STATUTORY INSTRUMENTS

1972 No. 603

SOCIAL SECURITY

The National Insurance (Hospital In-Patients) Regulations 1972

Made - - - -	14*th April* 1972
Laid before Parliament	25*th April* 1972
Coming into Operation	15*th May* 1972

The National Insurance Joint Authority, in conjunction with the Treasury, in exercise of powers conferred by section 50(1) of the National Insurance Act 1965**(a)** and of all other powers enabling them in that behalf, and for the purpose only of consolidating the regulations hereby revoked, hereby make the following regulations:—

PART I

General

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Insurance (Hospital In-Patients) Regulations 1972 and shall come into operation on 15th May 1972.

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

"the Act" means the National Insurance Act 1965;

"the National Health Service Acts" means the National Health Service Acts 1946 to 1968;

"the National Health Service (Scotland) Acts" means the National Health Service (Scotland) Acts 1947 to 1968;

"benefit" means benefit under the Act other than attendance allowance;

"dependency benefit" means that benefit which, apart from these regulations, is payable to a person in respect of another person who is a child or an adult dependant, and includes child's special allowance;

"personal benefit" means that benefit which, apart from these regulations, is payable to a person otherwise than in respect of another person who is a child or an adult dependant, but shall not include earnings-related supplement under section 2 of the National Insurance Act 1966**(b)** or widow's supplementary allowance under section 4(1) of that Act;

(a) 1965 c. 51. **(b)** 1966 c. 6.

"prescribed accommodation" means, in relation to any person, any hospital accommodation or similar accommodation in which that person is residing or has resided either as a patient or inmate or as a person in need of care and attention and wholly or partly at the cost of a local authority, the Secretary of State, or a Hospital Board or a Regional Hospital Board constituted under the National Health Service Acts, or the National Health Service (Scotland) Acts, or any residential accommodation provided for that person under Part III of the National Assistance Act 1948**(a)**; but does not include any such accommodation for any period for which he is or was receiving free in-patient treatment;

"tuberculosis patient" means a person (not being a person under treatment in a hospital or similar institution for the purposes of the Mental Health Act 1959**(b)** or the Mental Health (Scotland) Act 1960**(c)**) who is under treatment for tuberculosis of the respiratory system;

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

(3) For the purposes of these regulations, a person shall be regarded as receiving or having received free in-patient treatment for any period for which he is or has been maintained free of charge while undergoing medical or other treatment as an in-patient—

(*a*) in a hospital or similar institution maintained or administered under the National Health Service Acts, or the National Health Service (Scotland) Acts, or by or on behalf of the Secretary of State, or by or on behalf of the Defence Council; or

(*b*) pursuant to arrangements made by the Secretary of State or by a Hospital Board or a Regional Hospital Board constituted under the National Health Service Acts or the National Health Service (Scotland) Acts in a hospital or similar institution not so maintained or administered;

and, for this purpose, a person shall only be regarded as not being maintained free of charge in a hospital or similar institution for any period if he is paying or has paid, in respect of his maintenance, charges which are designed to cover the whole cost of the accommodation or services (other than services by way of treatment) provided for him in the hospital or similar institution for that period.

(4) References in these regulations to any enactment or regulation shall, except in so far as the context otherwise requires, be construed as references to such enactment or regulation as amended or extended by any subsequent enactment, order or regulation and as including references to any enactment or regulation thereby consolidated.

(5) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889**(d)** shall apply in relation to this instrument (including any instrument read as one therewith) and in relation to any revocation effected by it as if this instrument, the regulations revoked by it and any regulations revoked by the regulations so revoked were Acts of Parliament, and as if each revocation were a repeal.

(a) 1948 c. 29.
(b) 1959 c. 72.
(c) 1960 c. 61.
(d) 1889 c. 63.

PART II

Adjustment of benefit

2. The provisions of this Part of these regulations shall have effect subject to the provisions of Part III and Part IV.

Personal benefit

3.—(1) Where the conditions for the receipt of personal benefit by way of sickness benefit, invalidity benefit, widow's allowance, widowed mother's allowance, widow's pension, age addition or retirement pension are satisfied in relation to any person who receives, or has received, continuously, for a period exceeding 8 weeks, free in-patient treatment, the weekly rate of that personal benefit which, but for the provisions of these regulations, would be payable for any period after the first 8 weeks of that treatment shall be reduced subject to and in accordance with the following provisions of these regulations, so however that in the case of a person to whom 2 or more such personal benefits (being benefits by way of retirement pension, age addition, or both), or to whom invalidity pension and invalidity allowance are payable, the weekly rate referred to in this paragraph shall be the aggregate of the weekly rates of those benefits.

