

1974 No. 2058

SOCIAL SECURITY

The National Insurance (Non-
participation – Transitional Provisions) (No. 2)
Regulations 1974

<i>Made</i> - - - -	<i>6th December 1974</i>
<i>Laid before Parliament</i>	<i>17th December 1974</i>
<i>Coming into Operation</i>	<i>6th April 1975</i>

The Secretary of State for Social Services, in exercise of the powers conferred upon her by paragraphs 4 and 6(1) and 2(a) and (b) of Schedule 26 to the Social Security Act 1973(a) and of all other powers enabling her in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Insurance (Non-participation – Transitional Provisions) (No. 2) Regulations 1974 and shall come into operation on 6th April 1975.

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

“the Act” means the National Insurance Act 1965(b);

“the 1973 Act” means the Social Security Act 1973;

“the Certificates Regulations” means the National Insurance (Non-participation – Certificates) Regulations 1959(c), as amended(d);

“the Continuity of Employment Regulations” means the National Insurance (Non-participation – Continuity of Employment) Regulations 1961(e);

and other expressions have the same meaning as in the Act.

(3) Any reference in these regulations to any provision made by or contained in any enactment or instrument shall, except in so far as the context otherwise requires, be construed as a reference to that provision as amended or extended by any enactment or instrument and as including a reference to any provision which may re-enact or replace it.

(4) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(f) shall apply for the purposes of the interpretation of these regulations as they apply for the purposes of the interpretation of an Act of Parliament.

(a) 1973 c.38.

(b) 1965 c.51.

(c) S.I. 1959/1860 (1959 II, p. 1867).

(d) S.I. 1961/2176, 1963/676, 1965/40 (1961 III, p. 3894; 1963 I, p. 815; 1965 I, p. 47).

(e) S.I. 1961/138 (1961 I, p. 194).

(f) 1889 c.63.

Continuance in force of certain provisions of the Act and regulations

2. For the purposes of facilitating the winding up of the system of insurance under the Act and the disposal of matters connected with that system, and of temporarily retaining for transitional purposes the effect of certain provisions which are repealed by section 100(2)(b) of and Schedule 28 to the 1973 Act and of certain regulations made, or having effect as if made, by virtue of those repealed provisions, there shall continue in force the provisions of the Act specified in the following provisions of these regulations, subject to the modifications therein specified, and the regulations specified in the following provisions of these regulations shall be subject to the modifications therein specified.

Continuance and modification of sections of the Act

3.—(1) Sections 56(5) (issue and cancellation of certificates of non-participation), 74 ►(1) and (2)◄ (determination of certain questions under Part III of the Act), 82 (saving for Tribunals and Inquiries Act 1971(a)), 85(1) and (4) to (7) (expenses), 114(1) (interpretation) and 117(3) (except paragraph (b) thereof) (amendments to the House of Commons Disqualification Act 1957(b)) of the Act shall continue in force.

Words inserted by reg. 3(2) of S.I. 1983/118 as from 10.3.83.

(2) Section 56(5) shall be so modified—

- (a) as to require regulations to provide for the issue after 5th April 1975 of such certificates as are mentioned in that subsection only in respect of periods ending before 6th April 1975; and
- (b) as to provide that all certificates issued before 6th April 1975 which would otherwise still be effective on that date shall be treated as cancelled on that date.

(3) Section 74 shall be modified so that the Arbitration Act 1950(c) shall not apply to any proceedings under it.

Para. added by reg. 3(3) of S.I. 1983/118 as from 10.3.83.

►(4) Sub-section (1) of section 74 shall continue in force in the modified form set out in the Schedule to these regulations.◄

Continuance of certain provisions of the Tribunals and Inquiries Act 1971

4. Paragraph 18(a) of Schedule 1, and the entry relating to the National Insurance Act 1965 in Schedule 3, to the Tribunals and Inquiries Act 1971 shall continue in force.

Modification of the Certificates Regulations

5.—(1) The Certificates Regulations shall be modified as mentioned in the following paragraphs of this regulation.

