STATUTORY INSTRUMENTS

1962 No. 1428

FAMILY ALLOWANCES

NATIONAL INSURANCE

The Family Allowances (Determination of Claims and Questions) Amendment Regulations 1962

Made - - - -	*9th July* 1962
Laid before Parliament	13*th July* 1962
Coming into Operation	16*th July* 1962

The Minister of Pensions and National Insurance, in conjunction with the Treasury, in exercise of powers conferred by section 47 of the National Insurance Act 1946(a), section 1 of the Family Allowances and National Insurance Act 1959(b) and section 9 of the Family Allowances and National Insurance Act 1961(c), and of all other powers enabling him in that behalf, hereby makes the following regulations:—

Citation and commencement

1. These regulations, which may be cited as the Family Allowances (Determination of Claims and Questions) Amendment Regulations 1962, shall come into operation on the 16th July 1962.

Amendment relating to repayment of sums paid on account of allowances

2.—(1) Regulation 6 of the Family Allowances (Determination of Claims and Questions) Regulations 1959(d), as amended(e), shall be further amended in accordance with the following provisions of this regulation and shall accordingly have effect as set out in the Schedule hereto.

(2) In paragraph (2) (*b*) of the said regulation 6 there shall be inserted immediately after the words "the man shall" the words ", subject to the provisions of paragraph (4) of this regulation,".

(3) At the end of paragraph (4) of the said regulation 6 there shall be added the following words:—

"and if he is not accorded those rights and powers, in a case where repayment is required from the wife, he shall not be liable under paragraph (2) (*b*) of this regulation to make the repayment."

John Boyd-Carpenter,
Minister of Pensions and National Insurance.

6th July 1962.

Michael Noble,
Francis F. Pearson,
Two of the Lords Commissioners of Her Majesty's Treasury.

9th July 1962.

(a) 9 & 10 Geo 6. c. 67. (b) 7 & 8 Eliz. 2. c. 18. (c) 10 & 11 Eliz. 2. c. 6.
(d) S.I. 1959/1157 (1959 II, p. 1836). (e) S.I. 1962/326 (1962 I, p. 300).

SCHEDULE

Regulation 2

REGULATION 6 OF THE FAMILY ALLOWANCES (DETERMINATION OF CLAIMS AND QUESTIONS) REGULATIONS 1959, AS AMENDED BY THESE REGULATIONS*

Repayment of sums paid as on account of allowances

6.—(2) In the case of any sum paid as on account of an allowance for the family of a man and his wife living together which would have been receivable (if properly paid) by either the man or the wife and which under section 9 of the Act of 1961 (which provides for the recovery of sums found by a decision on review or appeal to have been wrongly paid)—

(*a*) the wife is not required to repay, the decision on review or appeal shall require repayment from the man if it is shown to the satisfaction of the insurance officer, the local tribunal or the Commissioner, as the case may be, that in relation to the obtaining and receipt of the sum in question he, or any person acting for him, did not throughout use due care and diligence to avoid overpayment;

(*b*) the wife is required to repay, the man shall, *subject to the provisions of paragraph* (4) *of this regulation*, be liable to repay it as well as his wife.

(3) Any sum which a person is required under the foregoing paragraphs of this regulation or under section 9 of the Act of 1961 to repay may, without prejudice to any other remedy, be recovered by means of deductions from any other sum receivable on account of any allowance by that person.

(4) In the case of any sum paid as on account of an allowance for the family of a man and his wife living together, for the purposes of regulations 8 to 17 and regulation 22 of the National Insurance (Determination of Claims and Questions) Regulations, 1948 (which regulations as modified by these regulations relate to the determination of any question as to the right to an allowance) in their application to the question whether repayment shall be required from the man under the provisions of this regulation or under section 9 of the Act of 1961, the man as well as the wife shall have all the rights and powers of a claimant *and if he is not accorded those rights and powers, in a case where repayment is required from the wife, he shall not be liable under paragraph* (2) (*b*) *of this regulation to make the repayment.*

EXPLANATORY NOTE

(This Note is not part of the regulations, but is intended to indicate their general purport.)

These Regulations amend Regulation 6 of the Family Allowances (Determination of Claims and Questions) Regulations 1959. Under that Regulation a man may be liable to repay sums paid as on account of family allowances if it is found that the sums were wrongly paid and that his wife is required to repay them because the exercise of due care and diligence in their obtaining and receipt is not established; the Regulation also entitles a man to the rights and powers of a claimant in proceedings in which the question arises whether repayment shall be required from him. These Regulations provide that a man shall not be so liable to repay the sums his wife is required to repay if, in relation to the proceedings in which the requirement is imposed on her, he is not accorded those rights and powers.

* The words added by these regulations are shown in italics.