(2) In any case in which the provisions of paragraph (1) of this regulation apply in relation to any of the said personal benefits, the weekly rate of any reduction of that personal benefit shall, subject to the provisions of paragraph (3) of this regulation, be determined, for any part of the period of free in-patient treatment which occurs during the 44 weeks next following the first 8 weeks thereof, in accordance with the provisions of regulation 4, and, for any part of the period of that treatment which occurs after the first 52 weeks thereof, in accordance with the provisions of regulation 5 of these regulations.

(3) In any case where a reduction of personal benefit at a rate determined in accordance with the provisions of regulations 4, 5(2), 5(3) or 5(4)(*d*) of these regulations would reduce the rate of that personal benefit, where the beneficiary is a tuberculosis patient, to less than £1·45 a week, or, in any other case, to less than £1·20 a week the reduction of that personal benefit shall not be as so determined but shall be such (if any) as will reduce the rate of that personal benefit, where the beneficiary is a tuberculosis patient, to £1·45 a week, or, in any other case, to £1·20 a week.

4. Where, by virtue of the provisions of regulation 3(2) of these regulations, the weekly rate of any reduction of personal benefit is to be determined for any period in accordance with the provisions of this regulation, that reduction shall be—

(*a*) for any part of that period during which the beneficiary has a dependant, at the rate of £1·20 a week; and

(*b*) for any other part of that period, at the rate of £2·40 a week.

5.—(1) Where, by virtue of the provisions of regulation 3(2) of these regulations, the weekly rate of any reduction of personal benefit is to be determined for any period in accordance with the provisions of this regulation, that reduction shall, subject to the following provisions of this regulation, be such (if any) as will reduce the rate of that personal benefit, where the beneficiary is a tuberculosis patient, to £1·45 a week, or, in any other case, to £1·20 a week.

(2) For any part of the period referred to in paragraph (1) of this regulation during which the beneficiary has a dependant and in respect of which an application has been made by the beneficiary to the Secretary of State to pay on behalf of the beneficiary to that dependant, or to some other person who is approved by the Secretary of State and satisfies the Secretary of State that he will apply it for the benefit of that dependant, so much (if any) of the personal benefit as would, but for the provisions of these regulations, be payable to the beneficiary in excess, where the beneficiary is a tuberculosis patient, of £2·65 a week, or, in any other case, of £2·40 a week, the reduction of personal benefit shall be at the rate of £1·20 a week.

(3)(*a*) For any part of the period of free in-patient treatment which falls within the period of 52 weeks next following the first 52 weeks thereof, and during which the beneficiary has not a dependant or, if the beneficiary has a dependant, in respect of which any such application as is mentioned in paragraph (2) of this regulation has not been made, the reduction of personal benefit shall, subject to the provisions of the next following sub-paragraph, be at the rate of £2·40 a week.

(*b*) In addition to the reduction of benefit specified in the last foregoing sub-paragraph, so much (if any) of the personal benefit as would, but for the provisions of these regulations, be payable for the said part of the said period in excess, where the beneficiary is a tuberculosis patient, of £3·85 a week, or, in any other case, of £3·60 a week, shall not be payable unless and until the beneficiary is discharged from the hospital or similar institution.

(4) In relation to any beneficiary who is married, the foregoing provisions of this regulation shall have effect subject to the following provisions:—

(*a*) If the husband or wife of the beneficiary is receiving free in-patient treatment after having received that treatment continuously for a period of not less than 52 weeks, then, notwithstanding the provisions of regulation 11 of these regulations, he or she shall not be regarded as a dependant of the beneficiary.

(*b*) If—

(i) on a day on which the beneficiary is receiving free in-patient treatment after having received that treatment continuously for a period exceeding 52 weeks, his wife or her husband is receiving free in-patient treatment after having received that treatment continuously for a period which began 52 weeks before that day, and

(ii) as respects the period of free in-patient treatment received by the beneficiary, the provisions of paragraph (3) of this regulation have not applied in relation to any part of that period before that day,

those provisions shall apply as if the part of the period of free in-patient treatment received by the beneficiary next following the first 52 weeks thereof had begun on that day.

(*c*) Where the benefit in question is personal benefit by way of sickness benefit and the beneficiary is a woman who is receiving free in-patient treatment after having received that treatment continuously for a period of not less than 52 weeks, for any part of the period of that treatment which occurs after the first 52 weeks thereof and for which there is payable to her husband in respect of her any dependency benefit under the Act, the reduction of that personal benefit shall be such (if any) as will reduce the weekly rate thereof, where the beneficiary is a tuberculosis patient, to £1·45 a week, or, in any other case, to £1·20 a week.

