immediately before death was ordinarily resident in Northern Ireland, and the death occurred within a period of 13 weeks or, in the case of a death occurring in the Channel Islands, within a period of 6 months from the date when he last left Northern Ireland; or

(*j*) that the deceased was a woman who immediately before death was residing in Northern Ireland with her husband, and he was then an insured person satisfying the relevant contribution conditions; or

(*k*) that the deceased was a child (including a person treated as a child under section 38(3) of the Act) who immediately before death was residing in Northern Ireland with an insured person by virtue of whose satisfaction of the relevant contribution conditions a death grant is payable in respect of the deceased's death; or

(*l*) that the deceased died during or as the result of a confinement in respect of which she was not, or but for any failure to make a claim would not have been, disqualified for receiving maternity benefit (to which she was otherwise entitled) by reason of her absence from Northern Ireland.

(2) In this regulation, the expressions "personal death benefit", "Personal Injuries Scheme", "Service Pensions Instrument" and "1914-1918 War Injuries Scheme" have the same meanings as in the National Insurance (Overlapping Benefits) Regulations (Northern Ireland) 1973(**m**).

Absence from Northern Ireland

7. A person shall not be disqualified for receiving a death grant by reason of being absent from Northern Ireland.

(**j**) S.I. 1968/827 (II, p. 2228).
(**k**) S.R. & O. (N.I.) 1967, No. 108 and see reg. 2 of S.R. & O. (N.I.) 1972, No. 237.
(**l**) S.R. & O. (N.I.) 1948, No. 234.
(**m**) S.R. & O. (N.I.) 1973, No. 10.