STATUTORY INSTRUMENTS

1985 No. 1626

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

The National Health Service (Injury Benefits) Amendment Regulations 1985

Made - - - - -	21*st October* 1985
Laid before Parliament	6*th November* 1985
Coming into Operation	27*th November* 1985

The Secretary of State for Social Services, in exercise of the powers conferred by sections 10(1), (2) and (3) and 12(1) and (2) of, and paragraphs 7 and 8 of Schedule 3 to, the Superannuation Act 1972(**a**) and of all other powers enabling him in that behalf, after consulting such representatives of persons likely to be affected by these regulations as appear to him to be appropriate (**b**) and with the consent of the Treasury (**c**), hereby makes the following regulations:—

Citation, commencement and interpretation

1.— (1) These regulations may be cited as the National Health Service (Injury Benefits) Amendment Regulations 1985 and shall come into operation on 27th November 1985.

(2) In these regulations "the principal regulations" means the National Health Service (Injury Benefits) Regulations 1974(**d**).

Amendment of regulation 2 of the principal regulations

2. In regulation 2(1) of the principal regulations (definitions)—

(a) in the definition of "the superannuation regulations" for "the National Health Service (Superannuation) Regulations 1961, as amended" there shall be substituted "the National Health Service (Superannuation) Regulations 1980(**e**)";

(b) in the definition of "average remuneration" for "regulation 13(4)" and "regulation 34(1)" there shall be substituted respectively "regulation 13(5)" and "regulation 36(1)" and for "provisos *(g)* and *(i)*" there shall be substituted "provisos *(f)* and *(g)*";

(**a**) 1972 c.11; section 10(1)*(a)* was amended by Schedule 5 to the National Health Service Reorganisation Act 1973 (c.32).
(**b**) *See* section 10(4) of the Superannuation Act 1972.
(**c**) *See* section 10(1) and the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670), article 2.
(**d**) S.I. 1974/1547, amended by S.I. 1982/288, 1985/39.
(**e**) S.I. 1980/362, amended by S.I. 1981/1205, 1982/288, 1765, 1985/39.

(c) in sub-paragraph *(f)* of the definition of "employing authority" after "part VII of the Mental Health Act 1959" there shall be inserted "or section 4 of the National Health Service Act 1977(a)".

Amendment of regulation 3 of the principal regulations

3. In regulation 3 of the principal regulations (persons to whom the regulations apply)—

(a) in paragraph (1)—

(i) in sub-paragraph *(d)* after "the National Health Service Reorganisation Act 1973" there shall be inserted "or the National Health Service Act 1977",

(ii) for "either—" to the end there shall be substituted "sustains an injury, or contracts a disease, to which paragraph (1A) applies";

(b) after paragraph (1) there shall be inserted the following paragraph—

"(1A) This paragraph applies to an injury which is sustained, and to a disease which is contracted, in the course of the person's employment and which is attributable to his employment and also to any other injury sustained (and similarly to any other disease contracted) if—

(a) it is attributable to the duties of his employment;

(b) it is sustained while, as a volunteer at an accident or emergency, he is providing health services which his professional training and code of conduct would require him to volunteer; or

(c) it is sustained while he is travelling as a passenger in a vehicle to or from his place of employment with the permission of the employing authority and if in addition—

(i) he was under no obligation to the employing authority to travel in the vehicle but, if he had been, the injury would have been sustained in the course of, and have been attributable to, his employment, and

(ii) at the time of the injury the vehicle was being operated, otherwise than in the ordinary course of a public transport service, by or on behalf of the employing authority or by some other person by whom it was provided in pursuance of arrangements made with the authority.".

Amendment of regulation 4 of the principal regulations

4.— (1) Regulation 4 of the principal regulations (scale of benefit) shall be amended in accordance with this regulation.

(2) In paragraph (6)*(b)* (statutory benefits to be taken into account in assessing scale of certain benefits)—

(a) 1977 c.49.

(a) head (i) shall be omitted;

(b) in head (ii)—

(i) for "section 12 of the National Insurance (Industrial Injuries) Act 1965" there shall be substituted "section 57 of the Social Security Act 1975(**a**)",

(ii) in sub-head (A) for "section 13" there shall be substituted "section 58" and for "so, however," to the end of the sub-head there shall be substituted "excluding any increase in that supplement under section 59 of that Act",

(iii) in sub-head (B) for "section 14" there shall be substituted "section 60",

(iv) in sub-head (C) for "section 17 or 18" there shall be substituted "section 64 or 66", and

(v) in sub-head (D) "and dependants" shall be omitted and for "section 16, 17 or 18" there shall be substituted "section 62";

(c) for head (iii) there shall be substituted the following heads—

"(iii) any sickness benefit payable under section 14 of the Social Security Act 1975 (including benefit payable by reason of section 50A of that Act (**b**)) in respect of the injury or disease together with any increase therein payable under sections 41 to 48 of that Act (dependants),

(iv) any invalidity pension payable under section 15 of the Social Security Act 1975 in respect of the injury or disease together with any increase in that pension payable under sections 41 to 48 of that Act (dependants),

(v) any severe disablement allowance payable under section 36 of the Social Security Act 1975(**c**) in respect of the injury or disease together with any increase payable under section 49 of that Act (dependants).".