(*d*) If the beneficiary is a man and the benefit in question is personal benefit by way of sickness benefit, invalidity benefit or a retirement pension, or if the beneficiary is a woman and the benefit in question is personal benefit by way of invalidity benefit or a retirement pension, then, for any part of the period of free in-patient treatment received by the beneficiary which occurs after the first 104 weeks thereof and (where the beneficiary is a man) for which the wife of the beneficiary is entitled to a retirement pension by virtue of her own insurance—

(i) notwithstanding the provisions of regulation 11 of these regulations, the wife or husband of the beneficiary shall not be regarded as a dependant of the beneficiary, and

(ii) (where the beneficiary is a man and his wife would, but for the provisions of this sub-paragraph, be regarded as a dependant of the beneficiary) the reduction of the personal benefit in question shall be at the weekly rate of £3·50:

Provided that the provisions of head (i) of this sub-paragraph shall not apply in the case of a beneficiary who is a woman and who is receiving an increase of invalidity pension in respect of her husband and the provisions of head (ii) of this sub-paragraph shall not apply for any period in respect of which any such application as is mentioned in paragraph (2) of this regulation has been made by the beneficiary in relation to any person except his wife who, for that period, is a dependant of the beneficiary.

Special provisions for certain persons entitled to widow's basic pension

6. Where a beneficiary is entitled to a widow's basic pension by virtue of the insurance of her husband who died before 5th July 1951 and to some other benefit to which regulation 3(1) of these regulations relates—

(*a*) regulation 4 or regulation 5(2) of these regulations shall not require a greater reduction in those benefits than would reduce the aggregate amount payable in respect of them to a sum equal to the aggregate amount which would have been payable in respect of them had they been calculated—

(i) in the case of any benefit other than an invalidity benefit, at the rate appropriate to that beneficiary for the period immediately before 20th September 1971, and

(ii) in the case of invalidity pension, at the rate appropriate to that beneficiary for sickness benefit for that period, and

(iii) in the case of invalidity allowance, at the rate at which it is payable; and

had they been adjusted under the provisions of the National Insurance (Hospital In-Patients) Regulations 1949**(a)**, as amended **(b)**, as in force on 19th September 1971 (invalidity pension and invalidity allowance as so calculated being for this purpose aggregated and treated as sickness benefit);

(*b*) regulation 5(1) of these regulations shall not operate to permit the aggregate amount payable in respect of those benefits in the case of a tuberculosis patient to exceed £2·50, and in any other case to exceed £2·00.

(a) S.I. 1949/1461 (1949 I, p. 2718).
(b) The relevant amending instruments are S.I. 1957/2077, 1965/40, 1969/1361 (1957 I, p. 1556; 1965 I, p. 47; 1969 III, p. 4048).

Dependency benefit

7.—(1) The provisions of paragraphs (2) to (6) of this regulation shall have effect subject to the provisions of paragraph (7) hereof.

(2) Where, apart from this regulation, the conditions for the receipt by any person (hereafter in this regulation referred to as "the beneficiary") of any dependency benefit under the Act are satisfied as respects a period for which either the beneficiary or the person in respect of whom that dependency benefit is or, apart from this regulation, would be payable (hereafter in this regulation referred to as "the dependant") is receiving free in-patient treatment, that dependency benefit shall be payable subject to and in accordance with the following provisions of this regulation.

(3) In any case (not being a case in which the provisions of the next following paragraph apply) where the beneficiary is married and the dependant is his wife or her husband and is receiving free in-patient treatment after having received that treatment continuously for a period of not less than 8 weeks, the following provisions shall apply:—

(*a*) The weekly rate of the dependency benefit which, but for this regulation, would be payable to the beneficiary in respect of the dependant—

(i) for any part of the period of free in-patient treatment received by the dependant which occurs during the 96 weeks next following the first 8 weeks thereof shall be reduced by £1·20 or by such lesser amount (if any) as will reduce that weekly rate, where the dependant is a tuberculosis patient, to £1·45 a week, or, in any other case, to £1·20 a week; and

(ii) for any part of the period of free in-patient treatment received by the dependant which occurs after the end of 104 weeks beginning with its commencement shall (subject to the provisions of the next following sub-paragraph) be reduced by such an amount (if any) as will reduce that weekly rate, where the dependant is a tuberculosis patient, to £1·45 a week, or, in any other case, to £1·20 a week.

