1971. No. 190 **[C]**

NATIONAL INSURANCE

General Benefit

REGULATIONS, DATED 28TH JUNE 1971, 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 ACT (NORTHERN IRELAND) 1966.

The National Insurance Joint Authority, in exercise of powers conferred by sections 17(2), 42(2)(*c*), 48(1), 48(2), 50, 54(1), 54(2) and 106(1) of the National Insurance Act (Northern Ireland) 1966(**a**) and the Ministry of Health and Social Services, in exercise of powers conferred by sections 40(3), 54(3), 80(3), 80(4) and 106(3) of that Act, in each case in conjunction with the Ministry of Finance 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:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Insurance (General Benefit) Regulations (Northern Ireland) 1971 and shall come into operation on 1st July 1971.

(2) In these regulations—

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

"the Industrial Injuries Act" means the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966(**b**);

"the Determination of Claims and Questions Regulations" means the National Insurance (Determination of Claims and Questions) Regulations (Northern Ireland) 1968(**c**);

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

"the determining authority" means, as the case may require, an insurance officer appointed under section 67 of the Act or a local tribunal constituted under section 76 of the Act or the Commissioner.

Definitions of "contribution year" and "benefit year"

2.—(1) (*a*) A contribution year in relation to any person shall be the period of 52 or 53 contribution weeks beginning in any year with the relevant contribution week and ending with the contribution week next preceding the relevant contribution week in the following year.

(*b*) In this paragraph the expression "relevant contribution week" means in relation to any person the first complete contribution week in the month of March, June, September or December as may be determined by the Ministry to be applicable in his case.

(a) 1966. c. 6 (N.I.).
(b) 1966. c. 9 (N.I.).
(c) S.R. & O. (N.I.) 1968, No. 172.

(2) A benefit year in relation to any person shall be the period of 52 or 53 contribution weeks beginning in any year with the first complete contribution week in the fifth month after the month in which the said relevant contribution week applicable to that person occurs, and ending with the last contribution week beginning in the fourth month after the last-mentioned month in the following year.

Calculation of yearly average of contributions

3. For the purposes of section 17(2) of the Act (calculation of the yearly average of contributions), the yearly average of contributions paid by or credited to any person in relation to widow's benefit or a retirement pension shall be calculated by dividing, by the number of years comprised in the period over which, under the said section 17(2), the average is to be calculated, the sum total of the contributions as an insured person paid by or credited to that person in respect of that period other than the following contributions:

(*a*) contributions which are not paid on their due dates and are not treated in accordance with regulations under the Act as so paid for the purposes of widow's benefit and retirement pension;

(*b*) contributions credited under the Act only for purposes other than the purposes of widow's benefit and retirement pension.

Increase of benefit for wife

4.—(1) For the purposes of an increase of unemployment benefit, sickness benefit or a retirement pension under section 42 of the Act (increase of benefit for adult dependants) two spouses shall not be deemed to have ceased to reside together by reason of any absence of either or both of them while receiving medical or other treatment as an in-patient in a hospital or similar institution, notwithstanding that such absence is not temporary.

(2) The provisions of this regulation shall apply to absence commencing before as well as after the date on which these regulations come into force, subject to the qualification that no benefit shall be payable by virtue of paragraph (1) in respect of any period before 18th November 1957.

Increase of benefit for female person having care of child

5. For the purposes of subsections (2)(*c*) and (4) of section 42 of the Act (increase of unemployment benefit, sickness benefit or retirement pension for a female person, not being a child, who has the care of a child or children of the beneficiary's family), the following further conditions shall apply in relation to any such female person:

(1) A beneficiary shall not be entitled to an increase of benefit under the said subsection (2)(*c*) or (4) in respect of any such female person unless—

(*a*) she is residing with the beneficiary; or

(*b*) she is employed by the beneficiary in an employment in respect of which the weekly expenses incurred by the beneficiary are not less than the amount set out in column 6 of Schedule 3 to the Act, and was so employed by him before he became unemployed or incapable of work or retired from regular employment, as the case may be, subject to the qualification that the condition of employment before that event shall not apply in a case where the necessity for her employment first arose thereafter; or

(*c*) the beneficiary is contributing to her maintenance at a weekly rate not less than the amount set out in column 6 of Schedule 3 to the Act.

(2) A beneficiary shall not be entitled to an increase of benefit under the said subsection (2)(*c*) or (4) in respect of any such female person for any period during which that female person—

(*a*) is undergoing imprisonment or detention in legal custody; or

(*b*) (not being a person who is employed by, but is not residing with, the beneficiary) is engaged in any gainful occupation or occupations (other than her employment by the beneficiary in caring for a child or children of the beneficiary's family) from which her weekly earnings (calculated or estimated in such manner and on such basis as is prescribed for the purposes of section 42(1) of the Act) exceed the amount of the increase specified in column 6 of Schedule 3 to the Act; or

(*c*) is absent from Northern Ireland, except in the case of sickness benefit or a retirement pension for any period during which she is residing with the beneficiary outside Northern Ireland and for which, by virtue of the provisions of regulation 5 of the National Insurance (Residence and Persons Abroad) Regulations (Northern Ireland) 1948(**d**), the beneficiary is not disqualified for receiving that benefit.

(3) A beneficiary shall not be entitled to an increase of benefit under the said subsection (2)(*c*) or (4) in respect of any such female person unless the beneficiary is entitled to an increase of benefit in respect of a child of his family as specified in the said subsection (2)(*c*) or would be so entitled but for the provisions of any regulations for the time being in force under the Act relating to overlapping benefits.

