1973. No. 175 **[C]**

NATIONAL INSURANCE

Residence and Persons Abroad

REGULATIONS, DATED 6TH JUNE 1973, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES, IN CONJUNCTION WITH THE MINISTRY OF FINANCE, UNDER THE NATIONAL INSURANCE ACT (NORTHERN IRELAND) 1966.

The Ministry of Health and Social Services on behalf of the Secretary of State, 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, in exercise of powers conferred by sections 1(1) and (3), 22(2), 48(1) and 97 of the National Insurance Act (Northern Ireland) 1966(a), and of all other powers enabling it in that behalf, hereby makes the following regulations being regulations subject to negative resolution in accordance with section 101(3) of that Act:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Insurance (Residence and Persons Abroad) Regulations (Northern Ireland) 1973 and shall come into operation on 11th June 1973.

(2) In these regulations—

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

"the Insurance Act" means the National Health Insurance Act 1936(b);

"the Contributory Pensions Act" means the Widows', Orphans' and Old Age Contributory Pensions Act (Northern Ireland) 1936(c);

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

Conditions as to residence in Northern Ireland

2. For the purposes of section 1(1) of the Act (which provides for persons who are in Northern Ireland becoming insured under the Act subject to such conditions as may be prescribed as to residence in Northern Ireland), the condition as to residence in Northern Ireland shall be that a person must have been resident in Northern Ireland for a continuous period of 26 weeks terminating on or after 5th July 1948 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 paragraphs (*b*) and (*c*)) in the case of a person who, but for the foregoing provision, would be an employed person—as from the date on which he becomes such a person;

(a) 1966. c. 6 (N.I.).
(b) 26 Geo. 5 & 1 Edw. 8. c. 32.
(c) 26 Geo. 5 & 1 Edw. 8. c. 32 (N.I.).

(ii) in the case of a person who came to Northern Ireland from a place outside the British Islands and but for the said foregoing provision would be a self-employed person or a non-employed person and who notifies the Ministry 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 18 who came to Northern Ireland 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, 5th July 1948, as from that date;

(*b*) where an employed person (not being a pre-1948 contributor under the Act (**d**)) to whom the provisions of paragraph (*a*)(i) 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 52 weeks (weeks commencing before 5th July 1948 being disregarded) for 26 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;

(*c*) where a person (not being a pre-1948 contributor under the Act) in relation to whom the provisions of paragraph (*a*)(i) would otherwise apply is not ordinarily resident in the United Kingdom, the foregoing condition shall apply if either—

(i) during a vacation occurring in a course of full-time studies which he is pursuing outside the United Kingdom, he is gainfully occupied under a contract of service in Northern Ireland in temporary employment of a nature similar or related to that course of studies; or

(ii) there exists between him (not being a person in relation to whom the provisions of paragraph (*b*) apply) and some other person outside the United Kingdom a relationship comparable with the relationship between an apprentice and his master in Northern Ireland, and he is gainfully occupied under a contract of service in Northern Ireland in employment (being employment which commenced before he attained the age of 25 and of which the duration is not expected to exceed, or does not in fact exceed, 3 months) which is of a nature similar or related to the employment under the said relationship outside the United Kingdom.

Contributions in respect of employment outside Northern Ireland in continuation of employed contributor's employment

3.—(1) Where a person employed in an employed contributor's employment ceases to be so employed in Northern Ireland but is employed (whether by the same or a different employer) outside Northern Ireland in continuation of an employed contributor's employment, that employment outside Northern

(d) See ss. 107 and 109 and Schedule 9 paragraph 17, *ibid.* and S.R. & O. (N.I.) 1948, No. 129, reg. 2; S.R. & O. (N.I.) 1948, No. 228, reg. 2 and S.R. & O. (N.I.) 1948, No. 237, reg. 2.

Ireland shall be treated as an employed contributor's employment for the period for which contributions are payable in respect of it under paragraph (2)(*a*), provided the employer has a place of business in Northern Ireland, and the person concerned is ordinarily resident therein.

(2) Where under paragraph (1) employment outside Northern Ireland is treated as an employed contributor's employment, the following provisions shall apply with respect to the payment of contributions:

(*a*) Weekly contributions at the appropriate rates specified in Part I and Part II of Schedule 1(e) 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 12 months from the commencement thereof and graduated contributions subject to and in accordance with the Act shall be payable in respect of any payment on account of a person's remuneration in such employment during that period.

(*b*) After the completion of the period for which contributions are payable under sub-paragraph (*a*), the insured person shall, for any week thereafter during the whole of which he remains outside Northern Ireland,

(i) if in that week he is under the age of 65 (or, in the case of a woman, 60), be entitled to pay a contribution as a non-employed person; or

(ii) if in that week he is over the age of 65 (or, in the case of a woman, 60), has not retired from regular employment and continues to be employed in such an employment as is mentioned in paragraph (1), be entitled to pay a contribution as a non-employed person at the same rate as a non-employed person under that age.