(*b*) Where the beneficiary is a man and the dependant is his wife who is residing with him, the dependency benefit which, but for this sub-paragraph, would be payable to the beneficiary in respect of the dependant for any part of the period of free in-patient treatment received by the dependant which occurs after the end of 104 weeks beginning with its commencement shall not be payable unless the beneficiary is regularly incurring expenditure in respect of the dependant or is regularly making, or causing to be made, some payment to the dependant or to some other person for the benefit of the dependant.

(4) In any case where the beneficiary is married and the dependant is his wife or her husband and each of them is receiving free in-patient treatment after having received that treatment continuously for a period of not less than 52 weeks, the following provisions shall apply:—

(*a*) For any part of the period of free in-patient treatment received by the beneficiary—

(i) which occurs both after the first 52 weeks thereof and during that part of the period of free in-patient treatment received by the dependant which occurs during the 52 weeks next following the first 52 weeks thereof, and

(ii) in respect of which an application has been made by the beneficiary to the Secretary of State to pay on behalf of the beneficiary to the dependant (subject to the dependant's being discharged from the hospital or similar institution and subject also to the provisions of regulation 8 of these regulations) or to some other person who is approved by the Secretary of State and satisfies the Secretary of State that he will apply it for the benefit of a child of the beneficiary's family so much (if any) of the dependency benefit as would, but for this regulation, be payable to the beneficiary in respect of the dependant at a rate in excess, where the dependant is a tuberculosis patient, of £2·65 a week, or, in any other case, of £2·40 a week,

the weekly rate of the dependency benefit which, but for this regulation, would be payable to the beneficiary in respect of the dependant shall be reduced by £1·20 a week or by such lesser amount (if any) as will reduce that weekly rate, where the dependant is a tuberculosis patient, to £1·45 a week, or, in any other case, to £1·20 a week.

(*b*) For any other part of the period of free in-patient treatment received by the beneficiary which occurs both after the first 52 weeks thereof and during that part of the period of free in-patient treatment received by the dependant which occurs after the first 52 weeks thereof, the weekly rate of the dependency benefit which, but for this regulation, would be payable to the beneficiary in respect of the dependant shall be reduced by such an amount (if any) as will reduce that weekly rate, where the dependant is a tuberculosis patient, to £1·45 a week, or, in any other case, to £1·20 a week.

(*c*) Any benefit in relation to which, in accordance with sub-paragraph (*a*) of this paragraph, an application has been made by the beneficiary to the Secretary of State for its payment to the dependant shall not be payable unless and until the dependant is discharged from the hospital or similar institution.

(5) In any case where the dependant is a child and is receiving free in-patient treatment after having received that treatment continuously for a period of not less than 12 weeks, any dependency benefit which, but for this regulation, would be payable to the beneficiary in respect of the dependant shall not be payable unless the beneficiary is regularly incurring expenditure in respect of the dependant or is regularly making, or causing to be made, some payment to the dependant or to some other person for the benefit of the dependant.

(6) In any case (not being a case in which the provisions of paragraph (3)(*b*) or paragraph (5) of this regulation apply) where, apart from this regulation, the conditions for the receipt by the beneficiary of any dependency benefit under the Act (not being any dependency benefit in relation to which an application has been made in accordance with the provisions of head (ii) of paragraph (4)(*a*) of this regulation) are satisfied and the beneficiary has received free in-patient treatment continuously for a period exceeding 52 weeks, that dependency benefit, or such part thereof as would be payable but for the provisions of this paragraph, shall not be payable for any part of the period of free in-patient treatment which occurs after the first 52 weeks thereof and in respect of which an application has not been made by the beneficiary to the Secretary of State to pay on behalf of the beneficiary that dependency benefit, or the said part thereof, to the dependant or to some other person who is approved by the Secretary of State and satisfies the Secretary of State that he will apply it for the benefit of the dependant.

(7) In relation to any case where the beneficiary is a married man and the dependant is his wife, the foregoing references to the dependency benefit which, but for this regulation, would be payable for any period shall, as respects any period throughout which the dependant is receiving free in-patient treatment and—

(*a*) for which personal benefit under the Act by way of sickness benefit is payable to her, or

(*b*) (where the dependency benefit in question is dependency benefit by way of an increase of a retirement pension) throughout which she is over pensionable age and for which any personal benefit specified in regulation 6(2) of the National Insurance (Overlapping Benefits) Regulations 1972**(a)** is payable to her,

be construed as references to the dependency benefit which, but for the operation of the said regulations of 1972 and the provisions of this regulation, would be payable for that period.

