Death Grant Regulations (Northern Ireland), 1949

REGULATIONS, DATED 2ND JULY, 1949, MADE BY THE NATIONAL INSURANCE JOINT AUTHORITY AND THE MINISTRY OF LABOUR AND NATIONAL INSURANCE, IN CONJUNCTION WITH THE MINISTRY OF FINANCE, UNDER THE NATIONAL INSURANCE ACT (NORTHERN IRELAND), 1946.

1949. No. 142

The National Insurance Joint Authority, in exercise of the powers conferred by sections 9 (4), 21 (3), 24, 28 and 29 (1) of the National Insurance Act (Northern Ireland), 1946, and the Ministry of Labour and National Insurance, in exercise of the powers conferred by sections 21 (5), 21 (6), 27, 28, 40, 43, 45 (1), 57, 62, 68 and 69 of that Act, in either 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 :—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Insurance (Death Grant) Regulations (Northern Ireland), 1949, and shall come into operation on the 5th July, 1949.

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

" the Act " means the National Insurance Act (Northern Ireland), 1946 ;

" the Industrial Injuries Act " means the National Insurance (Industrial Injuries) Act (Northern Ireland), 1946 ;

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

" the Residence and Persons Abroad Regulations " means the National Insurance (Residence and Persons Abroad) Regulations (Northern Ireland), 1948 ;

" the General Transitional Regulations " means the National Insurance (General Transitional) Regulations (Northern Ireland), 1948 ;

" the Claims and Payments Regulations " means the National Insurance (Claims and Payments) Regulations (Northern Ireland), 1948 ;

" the Determination of Claims and Questions Regulations " means the National Insurance (Determination of Claims and Questions) Regulations (Northern Ireland), 1948 ;

"the Ministry" means the Ministry of Labour and National Insurance for Northern Ireland;

"the relevant person" means the person by whom the contribution conditions for death grant are to be satisfied;

"the deceased" has the same meaning as in section 21 of the Act;

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, regulations or order.

(4) The Interpretation Act, 1889, applies for the purpose of the interpretation of these regulations in like manner as it applies for the purpose of the interpretation of an Act of the Parliament of Northern Ireland.

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), 1948, in relation to widow's benefit and retirement pensions, and accordingly that regulation (other than paragraph (*c*) thereof) shall also apply as a separate provision in relation to death grant.

(2) Paragraph (2) of regulation 8 of the said regulations (which paragraph relates to the suspension of the payment of certain benefits pending appeals to the umpire) shall apply in relation to death grant as it applies in relation to maternity benefit, widow's benefit, a guardian's allowance and a retirement pension, and paragraph (8) (other than paragraph (*b*) of the proviso thereto) of the said regulation 8 (which paragraph relates to the payment of certain benefits in an emergency under arrangements made by the Ministry with the consent of the Ministry of Finance) shall apply in relation to death grant as it applies in relation to unemployment benefit, sickness benefit and maternity benefit.

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 sixteen

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 the appointed day who immediately before that day was under pensionable age and on that day was over the age of sixteen, the same as that specified in paragraph (1) of regulation 2 of the New Entrants Transitional Regulations, and accordingly that paragraph (other than sub-paragraph (*b*) thereof) shall apply in relation to death grant.

Special provisions for men over fifty-five and women over fifty, immediately before appointed day

4.—(1) The provisions of sub-paragraphs (*a*) and (*b*) of paragraph (1) of regulation 4 of the New Entrants Transitional Regulations (which provisions respectively relate to the postponement of the pensionable age for, and to contributions paid by or in respect of, certain persons who immediately before the appointed day were over the age of fifty-five in the case of men or fifty 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 sub-paragraphs (*a*) and (*b*) of paragraph (1) of regulation 10 of the National Insurance (Pensions, Existing Contributors) (Transitional) Regulations (Northern Ireland), 1948 (which provisions respectively relate to the postponement of pensionable age for, and to contributions paid by or in respect of, certain existing contributors), shall apply in relation to death grant as they apply for the purposes of retirement pensions and widow's benefit if paragraph (2) of that regulation were omitted.

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

Provided that in calculating the said period of twenty-six weeks any week throughout which the person concerned was either unemployed or incapable of work shall be disregarded.

Deaths occurring outside Northern Ireland

5. 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 paragraphs are satisfied, namely :—

(*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 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, 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 guardian's allowance was payable, and in any such case the death occurred in any part of His Majesty's dominions ; or

(*c*) that the deceased was a person to whom the last preceding paragraph would have applied but for his temporary absence from His Majesty's dominions, and it is proved that he intended to be absent from His Majesty's dominions for not more than twelve months ; 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 entitled to pay contributions under the provisions of paragraph (2) of regulation 3 of the Residence and Persons Abroad Regulations (which provisions specify the circumstances in which contributions are payable by persons for periods when they are outside Northern Ireland), and not less than forty-five contributions were paid by or credited to him in respect of the last complete contribution year before his death ; or

(*f*) that the deceased immediately before death was a serving member of the forces within the meaning of paragraph (2) of regulation 1 of the National Insurance (Members of the Forces) Regulations, 1949 ; or

(*g*) that the deceased immediately before death was either (i) employed as a mariner within the meaning of paragraph (2) of regulation 1 of the National Insurance (Mariners) Regulations (Northern Ireland), 1948 (other than a mariner excepted from insurance by paragraph (2) of regulation 2 of those regulations) or as an airman within the meaning of paragraph (2) of regulation 1 of the National Insurance (Airmen) Regulations (Northern Ireland), 1948 (other than an airman excepted from insurance by paragraph (2) of regulation 2 of those regulations), or (ii) a person who (then being otherwise entitled to unemployment benefit, widow's benefit, a retirement pension or industrial death 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 or of the National Insurance (Industrial Injuries) (Mariners) Regulations (Northern Ireland), 1948, or the National Insurance (Industrial Injuries) (Airmen) Regulations (Northern Ireland), 1948, 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 paragraph (*b*) of subsection (1) of section 21 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 paragraph (*b*) shall be deemed to include a child who would be included in that expression but for the provisions of subsection (3) of section 24 of the Family Allowances Act (Northern Ireland), 1945 (which subsection makes it a condition of a child's being included in a family that the child is in Northern Ireland) ; or

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

(*j*) that the deceased immediately before death was a person who, but for his absence from His Majesty's dominions, satisfied one of the appropriate conditions contained in paragraph (*b*) of this regulation either in relation to widow's benefit or a retirement pension, and was by virtue of the provisions of paragraph (1) of regulation 15 of the General Transitional Regulations (which paragraph relates to payment of benefit to persons in occupations outside Northern Ireland in connection with war) not disqualified for receiving any such benefit by reason of such absence ; or

(*k*) 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:

Provided that where the expenses which the claimant has incurred or intends to incur in connection with any death to which this regulation applies do not include the cost of the burial or cremation of the deceased, any death grant which would otherwise be payable in respect of that death shall be reduced by three-fifths, except in the following cases, namely in any case where the deceased was a person to whom—

(i) paragraph (*a*) applies by virtue of the provisions of any of the regulations specified in paragraph (*g*) ; or

(ii) paragraph (*f*), (*g*) (i) or (*i*) applies ; or

(iii) paragraph (*g*)(ii) applies in relation to unemployment benefit ; or