Provisions as to maintenance

6.—(1) For the purposes of the provisions of Part II of the Act (which relates to benefit), a beneficiary shall not be deemed to be wholly or mainly maintaining another person unless the beneficiary—

(*a*) when unemployed, or incapable of work, or, as the case may be, retired from regular employment, contributes towards the maintenance of that person an amount not less than the amount of the increase of benefit received in respect of that person; and

(*b*) when in employment, or not incapable of work, or, as the case may be, not so retired (except in a case where the dependency did not arise until after that time) contributed more than one half of the actual cost of maintenance of that person:

Provided that where—

(i) a person is partly maintained by each of two or more other persons (being persons entitled to benefit either under the Act or under the Industrial Injuries Act, of whom at least one is entitled to benefit under the Act), each of whom would be entitled to an increase of benefit under the relevant Act in respect of that person if he were wholly or mainly maintaining that person; and

(ii) the contributions made by those other persons towards the maintenance of that person amount in the aggregate to sums which would, if they had been contributed by one of them, be sufficient to satisfy the requirements of this regulation;

(**d**) See Sch. to S.R. & O. (N.I.) 1958, No. 109 and reg. 2 of S.R. & O. (N.I.) 1967, No. 129.

that person shall be deemed to be wholly or mainly maintained by that one of the said other persons who makes the largest contribution or, if there is no such person, by the elder or eldest of the said other persons, or (if a majority thereof by notice in writing signed by them and addressed to the Ministry designate any one of their number) by that one designated so long as the person deemed to be so maintaining that person continues to be entitled to benefit under the Act and to satisfy the condition contained in sub-paragraph (*a*).

(2) A notice and the designation contained therein given under the proviso to paragraph (1) may be revoked at any time by a fresh notice signed by a majority of such persons, and another one of their number may be designated therein, and accordingly the provisions of that proviso shall apply to the one so last designated.

Contribution to maintenance of adult dependant

7. For the purposes of section 42(1) of the Act (increase of unemployment benefit, sickness benefit or retirement pension in respect of a wife) or of regulation 5(1)(*c*)—

(*a*) a beneficiary shall not be deemed to satisfy the requirement contained in the said section 42(1) or the said regulation 5(1)(*c*) 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 amount set out in column 6 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 Schedule 3 to the Act, 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.

Children treated as included in a family for increase of certain benefits

8. For the purposes of section 40(3) of the Act (treating certain children as included in a man's family for the purpose of an increase of unemployment benefit, sickness benefit or a retirement pension) the prescribed rate shall be a rate equal to the amount for the time being specified in column 5 of Schedule 3 to the Act in relation to the benefit in question, being the amount of the increase for a third or additional qualifying child.

Contribution towards cost of providing for child

9.—(1) Where, apart from section 41(1) of the Act, a person is entitled to receive, in respect of a particular child who is, or who falls to be treated for the purposes of the relevant provision as, a child of that person's family, payment of an amount by way of a guardian's allowance under section 28 of the Act or a child's special allowance under section 37 of the Act or of an increase under any of the provisions of section 39 of the Act of any benefit for any period, and neither of the conditions set out in the said section 41(1), that is to say—

(*a*) that the child in question is living with that person; or

(*b*) that contributions to the cost of providing for the child in question are being made at a weekly rate not less than that required by that section;

is satisfied, that person shall nevertheless for the purposes of the said section 41(1) be deemed as respects that period to be making the contributions so required at a weekly rate not less than that required by that section if—

(i) he gives an undertaking in writing to make such contributions; and

(ii) on receiving the amount of the allowance or increase in question, he in fact makes such contributions;

so however, that if in respect of any period he fails to make the contributions which he has undertaken to make in accordance with this regulation, the decision awarding the allowance or increase in question for that period in respect of that child shall be revised.

(2) Where, for the purposes of section 39 of the Act, a person has a family which includes children, one or more of whom is, or are, treated as included in his family only by virtue of the provisions of section 40(3) of the Act (which child or children are hereafter in this paragraph referred to as a "treated child" or "treated children"), and there is, or are, also another child or other children living with that person who is, or are, included or treated as included in his family otherwise than by virtue of the said section 40(3) (which child or children are hereafter in this paragraph referred to as the "said other child or children"), that person shall, in relation to an increase of sickness benefit, unemployment benefit or retirement pension in respect of a treated child, be deemed to be contributing to the cost of providing for that child for the purposes of section 41(1)(*b*) of the Act at a weekly rate not less than that required in the case of that child by that section if he contributes to the cost of providing for that child at a rate not less than the rate which would be appropriate in the circumstances of the case if the said other child or children were older than the treated child or (if there is more than one treated child) any of the treated children.

Allocation of contributions for wife or children

10.—(1) Subject to the provisions of this regulation, any sum or sums paid by a person by way of contribution towards either or both of the following, that is to say, the maintenance of his wife and the cost of providing for one or more children, being children to whom this regulation refers, shall be treated for the purposes of sections 37(*c*)(e), 40(3), 41(1)(*b*) and 42(1)(*a*)(ii) of the Act as such contributions, of such respective amounts equal in the aggregate to the said sum or sums, in respect of such of the persons hereinafter mentioned, that is to say, his wife or any child or children to whom this regulation refers, as may be determined by the determining authority so as to secure as large a payment as possible by way of benefit in respect of dependants.

(2) A determination under paragraph (1), made in order to ascertain for the purpose of the said section 37(*c*) the weekly rate at which the husband had before his death been contributing to the cost of providing for a child, may be varied on review from time to time by the determining authority so often as may be necessary to secure as large a payment as possible by way of child's special allowance, so however that no such review shall affect entitlement in respect of any period before the date of the review.

(3) The children to whom this regulation refers are any children who, in the period for which the sum in question is paid by the person, either are included in that person's family or though not so included could have been treated under paragraph 3 of the Schedule to the Family Allowances Act

(e) See para. 4 of Sch. 4 to 1967. c. 22 (N.I.).