PART III

Supplementary provisions

Benefit payable on discharge from a hospital or similar institution

8.—(1) Where, by virtue of any provision of these regulations, the payment to a person (hereafter in this regulation referred to as "the payee") of any sum by way of benefit is conditional upon the payee's discharge from a hospital or similar institution, that sum (which sum or any part thereof is hereafter in this regulation referred to as "resettlement benefit") shall not be payable unless and until, after the payee's discharge from the hospital or similar institution, the payee proves, in such manner as the Secretary of State shall require, that his discharge therefrom was effected by and with the approval of a person authorised or empowered to discharge him and that he is neither receiving free in-patient treatment nor residing in any prescribed accommodation, and in that event there shall be payable only so much resettlement benefit as is payable in accordance with the provisions of the next following paragraph.

(2) Resettlement benefit shall, during the lifetime of the payee, be payable to him by instalments not exceeding £9·00 a week unless, having regard to the circumstances of any particular case, the Secretary of State decides that payment by other instalments or in one sum is desirable, and any resettlement benefit which, at the payee's death, has not been paid in accordance with this provision shall not be payable:

Provided that—

(*a*) the payment of any resettlement benefit shall be suspended while the payee is again receiving free in-patient treatment or is residing in any prescribed accommodation; and

(*b*) where, after an interval of more than 28 days, the payee again receives free in-patient treatment for any period, the amount of any resettlement benefit which, but for the provisions of this paragraph of this proviso, would be payable to him in respect of that period shall be reduced or extinguished by the deduction therefrom of the amount of any resettlement benefit which, at the commencement of that period, either was payable to him and was unpaid, or would have been so payable to him if he had then satisfied the conditions for the receipt thereof.

(a) S.I. 1972/604 (1972 I, p. 1994).

Provisions as to residence

9. For the purposes of Part II and paragraph (*d*) of regulation 11 of these regulations, two spouses shall not be deemed to have ceased to reside together by reason of any absence of either or both of them while receiving medical or other treatment as an in-patient in a hospital or similar institution, notwithstanding that such absence is not temporary and notwithstanding that it commenced before the date on which these regulations come into force.

Adjustment, or further adjustment, of benefit in certain cases

10.—(1) This regulation applies in relation to—

(*a*) any personal benefit by way of sickness benefit, invalidity benefit, widow's benefit or retirement pension (not being personal benefit which, by virtue of an application such as is mentioned in regulation 5(2) of these regulations, is payable on behalf of the beneficiary to or for the benefit of the dependant or any personal benefit which, by virtue of regulation 5(3)(*b*) of these regulations, is not payable unless and until the beneficiary is discharged from a hospital or similar institution) which, but for the provisions of this regulation, would be payable to the beneficiary, and

(*b*) any dependency benefit (not being dependency benefit which, by virtue of an application such as is mentioned in regulation 7(4)(*a*) of these regulations, is payable for the benefit of a child or which, by virtue of such an application and the provisions of regulation 7(4)(*c*) of these regulations, is payable to the beneficiary's wife or husband subject to her or his being discharged from a hospital or similar institution) which, but for the provisions of this regulation, would be payable in respect of the beneficiary's wife or husband,

for a period for which, in the case of personal benefit, the beneficiary or, in the case of dependency benefit, each of the beneficiary and the beneficiary's wife or husband is receiving free in-patient treatment after having received that treatment continuously for a period of not less than 52 weeks; and, in relation to such benefit, the beneficiary or, in the case of dependency benefit, the beneficiary's wife or husband, is hereafter in this regulation referred to as "the patient".

(2) The weekly rate of any benefit in relation to which this regulation applies shall be reduced for any period for which there is in operation a certificate in writing, given by a medical officer who, at the time when it was given, was treating the patient, showing that, in the opinion of that officer, either no sum or no more than a specified weekly sum (being a weekly sum which is less than the weekly rate of that benefit) can be applied by or on behalf of the patient for his personal comfort or enjoyment; and the reduction of the weekly rate of that benefit to be made in accordance with the foregoing provisions of this paragraph shall be such that that benefit is not payable or, as the case may be, it is payable at a weekly rate equal to the weekly sum specified in the certificate.

(3) A certificate such as is referred to in the last foregoing paragraph shall operate from the date on which it is furnished to the Secretary of State and shall continue in operation unless and until either the Secretary of State receives a notice in writing, given by a medical officer who, at the time when it was given, was treating the patient, stating that the certificate is revoked, or another such certificate, relating to the same patient, comes into operation.