(3) Where a person to whom sub-paragraph (*b*) of paragraph (2) is applicable returns to Northern Ireland, retires from regular employment or dies, any contribution as a non-employed person paid (whether before or after any such event) in accordance with the provisions of that sub-paragraph shall be treated as if it were a contribution paid by him in respect of an employed contributor's employment, subject to the condition that in respect of each contribution year during the whole of which he was outside Northern Ireland not less than 45 contributions of any class have been paid by or credited to him as an insured person.

Contributions as a non-employed person or self-employed person in respect of periods outside Northern Ireland

4.—(1) Where an insured person is throughout any contribution week outside Northern Ireland 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*) an insured person shall, for any week during the whole of which he is outside Northern Ireland, and for which by virtue of paragraph (1) 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 sub-paragraph (*a*) are—

(i) that, subject to the provisions of sub-paragraph (*d*), not less than 156 contributions of any class under the Act had been paid by him as an insured person; or

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(e) See Sch. 2 to 1972. c. 57, s. 7.

(ii) that he had been resident in Northern Ireland for a continuous period of not less than 3 years at any time before the week in question.

(*c*) Any contribution which a person is entitled to pay under sub-paragraph (*a*) may be paid—

(i) by a person who is ordinarily resident in Northern Ireland or who has resided therein for an aggregate period of at least 10 years, at any time not later than the end of the 6th contribution year following the contribution year which includes the contribution week in respect of which it is payable; and

(ii) by any other person at any time before the end of the benefit year next following the contribution year which includes the contribution week in respect of which the contribution is payable, or within such longer period, being a period ending not later than the end of the 6th contribution year following the contribution year which includes the said contribution week, as the Ministry may in a particular case allow.

(*d*) For the purposes of the condition contained in sub-paragraph (*b*)(i), 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 30th September 1946 and who continued to be an insured person under either of those Acts up to immediately before 5th July 1948, and in respect of whom the contributions paid before that date under those Acts since his last entry into insurance were not less than 104, the said condition shall be deemed to be satisfied;

(ii) in the case of a person who became so insured on or after 30th September 1946, or in respect of whom less than 104 such contributions were so paid before 5th July 1948, and who continued to be an insured person under the Insurance Act or the Contributory Pensions Act up to immediately before that date, 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 regulation 3(2)(*b*) are applicable.

Crediting of contributions in respect of periods outside Northern Ireland

5. Where a person is by virtue of the provisions of these regulations not liable to pay a contribution for any week during the whole of which he is absent from Northern Ireland and would but for those provisions have been excepted from liability for and credited with a contribution for that week under the provisions of the National Insurance (Contributions) Regulations (Northern Ireland) 1962(f), by virtue of any of the regulations which are specified in Schedule 1, that person shall be entitled to be credited with such contribution as if those regulations applied to his case.

(f) S.R. & O. (N.I.) 1962, No. 65 as amended by reg. 3 of S.R. & O. (N.I.) 1971, No. 284.

Modifications of the Act in relation to payment of benefit abroad

6. The following provisions shall apply in relation to the payment of benefit to or in respect of persons absent from Northern Ireland.

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

(*a*) by reason of being temporarily absent from Northern Ireland (being in the Isle of Man or the Channel Islands) during the period of 6 months from the date on which such absence commences; or

(*b*) by reason of being temporarily absent from Northern Ireland (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 Northern Ireland, during such period as the Ministry may allow, having regard to the particular circumstances of the case.

(2) A person shall not, during such period as the Ministry may allow, be disqualified for receiving sickness benefit or invalidity benefit by reason of being temporarily absent from Northern Ireland if—

(*a*) on the day on which the absence began he was, and had for the past 6 months continuously been, incapable of work; and

(*b*) on the day for which benefit is claimed he has been continuously so incapable since the absence began.

(3) A person shall not be disqualified for receiving widow's benefit, child's special allowance, a guardian's allowance or a retirement pension by reason of being absent from Northern Ireland.

(4) A person shall not be disqualified for receiving age addition by reason of being absent from Northern Ireland if—

(*a*) he is ordinarily resident in Northern Ireland; or

(*b*) he was ordinarily resident in Northern Ireland and was entitled to age addition before he ceased to be ordinarily so resident; or

(*c*) in the case of a person who ceased to be ordinarily resident in Northern Ireland before 20th September 1971, he is entitled to a retirement pension and, by virtue of an Order in Council made under section 99 of the Act, he is not disqualified for receiving that pension at a higher rate than was applicable in his case when he was last ordinarily resident in Northern Ireland; or

(*d*) in the case of a person who ceased to be ordinarily resident in Northern Ireland on or after 20th September 1971, he is entitled to a retirement pension, and had he ceased to be ordinarily resident in Northern Ireland before that date, by virtue of an Order in Council made under section 99 of the Act he would not have been disqualified for receiving that pension at a higher rate after that date than before it.

(5) A person shall not be disqualified for receiving invalidity benefit by reason of being absent from Northern Ireland if by virtue of an Order in Council made under section 99 of the Act he would not be disqualified for receiving sickness benefit.

(6) A husband or wife shall not be disqualified for receiving any increase (where payable) of benefit in respect of his or her spouse by reason of the spouse being absent from Northern Ireland, provided the spouse is residing with the husband or wife, as the case may be.