BENEFIT

1960 No. 1282

The National Insurance (General Benefit) Amendment Regulations, 1960

Made - - - -	*25th July*, 1960
Laid before Parliament	*29th July*, 1960
Coming into Operation	*19th September*, 1960

The National Insurance Joint Authority(a), in conjunction with the Treasury, in exercise of powers conferred by section 29 of the National Insurance Act, 1946(b), and of all other powers enabling them in that behalf, after considering the report of the National Insurance Advisory Committee on the preliminary draft submitted to them, hereby make the following regulations:—

Citation, interpretation and commencement

1. These regulations, which may be cited as the National Insurance (General Benefit) Amendment Regulations, 1960, shall be read as one with the National Insurance (General Benefit) Regulations, 1948(c), as amended (d) (hereinafter referred to as "the principal regulations") and shall come into operation on the 19th September, 1960.

Regulation substituted for regulation 6 of the principal regulations

2. For regulation 6 of the principal regulations (which provides for exceptions from disqualification for receiving benefit for periods of imprisonment or detention in legal custody), there shall be substituted the following regulation:—

"*Exceptions from disqualification for imprisonment, etc.*

6.—(1) The following provisions of this regulation shall have effect to except benefit from the operation of those provisions of subsection (1) of section 29 of the Act which, as amended(e), provide that (except where regulations otherwise provide) a person shall be disqualified for receiving any benefit, and an increase of benefit shall not be payable in respect of any person as the beneficiary's wife or husband, for any period during which that person is undergoing imprisonment or detention in legal custody (hereafter in this regulation referred to as 'the said provisions').

(2) The said provisions shall not operate to disqualify a person for receiving a guardian's allowance.

(a) *See* National Insurance Act, 1946, s. 63 (2) and National Insurance (Northern Ireland Reciprocal Arrangements) Regulations, 1948 (S.I. 1948/211 (Rev. XVI, p. 367: 1948 I, p. 2905)).

(b) 9 & 10 Geo. 6. c. 67.

(c) S.I. 1948/1278 (Rev. XVI, p. 179: 1948 I, p. 2626).

(d) For the relevant amendment, *see* National Insurance (Child's Special Allowance) Regulations, 1957, reg. 4 and schedule (S.I. 1957/1835 (1957 I, p. 1523)).

(e) Statute Law Revision Act, 1953, s. 1 and First Schedule (2 & 3 Eliz. 2. c. 5).

(3) The said provisions shall not operate to disqualify a person for receiving sickness benefit, widow's benefit, child's special allowance, maternity allowance or retirement pension, or to make an increase of benefit not payable in respect of a person, for any period during which that person is undergoing imprisonment or detention in legal custody in connection with a charge brought or intended to be brought against him in criminal proceedings or pursuant to any sentence or order for detention made by a court in such proceedings unless, in relation to him, a penalty is imposed at the conclusion of those proceedings.

(4) In the last foregoing paragraph, 'penalty' means a sentence of imprisonment, corrective training, preventive detention, Borstal training, or detention under section 53 of the Children and Young Persons Act 1933(a), or under section 57 of the Children and Young Persons (Scotland) Act, 1937(b), or an order for detention in a detention centre, a remand home or an approved school, but does not include any sentence of imprisonment or order for detention in default of payment of a sum adjudged to be paid on conviction.

(5) The said provisions shall not operate to disqualify a person for receiving any benefit (not being a guardian's allowance), or to make an increase of benefit not payable in respect of a person, for any period during which that person is undergoing detention in legal custody after the conclusion of criminal proceedings if it is a period during which he is liable to be detained in a hospital or similar institution in Great Britain as a person suffering from mental disorder unless—

(*a*) pursuant to any sentence or order for detention made by the court at the conclusion of those proceedings, he has undergone detention by way of penalty in a prison, a detention centre, a Borstal institution, a remand home or an approved school; and

(*b*) he was removed to the hospital or similar institution while liable to be detained as a result of that sentence or order, and, in the case of a person who is liable to be detained in the hospital or similar institution by virtue of any provision of the Mental Health Act, 1959(c), a direction restricting his discharge has been given under that Act and is still in force :

Provided that where, as respects a person in relation to whom each of the conditions specified in sub-paragraphs (*a*) and (*b*) of this paragraph is satisfied, a certificate, given by or on behalf of the Secretary of State or the Prison Commissioners and furnished to the Minister, shows the earliest date on which that person would have been expected to be discharged from detention pursuant to the said sentence or order if he had not been transferred to a hospital or similar institution, the said conditions shall be deemed not to be satisfied in relation to that person as from the day next following that date.

