to an increase of benefit in respect of his wife for any period during which she is engaged in any gainful occupation from which her weekly earnings exceed twenty, or in certain cases forty, shillings) for the words "twenty shillings" there shall be substituted the words "forty shillings", and the proviso to that paragraph shall cease to have effect.

**3.** In consequence of regulation 2 of these regulations, the National Insurance (Industrial Injuries) (Benefit) Amendment (No. 2) Regulations, 1951(**a**) are hereby revoked, but without prejudice to anything duly done or suffered, or to any right, privilege, obligation or liability acquired, accrued or incurred thereunder.

Given under the official seal of the Industrial Injuries Joint Authority this 19th day of June, nineteen hundred and fifty-seven.

(L.S.) *Ian G. Gilbert,*
Secretary,
Industrial Injuries Joint Authority.

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EXPLANATORY NOTE

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

These Regulations further amend the National Insurance (Industrial Injuries) (Benefit) Regulations, 1948, so as to provide that an increase of benefit may be paid in all cases if the wife's weekly earnings from any gainful occupation do not exceed forty shillings.

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## 1957 No. 1862

## The National Insurance (Industrial Injuries) (Benefit) Amendment (No. 2) Regulations, 1957

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| *Made - - - -* | *29th October,* 1957 |
| *Laid before Parliament* | *5th November,* 1957 |
| *Coming into Operation* | *18th November,* 1957 |

The Industrial Injuries Joint Authority in exercise of powers conferred by sections 18(1), 23(1) and 30 of the National Insurance (Industrial Injuries) Act, 1946(**b**), and the Minister of Pensions and National Insurance, in exercise of powers conferred by section 35(1) of the said Act (as amended by sections 3(5) and 6(6) of the National Insurance Act, 1957(**c**)), section 3(2) of the National Insurance (Industrial Injuries) Act, 1953(**d**) and sections 6(3) and 9(1) of the said Act of 1957, and of all other powers enabling them in that behalf, hereby make the following regulations:—

*Citation, interpretation and commencement*

**1.** These regulations, which may be cited as the National Insurance (Industrial Injuries) (Benefit) Amendment (No. 2) Regulations, 1957, shall be read

(a) S.I. 1951/1233 (1951 I, p. 1501).
(b) 9 & 10 Geo. 6. c. 62.
(c) 5 & 6 Eliz. 2. c. 26.
(d) 1 & 2 Eliz. 2. c. 43.

as one with the National Insurance (Industrial Injuries) (Benefit) Regulations, 1948(a) (hereinafter referred to as "the principal regulations"), and shall come into operation on the 18th November, 1957.

*Amendment of regulation* 1 *of the principal regulations*

**2.** In paragraph (2) of regulation 1 of the principal regulations (which paragraph makes provision for their interpretation) the following definition shall be inserted after the definition of "the National Insurance Act"—

"'the Act of 1957' means the National Insurance Act, 1957;".

*Amendment of regulation* 8 *of the principal regulations*

**3.** In sub-paragraph (*a*) of paragraph (2) of regulation 8 of the principal regulations (which sub-paragraph provides that a beneficiary shall not be entitled to an increase of benefit in respect of a female relative for any period during which she is engaged in any gainful occupation from which her weekly earnings exceed twenty shillings), for the words "twenty shillings" there shall be substituted the words "forty shillings".

*Amendment of regulation* 9 *of the principal regulations*

**4.** The following regulation shall be substituted for regulation 9 of the principal regulations, as amended(b):—

"*Increase of benefit for female person having care of child*

9. For the purposes of paragraph (*d*) of subsection (1) of section 18 of the Act (which paragraph relates to an increase of benefit in respect of a female person, not being a child, who has the care of a child or children of the beneficiary's family), the following further conditions shall apply in relation to any such female person:—

(1) A beneficiary shall not be entitled to an increase of benefit under the said section 18 in respect of any such female person unless—

(*a*) she is residing with the beneficiary; or

(*b*) she is employed by the beneficiary in an employment from which her weekly earnings (calculated or estimated in such manner and on such basis as is prescribed by regulation 7 for the purpose of the said section 18 in relation to the earnings of a wife) are not less than the amount mentioned in the said section 18, and was so employed by him before the date of the relevant accident, subject to the qualification that the condition of employment before that date shall not apply in a case where the necessity for her employment first arose thereafter; or

(*c*) the beneficiary is contributing to her maintenance at a weekly rate of not less than the amount mentioned in the said section 18.