(4) In relation to any personal benefit, the foregoing provisions of this regulation shall apply only as respects any period during which the beneficiary is unable to act and benefit to which he is entitled is payable, on his behalf, to the body or authority responsible for the management and control of the hospital or similar institution in which he is receiving treatment and is so payable to that body or authority either as a person or persons empowered to act on behalf of the beneficiary by virtue of an appointment made by the Secretary of State or pursuant to a request made to the Secretary of State by a person so empowered.

(5) Notwithstanding the foregoing provisions of this regulation, any benefit which, by reason only of the application of those provisions, would not be payable to or in respect of the patient shall be payable subject to and in accordance with the following provisions:—

(*a*) Such benefit shall not be payable unless and until the patient is discharged from the hospital or similar institution.

(*b*) If, as respects any benefit in relation to which this regulation applies, reductions have been made in accordance with the provisions of paragraph (2) of this regulation for more than 52 weeks, the amount payable in respect of that benefit by virtue of this paragraph shall not exceed the aggregate amount of the reductions so made for the first 52 of those weeks.

(6) If and in so far as an application made in accordance with the provisions of regulation 7(6) of these regulations relates to dependency benefit which would by payable but for any reduction falling to be made in accordance with the provisions of paragraph (2) of this regulation, it shall have effect as if it were an application made by the beneficiary to the Secretary of State for the payment of that dependency benefit to the dependant subject to the dependant's being discharged from the hospital or similar institution and subject also to the provisions of regulation 8 of these regulations.

(7) The references in regulation 7(4) of these regulations to benefit which would be payable but for that regulation, and the reference in paragraph (*b*) of that regulation to benefit which would be payable but for the provisions of that paragraph, shall be construed as if this regulation had not been made.

Persons constituting "dependants"

11. For the purposes of regulations 4 and 5 of these regulations, a beneficiary shall be regarded as having a dependant for any period if, but only if, for that period either—

(*a*) any dependency benefit is payable to the beneficiary (or to some other person on his behalf) or, but for the operation of the National Insurance (Overlapping Benefits) Regulations 1972**(a)** and the provisions of regulation 7 of these regulations would, subject to his satisfying the condition of making a claim therefor, be payable to the beneficiary; or

(*b*) an increase of benefit would, but for the provisions of regulation 7 of these regulations and subject as aforesaid, be payable to the beneficiary in respect of an adult dependant, if any earnings of that dependant were disregarded otherwise than for the purpose of ascertaining whether or not the beneficiary is or has been wholly or mainly maintaining that dependant; or

(a) S.I. 1972/604 (1972 I, p. 1994).

(*c*) an increase of benefit would, but for the operation of the said regulations of 1972 and the provisions of regulation 7 of these regulations, and subject as aforesaid, be payable to the beneficiary in respect of his wife for any period in respect of which a retirement pension is payable to her if any earnings of the wife were disregarded; or

(*d*) a retirement pension is payable to the beneficiary (being the wife of a man to whom a retirement pension is payable in respect of that period) and the beneficiary is residing with her husband; or

(*e*) in the case of a man to whom a retirement pension is payable by virtue of section 5(1) of the National Insurance Act 1971**(a)** (which relates to retirement pension for persons over 80)—

(i) he is married and is residing with his wife, or

(ii) he has a child or children in his family; or

(*f*) in the case of a woman to whom a retirement pension is payable by virtue of the said section 5(1)—

(i) she is married and is residing with her husband and he is in receipt of a retirement pension, or

(ii) she has a child or children in her family;

and, in relation to a beneficiary who is regarded as having a dependant by virtue of the provisions of paragraph (*a*), (*b*) or (*c*) of this regulation, a person in respect of whom any dependency benefit is or, but for any provision or condition mentioned in that paragraph would be payable to the beneficiary (or to some other person on his behalf) shall, for the first-mentioned purposes, be regarded as a dependant, and, in relation to a married woman who is regarded as having a dependant by virtue of the provisions of paragraph (*d*) of this regulation, her husband shall, for those purposes, be regarded as a dependant: and, in relation to a beneficiary who is regarded as having a dependant by virtue of the provisions of paragraph (*e*) or (*f*) of this regulation, the spouse, child or children shall, for those purposes, be regarded as a dependant or dependants:

Provided that, if the husband or wife of the beneficiary is temporarily absent from Great Britain for the specific purpose of being treated for incapacity which commenced before he or she left Great Britain, then, when it is being determined for the purposes of the foregoing provisions of this regulation whether any benefit is, or would be, payable, that absence from Great Britain (and any absence of claim for benefit) shall be disregarded.

Two increases of the same benefit to be treated as separate benefits

12. For the purposes of these regulations, in any case where dependency benefit by way of increases of benefit in respect of more than one person (being a child or an adult dependant) is or, but for the provisions of these regulations, would be payable, each of such increases of benefit shall be treated as a separate benefit.