(3) In paragraph (8) for "regulation 75" there shall be substituted "regulation 79".

Amendment of regulation 7 of the principal regulations

5. In regulation 7(1)*(b)* of the principal regulations (widow's or widower's allowance)—

(a) in head (i) for "section 19 of the National Insurance (Industrial Injuries) Act 1965" there shall be substituted "section 67 of the Social Security Act 1975" and for "the National Insurance Act 1965" there shall be substituted "section 26 of that Act";

(b) in head (ii) for "section 20 of the National Insurance (Industrial Injuries) Act 1965" there shall be substituted "section 69 of that Act"

(**a**) 1975 c.14.
(**b**) Section 50A was added by section 39(4) of the Social Security and Housing Benefits Act 1982 (c.24).
(**c**) Section 36 was substituted by section 11(1) of the Health and Social Security Act 1984 (c.48).

and for "section 3 of the National Insurance Act 1971" there shall be substituted "section 15 of that Act".

Amendment of regulations 8 and 9 of the principal regulations

6. In regulations 8(3) (child's allowance) and 9(1)*(b)* (dependent relative's allowance) of the principal regulations for "16 years" there shall, in each place those words occur, be substituted "17 years".

Amendment of regulation 12 of the principal regulations

7. In regulation 12(3) of the principal regulations (incidental provisions) for "regulation 75" there shall be substituted "regulation 79".

Amendment of regulation 13 of the principal regulations

8. In regulation 13(4) of the principal regulations (review and adjustment of allowance) for "regulation 39" there shall, in each place those words occur, be substituted "regulation 40".

Amendment of regulation 15 of the principal regulations

9. In regulation 15(2)*(b)* of the principal regulations (damages) for "the Fatal Accidents Acts, 1846 to 1959" there shall be substituted "the Fatal Accidents Act 1976(**a**)".

Amendment of regulation 19 of the principal regulations

10. In regulation 19 of the principal regulations (payments without proof of title)—

(a) for "£500" there shall be substitued "£5,000, or such higher amount as would for the time being be applicable in relation to the death if these regulations were an enactment to which section 1 of the Administration of Estates (Small Payments) Act 1965(**b**) (maximum amount disposable on death without representation) applied,";

(b) after "pay that sum" there shall be inserted "to the personal representatives or";

(c) the words from ", or in the case of illegitimacy" to "may think fit" shall be omitted.

Amendment of regulation 22 of the principal regulations

11. In regulation 22(2)*(c)* of the principal regulations (revocation) for "regulations 38 and 39" there shall, in each place those words occur, be substituted "regulations 39 and 40".

(**a**) 1976 c.30.
(**b**) 1965 c.32.

Application and retrospective effect of regulations

12.— (1) Regulation 3*(a)*(ii) and *(b)* of these regulations shall have effect from 25th May 1972 and regulation 10*(a)* from 11th May 1984.

(2) In relation to any case where before these regulations come into operation an injury was sustained, or disease contracted, by reason of which any benefit is or may become payable under the principal regulations—

(a) regulation 4(2)*(c)* of these regulations shall not apply;

(b) neither regulation 3*(a)*(ii) and *(b)* nor regulation 6 of these regulations shall apply if the effect of its application would be to place a person in a worse position in relation to any benefit which was, is or may become payable under the principal regulations to or in respect of him;

(c) nothing in any other provision of these regulations (other than regulation 10*(a)*) shall affect entitlement to or the amount of any benefit payable under the principal regulations.

Signed by authority of the Secretary of State for Social Services.

Barney Hayhoe,
Minister of State,
Department of Health and Social Security.

4th October 1985.

We consent to the making of these regulations.

T. Garel-Jones,
A. G. Hamilton,
Lords Commissioners of Her Majesty's Treasury.

21st October 1985.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations amend the National Health Service (Injury Benefits) Regulations 1974 ("the 1974 Regulations"). They bring up to date certain statutory and other references and make a number of other amendments.

Regulations 2, 5, 7, 8, 9 and 11 bring up to date references in the 1974 Regulations.

Regulation 3 amends regulation 3 of the 1974 Regulations, in particular to clarify and extend the injuries and diseases to which the 1974 Regulations apply, namely injuries sustained and diseases contracted in the course of, and attributable to, the person's employment and also where the injury or disease is attributable to the duties of the employment, where volunteer services are provided at an accident or emergency, and in certain cases of travel as an authorised passenger of an employing authority (regulation 3*(a)*(ii) and *(b)*). Under powers conferred by section 12(1) of the Superannuation Act 1972 these amendments have effect from 25th May 1972 (regulation 12(1)).

Regulation 4 amends regulation 4 of the 1974 Regulations, in particular it brings up to date or amends references to statutory benefits which are deductible from injury benefits payable under the regulation.

Regulation 6 alters from 16 to 17 the age limit for child's allowance and the qualifying age for dependent relative's allowance in regulations 8 and 9 respectively of the 1974 Regulations and regulation 10 amends regulation 19 of the 1974 Regulations (payment to personal representatives) in particular by increasing the maximum sum payable from £500 to £5,000 (or higher amount for the time being applicable).

Regulation 12 provides for the application and retrospective effect of the regulations.

SI 1985/1626
ISBN 0-11-057626-8