(2) A beneficiary shall not be entitled to an increase of benefit under the said section 18 in respect of any such female person for any period during which that female person (not being a person who is employed by, but is not residing with, the beneficiary) is engaged in any gainful occupation or occupations (other than her employment by the beneficiary in caring for a child or children of the beneficiary's family) from which her weekly earnings (calculated or estimated in such manner and on such basis as is prescribed as aforesaid for the purpose of the said section 18) exceed forty shillings.

(a) S.I. 1948/1372 (Rev. XVI, p. 441 : 1948 I, p. 2918).
(b) The relevant amending regulations are S.I. 1955/48 (1955 I, p. 1668).

(3) A beneficiary shall not be entitled to an increase of benefit under the said section 18 in respect of any such female person unless the beneficiary is entitled to an increase of benefit in respect of a child of his family or a child treated as such for the purposes of section 17 of the Act (which provides for an increase of benefit in respect of a child), or would be so entitled but for the provisions of regulations made in Part VII relating to overlapping benefits."

*Provisions added to the principal regulations*

**5.** The following provisions shall be added in Part III of the principal regulations immediately after regulation 9 thereof:—

"*Contribution to maintenance of adult dependant*

9A. For the purposes of paragraph (*a*) of subsection (1) of section 18 of the Act (which paragraph relates to increase of benefit in respect of a wife) or of sub-paragraph (*c*) of paragraph (1) of regulation 9 of these regulations, a beneficiary shall not be deemed to satisfy the requirement contained in the said paragraph (*a*) or in the said sub-paragraph (*c*) that he is contributing to the maintenance of the wife or female person, as the case may be, at a weekly rate of not less than the amount mentioned in the said section 18 of the Act, unless when in employment before the date of the relevant accident (except in a case where the dependency did not arise until after that date), he contributed to her maintenance at a weekly rate of not less than that amount.

*Children treated as included in family for increase of certain benefits*

9B. For the purposes of subsection (3) of section 6 of the Act of 1957 (which subsection provides for treating a child as included in a man's family for the purpose of an increase of injury benefit or disablement pension under section 17 of the Act where the beneficiary is contributing to the cost of providing for the child at a weekly rate which, though not less than the prescribed rate, is less than the minimum rate for the time being required for the purposes of subsection (2) of section 3 of the Family Allowances Act, 1945(a)), the prescribed rate in relation to the said section 17 shall be a rate equal to the lesser amount specified in subsection (1) of the said section 17 of the Act:

Provided that a person shall not be deemed for the purposes of the said subsection (3) to be so contributing at a weekly rate not less than the prescribed rate unless on the day for which the increase of benefit is claimed another child was, or was under subsection (2) of the said section 17 treated as, or could under paragraph 3 of the Schedule to the Family Allowances Act, 1945, have been treated as, included in his family.

*Contribution towards cost of providing for child*

9C.—(1) For the purposes of paragraph (*e*) of subsection (4) of section 6 of the Act of 1957, and for the purposes of paragraph (*f*) of that subsection and of section 21 of the Act (which paragraphs and section, in relation to certain benefits or increases of benefit under the Act in respect of a child, make it a condition of payment of the benefit that, unless the child is living with the claimant, contributions towards the cost of providing for the child are being made at a weekly rate not less than that of the amount in question), a person shall be deemed to be contributing towards the cost of providing for a child, in a case to which the said paragraph (*e*)

(a) 8 & 9 Geo. 6. c. 41.