Calculation of periods

13.—(1) For the purpose of calculating any period mentioned in Part II or regulation 16 of these regulations, but for no other purpose, the following provisions of this regulation shall apply:—

(a) 1971 c. 50.

(2) Where a person has entered a hospital or similar institution for the purpose of receiving there medical or other treatment as an in-patient after having ceased to reside in any prescribed accommodation, he shall be regarded as having received free in-patient treatment throughout the period during which he so resided:

Provided that—

(*a*) where any such person has ceased to reside in any prescribed accommodation after it has been decided by the appropriate authority that he should be permitted to reside there otherwise than temporarily, the period of that residence (whatever its duration) shall be deemed to have been a period of 52 weeks; and

(*b*) where the prescribed accommodation in which any such person has ceased to reside is residential accommodation in premises managed by a voluntary organisation provided for that person under Part III of the National Assistance Act 1948**(a)**, the foregoing provisions of this paragraph and the provisions of the next succeeding paragraph shall not apply in relation to that person unless and until, after having ceased to reside in such accommodation, he shall have received free in-patient treatment for a continuous period exceeding 8 weeks.

(3) Where a person has received (or is regarded under this regulation as having received) free in-patient treatment for 2 or more distinct periods separated by a temporary interval or temporary intervals, he shall be regarded as having received such treatment continuously for a period, equal in duration to the total of such distinct periods, ending on the last day of the latter or last of such periods; and, for this purpose, the expression "temporary interval" means a period not exceeding 28 days.

(4) Any period during which a person has received free in-patient treatment whilst that person was a serving member of the forces (as defined in regulation 1(2) of the National Insurance (Members of the Forces) Regulations 1968**(b)**, as amended **(c)**) shall be disregarded.

Priority of adjustments

14. Except in any case in which the provisions of regulation 7(7) of these regulations apply, where any benefit in relation to which these regulations apply falls to be adjusted in accordance with the provisions of the National Insurance (Overlapping Benefits) Regulations 1972**(d)** the benefit as so adjusted in accordance with those provisions shall be the relevant benefit for the purposes of the provisions of these regulations.

Treatment of age addition in certain cases

15. In a case where age addition would, but for the provisions of this regulation, be payable to a person to whom a retirement pension is not payable, regulations 3, 4 and 5 of these regulations shall not apply so as to reduce that age addition, but where that person is receiving or has received free in-patient treatment continuously for a period exceeding 52 weeks, age addition shall not be payable to that person for any part of that period which falls after the first 52 weeks thereof and during which that person has not a child or children in his or her family or a wife who resides with him.

(a) 1948 c. 29.
(b) S.I. 1968/827 (1968 II, p. 2228)
(c) There is no amendment which relates expressly to the subject matter of these Regulations.
(d) S.I. 1972/604 (1972 I, p. 1994).

PART IV

Transitional provisions, revocations and general savings

16.—(1) In the application of the provisions of these regulations in relation to a person who was receiving (or, by virtue of the provisions of regulation 13, is regarded as receiving) free in-patient treatment immediately before 5th September 1949, those provisions shall, in respect of the period of in-patient treatment then current, or regarded as then current, have effect as if—

(*a*) in regulation 3(2), for the words "44 weeks" there were substituted the words "52 weeks";

(*b*) in regulation 3(2) and 3(3) and in regulation 6, for the words "52 weeks" (wherever those words occur) there were substituted the words "60 weeks"; and

(*c*) in regulation 5(3)(*a*), for the words "which falls within the period of 52 weeks next following the first 52 weeks thereof" there were substituted the words "which falls within the period of 44 weeks next following the first 60 weeks thereof".

(2) In the application of the said provisions in relation to a person who, immediately before 5th September 1949, had been receiving free in-patient treatment for a continuous period exceeding 60 weeks, those provisions (as modified by paragraph (1) of this regulation) shall have effect as if the period of that free in-patient treatment had commenced 60 weeks before the said date.

(3) In the application of the said provisions in relation to a person who, immediately before 5th July 1948, was entitled to any sum by virtue of the provisions of section 55(3) of the National Health Insurance Act 1936**(a)** (which related to the payment of benefit under that Act to a person after he had left an institution) and subsequently satisfied the conditions specified in regulation 5(3)(*b*) for the receipt of any personal benefit to which that sub-paragraph applied, and has been receiving free in-patient treatment throughout the period from that day to the date of his discharge from the hospital or similar institution, it shall be a further condition that there shall be payable only so much (if any) of the amount of that personal benefit as does not exceed the amount (if any) by which £50·00 exceeds the said sum, and that no part of that amount shall become payable until after payment to the beneficiary of the said sum.