(6) For the purposes of the last foregoing paragraph—

(*a*) 'hospital or similar institution' means any place (not being a prison, a detention centre, a Borstal institution, a remand home, a remand centre or an approved school and not being at or in any such place) in which persons suffering from mental disorder are or may be received for care or treatment;

(a) 23 & 24 Geo. 5. c. 12. (b) 1 Edw. 8 & 1 Geo. 6. c. 37. (c) 7 & 8 Eliz. 2. c. 72.

(*b*) 'court' means any court in the United Kingdom, the Channel Islands or the Isle of Man or in any place to which the Colonial Prisoners Removal Act, 1884(**a**), applies or any naval court-martial, army court-martial or air force court-martial within the meaning of the Courts-Martial (Appeals) Act, 1951(**b**), as originally enacted or as subsequently amended, or the Court constituted by that Act;

(*c*) in relation to a person who is liable to be detained in Great Britain as a result of any order made under the Colonial Prisoners Removal Act, 1884, references to a prison shall be construed as including references to a prison within the meaning of that Act;

(*d*) a person who is liable to be detained by virtue of any provision of the Mental Health Act, 1959, shall be treated as if a direction restricting his discharge had been given under that Act if he is to be so treated for the purposes of that Act.

(7) In this regulation—

(*a*) references to mental disorder shall be construed as including references to any mental disorder within the meaning of the Mental Health Act, 1959; and references to that Act shall be construed as including references to any corresponding enactment having effect in Scotland;

(*b*) 'approved school' means a school approved under section 79 of the Children and Young Persons Act, 1933, or under section 83 of the Children and Young Persons (Scotland) Act, 1937;

(*c*) criminal proceedings against any person shall be deemed to be concluded upon his being found insane in those proceedings so that he cannot be tried or his trial cannot proceed."

Amendment of regulation 7 of the principal regulations

3.—(1) Regulation 7 of the principal regulations (which provides for the suspension of payment of benefit during periods of imprisonment or detention in legal custody) shall be amended in accordance with the following provisions of this regulation and shall accordingly have effect as set out in the Schedule to these regulations.

(2) In sub-paragraph (*a*) of paragraph (1) of the said regulation 7, the words "of paragraph (2) or paragraph (3)" shall be inserted after the word "provisions".

(3) The words "penal servitude" in the said paragraph (1) shall be omitted.

(4) For the proviso to the said paragraph (1) there shall be substituted the following proviso:—

"Provided that—

(i) the provisions of this regulation shall not operate to require the payment of any benefit to be suspended while the beneficiary is liable to be detained in a hospital or similar institution as defined for the purposes of paragraph (5) of that regulation during a period for which, in his case, benefit to which that paragraph applies is or would be excepted from the operation of the said subsection (1) by virtue of the provisions of that paragraph; and

(**a**) 47 & 48 Vict. c. 31. (**b**) 14 & 15 Geo. 6. c. 46.

(ii) a guardian's allowance or any benefit to which sub-paragraph (*b*) of this paragraph applies may nevertheless be paid while the beneficiary is undergoing imprisonment or detention in legal custody to any person appointed for the purpose by the Minister to receive and deal with any sums payable on behalf of the beneficiary on account of that benefit, and the receipt of any person so appointed shall be a good discharge to the Minister and the National Insurance Fund for any sum so paid."

(5) In paragraph (2) of the said regulation 7, for the words " any period under the provisions ", there shall be substituted the words " the period of six months referred to in paragraph (1) ", and, at the end of the said paragraph (2), there shall be added the words " for the purpose of the application of that regulation in relation to that benefit ".

Given under the Official Seal of the National Insurance Joint Authority this Twenty-fifth day of July, 1960.

(L.S.)