relates, at a weekly rate not less than that required by the said subsection (4), and in any other case at a weekly rate not less than that required by virtue of the words added to subsection (1) of the said section 21 by paragraph 10 of the Schedule to the Family Allowances and National Insurance Act, 1956(a)—

(*a*) as respects any period in respect of which the child is treated as included in the person's family by virtue of subsection (3) of the said section 6 and the person is, apart from the said subsection (4), entitled to receive payment—

(i) in respect of the child, of an amount under section 17 of the Act by way of an increase of injury benefit or disablement pension, at the rate appropriate to the elder or eldest child of a family; and

(ii) in respect of some other child of such an amount at the rate appropriate to a child other than the elder or eldest;

(*b*) as respects any period in respect of which the child is included in the person's family and, apart from the said subsection (4), the person is not entitled to receive payment in respect of the child of any amount such as is referred to in the said paragraphs (*e*) and (*f*).

(2) Where the amount in question is an increase of injury benefit or disablement pension, references in sub-paragraph (*b*) of the foregoing paragraph to a child included in the person's family shall include a child who, had the person been entitled to injury benefit or disablement benefit in respect of any period to which the sub-paragraph refers, would have been treated as included in his family by virtue of subsection (3) of the said section 6.

*Allocation of contributions for wife or children*

9D.—(1) Subject to the provisions of this regulation, any sum or sums paid by a person by way of contribution towards either or both of the following, that is to say, the maintenance of his wife and the cost of providing for one or more children, being children to whom this regulation refers, shall be treated for the purposes of subsection (1) of section 18 of the Act and subsections (3) and (4) of section 6 of the Act of 1957 as such contributions, of such respective amounts equal in the aggregate to the said sum or sums, in respect of such of the persons hereinafter mentioned, that is to say, his wife or any child or children to whom this regulation refers, as may be determined by the determining authority so as to secure as large a payment as possible by way of benefit in respect of dependants.

(2) The children to whom the regulation refers are any children who, in the period for which the sum in question is paid by the person, either are included in that person's family or, though not so included, could have been treated under paragraph 3 of the Schedule to the Family Allowances Act, 1945, as so included, or would have been, or could have been treated under that paragraph as, so included had the person contributed to the cost of providing for the child at a sufficient weekly rate.

(3) A sum paid by way of contribution towards the maintenance of a wife shall not be treated by virtue of this regulation as a sum paid by way of contribution towards the cost of providing for a child or children, and a sum paid by way of contribution towards the cost of providing for a child or children shall not be so treated as a sum paid by way of contribution towards the maintenance of a wife, unless in either case the child

(a) 4 & 5 Eliz. 2. c. 50.

or children is or are included in the family of the wife or, though not so included, could have been treated under paragraph 3 of the Schedule to the Family Allowances Act, 1945, as so included."

*Amendment of regulation 25A of the principal regulations*

**6.** At the end of paragraph (3) of regulation 25A of the principal regulations, as amended(**a**), (which paragraph provides that a day shall not be treated for the purpose of benefit as a day of incapacity for work if it is a day in respect of which a person has not claimed, is disqualified for receiving, or forfeits injury benefit), there shall be added the following proviso :—

"Provided that the fact that a day has not been so treated as a day of incapacity for work shall be disregarded for the purposes of subsection (IA) of section 12 of the Act (which subsection specifies the period for which disablement benefit is not available)."

*Amendment of regulation 25B of the principal regulations*

**7.** In regulation 25B of the principal regulations, as amended(**a**), (which relates to night workers), sub-paragraphs (*a*) and (*b*) of paragraph (2), and the words "other than Saturday or Sunday" in sub-paragraph (*c*) of that paragraph, shall be omitted, and that regulation shall accordingly have effect as set out in the First Schedule to these regulations.