17.—(1) The regulations specified in column 1 of the Schedule to these regulations are hereby revoked to the extent mentioned in column 3 of the Schedule.

(2) Anything whatsoever done under or by virtue of any regulation revoked by these regulations shall be deemed to have been done under or by virtue of the corresponding provision of these regulations, and anything whatsoever begun under any such regulation may be continued under these regulations as if begun under these regulations.

(3) Nothing in paragraphs (1)-(2) of this regulation shall be taken as affecting the general application by regulation 1(5) of these regulations of the rules for the construction of Acts of Parliament contained in section 38 of the Interpretation Act 1889 (effect of repeal) with regard to the effect of revocations.

(a) 1936 c. 32.

Given under the official seal of the National Insurance Joint Authority.

(L.S.)

F. B. Hindmarsh,
A person authorised by the National Insurance Joint Authority to act on behalf of the Secretary, National Insurance Joint Authority.

11th April 1972.

V. H. Goodhew,
Tim Fortescue,
Two of the Lords Commissioners of Her Majesty's Treasury.

14th April 1972.

Regulation 17(1) SCHEDULE

Regulations revoked (1)	Reference (2)	Extent of revocation (3)
The National Insurance (Hospital In-Patients) Regulations 1949	S.I. 1949/1461 (1949 I, p. 2718)	The whole regulations
The National Insurance (Increase of Benefit, Re-entry into Regular Employment and Miscellaneous Provisions) Regulations 1951	S.I. 1951/1232 (1951 I, p. 1457)	Regulation 20 and Part IX of Schedule A, and regulation 21 in so far as it relates to the National Insurance (Hospital In-Patients) Regulations 1949
The National Insurance (Hospital In-Patients) Amendment Regulations 1952	S.I. 1952/2179 (1952 II, p. 2147)	The whole regulations
The National Insurance (Child's Special Allowance) Regulations 1957	S.I. 1957/1835 (1957 I, p. 1523)	The provisions in the Schedule relating to the National Insurance (Hospital In-Patients) Regulations 1949
The National Insurance (Hospital In-Patients) Amendment Regulations 1957	S.I. 1957/1849 (1957 I, p. 1546)	The whole regulations
The National Insurance (Increase of Benefit and Miscellaneous Provisions) Regulations 1957	S.I. 1957/2077 (1957 I, p. 1556)	Regulations 13, 14 and 15, Parts IV, V and VI of Schedule A
The National Insurance (Hospital In-Patients) Amendment Regulations 1960	S.I. 1960/1283 (1960 II, p. 2163)	The whole regulations
The National Insurance (Widow's Benefit and Miscellaneous Provisions) Regulations 1964	S.I. 1964/297 (1964 I, p. 508)	The provisions in Schedule D relating to the National Insurance (Hospital In-Patients) Regulations 1949, as amended

Regulations revoked (1)	Reference (2)	Extent of revocation (3)
The National Insurance (Overlapping Benefits and Hospital In-Patients) Amendment Regulations 1966	S.I. 1966/970 (1966 II, p. 2340)	Regulation 3
The Family Allowances, National Insurance, Industrial Injuries and Miscellaneous Provisions (Decimalisation of the Currency) Regulations 1970	S.I. 1970/46 (1970 I, p. 243)	Regulation 10
The National Insurance (Increase of Benefit and Miscellaneous Provisions) Regulations 1971	S.I. 1971/1220 (1971 II, p. 3556)	The provisions in Schedule J relating to the National Insurance (Hospital In-Patients) Regulations 1949, as amended
The National Insurance (Miscellaneous Amendments) Regulations 1971	S.I. 1971/1419 (1971 II, p. 3964)	Regulation 8
The National Insurance (General Benefit and Miscellaneous Amendments) Regulations 1972	S.I. 1972/394 (1972 I, p. 1483).	Regulation 4

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These Regulations are made for the purpose only of consolidating Regulations hereby revoked, and accordingly, by virtue of section 108(9)(*c*) of the National Insurance Act 1965, no reference of them has been made to the National Insurance Advisory Committee.

The Regulations specify the circumstances in which benefit payable to or in respect of a person under the National Insurance Act 1965 may be adjusted when that person is undergoing medical or other treatment as an in-patient in hospital or similar institution.

Part I of the Regulations contains various definitions; Parts II and III contain provisions relating to the adjustment of benefits; Part IV of, and the Schedule to, the Regulations relate to transitional provisions, revocations and general savings.

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