D. J. Carter,
Secretary,
National Insurance Joint Authority.

Dated this Twenty-fifth day of July, 1960.

Michael Hughes-Young,
R. Chichester-Clark,
Two of the Lords Commissioners of Her Majesty's Treasury.

SCHEDULE

Regulation 3

REGULATION 7 OF THE PRINCIPAL REGULATIONS AS AMENDED BY THESE REGULATIONS*

Suspension of payment of benefit during imprisonment, etc.

7.—(1) The payment to any person of any benefit—

(*a*) which is excepted from the operation of subsection (1) of the said section 29 by virtue of the provisions *of paragraph* (2) *or paragraph* (3) of the last preceding regulation ; or

(*b*) which is payable otherwise than in respect of a period during which he is undergoing imprisonment or detention in legal custody ;

shall be suspended while that person is undergoing imprisonment or detention in legal custody :

Provided that—

(i) *the provisions of this regulation shall not operate to require the payment of any benefit to be suspended while the beneficiary is liable to be detained*

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

in a hospital or similar institution as defined for the purposes of paragraph (5) *of that regulation during a period for which, in his case, benefit to which that paragraph applies is or would be excepted from the operation of the said subsection* (1) *by virtue of the provisions of that paragraph; and*

(ii) *a guardian's allowance or any benefit to which sub-paragraph* (*b*) *of this paragraph applies may nevertheless be paid while the beneficiary is undergoing imprisonment or detention in legal custody to any person appointed for the purpose by the Minister to receive and deal with any sums payable on behalf of the beneficiary on account of that benefit, and the receipt of any person so appointed shall be a good discharge to the Minister and the National Insurance Fund for any sum so paid.*

(2) Where, by virtue of the last preceding paragraph, payment of benefit is suspended for any period, the period of suspension shall not be taken into account in calculating *the period of six months referred to in paragraph* (1) of regulation 12 of the National Insurance (Claims and Payments) Regulations, 1948 (which regulation relates to the extinguishment of the right to sums payable by way of benefit which are not obtained within the prescribed time) *for the purpose of the application of that regulation in relation to that benefit.*

EXPLANATORY NOTE

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

By virtue of a disqualifying provision of the National Insurance Act, 1946, benefit under that Act is not payable to a person, or in respect of a person as the beneficiary's husband or wife, for a period during which that person is undergoing imprisonment or detention in legal custody, subject to such exceptions as regulations may provide. The National Insurance (General Benefit) Regulations, 1948, provide for exceptions in certain circumstances; and these Regulations make additions to the circumstances in which the disqualification is removed. In so far as the disqualification would apply to a period of a person's detention between his arrest in connection with a charge against him in criminal proceedings and the end of those proceedings, these Regulations remove the disqualification if, in the result, the person is not ordered to undergo penal detention. In so far as the disqualification would apply to a period of a person's detention as a result of an order made at the end of such proceedings, these Regulations remove the disqualification if the person is liable to be detained in a hospital or similar institution as a person suffering from mental disorder unless he became so liable while undergoing penal detention in accordance with the order. In that case, the disqualification is removed as from the earliest date (if certified by the Secretary of State or the Prison Commissioners) on which he would have been expected to be discharged from the penal detention. Anticipating the coming into operation of the Mental Health Act, 1959, and a corresponding Scottish enactment, the Regulations provide also that if, in such a case, the person's liability to detention in a hospital or similar institution arises under one of those enactments, the disqualification is not to apply unless a direction restricting the person's discharge, given or treated as given under it, is in force.

The Regulations also amend those provisions of the National Insurance (General Benefit) Regulations, 1948, which provide for the suspension of the payment of benefit while the beneficiary is undergoing imprisonment or detention in legal custody. The amendments include those necessary to ensure that the provision made for such suspension will not operate while the beneficiary is liable to be detained in a hospital or similar institution

in such circumstances that the disqualification referred to in the preceding paragraph is removed by the provisions there described. The other amendments are of a minor character.

The report of the National Insurance Advisory Committee on the preliminary draft of these Regulations, dated the 18th July, 1960, is contained in the House of Commons Paper No. 275 (Session 1959–60) published by Her Majesty's Stationery Office.