(2) Part II of the Certificates Regulations (notices and elections) shall be so modified as to apply only where an election is made or revoked after 5th April 1975 with a view to the issue, variation or cancellation of a certificate that an employment is to be treated as having been a non-participating employment for a period ending before 6th April 1975 and the employer has before 1st March 1975 given notice of intention in accordance with regulation 3 to make or revoke that election.

(3) Regulation 14 (issue, variation, cancellation and surrender of certificates) shall be so modified—

- (a) as to operate only in its application to the issue and variation of certificates after 5th April 1975 to the effect that an employment is to be treated as having been a non-participating employment for a period ending before 6th April 1975;

(a) 1971 c.62.
(b) 1957 c.20.
(c) 1950 c.27.

- (b) as to enable the Registrar to vary a certificate, subject to the proviso to regulation 14(3), in the circumstances mentioned in regulation 14(3) and also in order to rectify errors in the description of persons specified in the certificate (including errors consisting of the total omission of any reference to particular persons); and
- (c) that regulation 14(6) shall have effect as if proviso (b) thereto were omitted.

(4) Regulation 15(1) (further information and change of circumstances) shall be so modified that, notwithstanding the provisions of regulation 3(2) of these regulations, an employer to whom a certificate has been issued shall continue to be under the obligations mentioned in regulation 15(1), as if the certificate had remained in force, until the employer has, in respect of each person to whom the certificate relates, either assured him of equivalent pension benefits or made a payment in lieu of contributions under Part III of the Act; and so that when such benefits have been assured or such payments made in respect of all the persons to whom the certificate relates, the employer shall so inform the Registrar.

(5) Regulation 15(2) (penalties for failure to give the Registrar certain information) shall be so modified as to have effect as if the references to penalties were references to a penalty not exceeding £50, or, where the offence consists of continuing any failure to notify or to give notice after conviction thereof, £10 for each day on which it is so continued.

Continuance and modification of the Continuity of Employment Regulations

6. The Continuity of Employment Regulations shall be so modified as to have effect as if the references to non-participating employment were references to an employment which is or was or but for the repeal of section 56 of the Act would have been a non-participating employment, and as if the references to penalties were references to a penalty not exceeding £50, or, where the offence consists of continuing any failure to give notice after conviction thereof, £10 for each day on which it is so continued.

6th December 1974

Barbara Castle
Secretary of State for Social Services

¹Sch. added by reg. 3(3)
of S.I. 1983/118 as
from 10.3.83.

▶¹SCHEDULE

Regulation 3(4)

SECTION 74(1) OF THE NATIONAL INSURANCE ACT 1965 AS
CONTINUED IN FORCE BY THESE REGULATIONS

- 74.—(1) Regulations under section 73(1) of this Act shall provide—
- (a) for the determination by an officer appointed by the Secretary of State (hereafter in this section referred to as “the registrar”) of any question whether an employment is so to be treated as a non-participating employment, or as to the persons in relation to whom or the period for which it is to be so treated, and for the issue, variation and cancellation by the registrar of the certificates under section 56 of this Act specifying the employments which are to be so treated;
 - (b) for enabling any such question, instead of being determined as aforesaid, to be referred to the Occupational Pensions Board, and for enabling appeals to be brought to the said Board from decisions of the registrar;
 - (c) for enabling the functions of the registrar to be exercised by officers appointed to act as his deputies by the Secretary of State.◀

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations, being made before the day appointed for the coming into operation of section 2 of the Social Security Act 1973, by virtue of section 48(2) of, and paragraph 16 of Schedule 12 to, that Act, are not required to be referred to the National Insurance Advisory Committee and no such reference has been made.

These Regulations make provision for transitional matters arising out of the partial repeal of the National Insurance Act 1965, and provide for the continuance in force, subject in some cases to modifications, of certain sections of that Act and for the modification of certain regulations made, or having effect as if made, under that Act. In particular, provision is made for the determination of certain questions by the Registrar of Non-participating Employments and the Adjudicator, the issue, variation and cancellation of certificates of non-participation for periods before 6th April 1975, and the duty of employers to whom certificates have been issued to furnish information to the Registrar, to continue on and after 6th April 1975.