*Amendment of regulation 28 of the principal regulations*

**8.** At the end of regulation 28 of the principal regulations (which relates to the adjustment of dependency benefits under the Act by reference to one or more of the dependency benefits, whether under the Act or otherwise, specified in paragraph (2) thereof), there shall be added the following paragraph :—

"(3) The foregoing provisions of this regulation shall not operate to require the making of any adjustments as between two dependency benefits of which one is dependency benefit by way of an increase of benefit under paragraph (*d*) of subsection (1) of section 18 of the Act which is, or but for those provisions would be, payable to a person (hereafter in this paragraph referred to as "the beneficiary") in respect of another person who is employed by, but is not residing with, the beneficiary, and the other is any dependency benefit which is specified in paragraph (2) of this regulation and is, or but for those provisions would be, payable in respect of that other person to some person other than the beneficiary."

*Amendment of regulation 29 of the principal regulations*

**9.**—(1) Regulation 29 of the principal regulations, as amended(**b**), (which relates to the adjustment of dependency benefit under the Act where personal benefit is payable) shall be amended in accordance with the following provisions of this regulation and shall accordingly have effect as set out in the Second Schedule to these regulations.

(2) In paragraph (1) of the said regulation, before the words "Where for any period", there shall be inserted the words "Subject to the provisions of paragraph (3) of this regulation, . . .".

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(**a**) Inserted by regulation 3 of S.I. 1953/1314 (1953 I, p. 1425).
(**b**) S.I. 1951/1606, 1953/1314 (1951 I, p. 1502; 1953 I, p. 1425).

(3) There shall be inserted after paragraph (2) of the said regulation the following paragraph:—

"(3) The provisions of this regulation shall not apply in relation to any dependency benefit by way of an increase of benefit under paragraph (*d*) of subsection (1) of section 18 of the Act in respect of a person who is employed by, but is not residing with, the beneficiary."

*Amendment of the Fourth Schedule to the principal regulations*

**10.** At the end of the Fourth Schedule to the principal regulations (which prescribes relationships for the purposes of sections 18 and 23 of the Act which provide respectively for increasing certain benefits in respect of adult dependants and for death benefit for relatives), there shall be added the following words:—

"and

(*c*) the father or mother of any woman who is, or was at her death, the wife of the beneficiary or, as the case may be, was the wife of the deceased at either her or his death; and

(*d*) the father or mother of any man who is, or was at his death, the husband of the beneficiary or, as the case may be, was the husband of the deceased at either his or her death.":

Provided that death benefit shall not be payable by virtue of the provisions of this regulation where the deceased died at any time before the date on which the regulation came into operation.

*Transitional provisions*

**11.** In the application to any person of regulation 9C, which by regulation 5 of these regulations is added to the principal regulations, a period before the date on which these regulations come into force shall be deemed to be a period to which sub-paragraph (*b*) of paragraph (1) of the said regulation 9C applies, if it is a period for which a child is included in that person's family or would, had these regulations and subsection (3) of section 6 of the Act of 1957 then been in operation, have been treated as so included under paragraph (2) of the said regulation 9C.

Given under the official seal of the Industrial Injuries Joint Authority this 28th day of October, nineteen hundred and fifty-seven.

(L.S.) *Ian G. Gilbert,*
Secretary,
Industrial Injuries Joint Authority.

Given under the official seal of the Minister of Pensions and National Insurance this 29th day of October, nineteen hundred and fifty-seven.

(L.S.) *John Boyd-Carpenter,*
Minister of Pensions and National Insurance.

## FIRST SCHEDULE Regulation 7

### REGULATION 25B OF THE PRINCIPAL REGULATIONS AS AMENDED

25B.—(1) The provisions of this regulation shall apply in relation to night workers for the purpose of benefit.

(2) Subject to the provisions of the next following paragraph—

(*c*) where a period of employment begun on any day extends over midnight into the following day, the person employed shall, in respect of such period—

(i) be treated as having been employed on the first day only, if the employment before midnight is of longer duration than that after midnight, and, in that case, the first day shall not be treated as a day of incapacity for work ; or

(ii) be treated as having been employed on the second day only, if the employment after midnight is of longer duration than that before midnight, or if the employments before and after midnight are of equal duration, and, in either of these cases, the second day shall not be treated as a day of incapacity for work.

(3) Where a person—

(*a*) suffers an industrial accident during any such period of employment as is referred to in the preceding paragraph ; and

(*b*) is thereby immediately rendered incapable of work ;

the provisions of that paragraph shall apply, subject to the following qualifications:—

(i) if the period of employment before midnight would, apart from the onset of the incapacity, have been of longer duration than that after midnight, the first of the two days shall be treated as the day of the accident and the person employed shall in respect of such period be treated as employed on that day only ; and

(ii) nothing in the said paragraph shall be taken as preventing the day of the accident or the day which is to be treated as the day of the accident from being treated as a day of incapacity for work.

(4) Where a person—

(*a*) is by virtue of any of the foregoing provisions of this regulation to be treated as having been employed on one day only of two days ; and

(*b*) throughout that part of the other of those two days during which that person is not employed, is, or is treated in accordance with regulations as, incapable of work as a result of an industrial accident ;

that person shall be treated as being so incapable of work throughout that other of those two days.

(5) Where a person—

(*a*) is, by virtue of the provisions of sub-paragraph (*c*) of paragraph (2) of this regulation, to be treated as having been employed on the second day only of two days ; and

(*b*) throughout the day immediately preceding the first of those two days is, or is treated in accordance with regulations as, incapable of work as a result of an industrial accident ;

that person shall be treated as being so incapable of work throughout the first of those two days.

## SECOND SCHEDULE Regulation 9

### REGULATION 29 OF THE PRINCIPAL REGULATIONS AS AMENDED *

29.—(1) *Subject to the provisions of paragraph* (3) *of this regulation,* where for any period any one or more of the personal benefits specified in paragraph (2) of this regulation is or are payable to any person—

(*a*) if either—

(i) the weekly rate or the aggregate weekly rate at which that personal benefit or those personal benefits (if more than one) is or are payable for that period is equal to or exceeds twenty-six shillings a week; or

(ii) the personal benefit or one of the personal benefits payable to that person for that period is personal benefit under the National Insurance Act by way of unemployment benefit or sickness benefit which is not payable at a reduced weekly rate by reason of the partial satisfaction of the appropriate contribution conditions;

there shall not be paid in respect of that person for that period any dependency benefit under the Act; and

(*b*) in any other case, there shall not be paid in respect of that person for that period any dependency benefit under the Act at a weekly rate exceeding the difference between the weekly rate or the aggregate weekly rate at which that personal benefit or those personal benefits (if more than one) is or are payable for that period and the rate of twenty-six shillings a week:

Provided that where the personal benefit or one of the personal benefits payable to that person for that period is personal benefit under the National Insurance Act by way of unemployment benefit or sickness benefit which is payable at a reduced weekly rate by reason of the partial satisfaction of the appropriate contribution conditions, dependency benefit under the Act shall not be paid in respect of that person for that period at a weekly rate which exceeds the weekly rate by which that personal benefit is so reduced for that period.

(2) For the purposes of this regulation the specified personal benefits shall be—

(*a*) any personal benefit by way of injury benefit, unemployability supplement or death benefit under the Act;

(*b*) any personal benefit (not being attendance allowance, home confinement grant, maternity grant or death grant) under the National Insurance Act;

(*c*) any personal benefit by way of unemployability supplement, or any personal death benefit by way of pension or allowance (not being a pension or allowance which is calculated with reference to the necessities of the beneficiary) under any Personal Injuries Scheme or Service Pensions Instrument;

(*d*) any personal death benefit by way of pension or allowance under any 1914-1918 War Injuries Scheme, not being a pension or allowance which is calculated with reference to the necessities of the beneficiary; and

(*e*) any personal benefit by way of training allowance under any training scheme.

(3) *The provisions of this regulation shall not apply in relation to any dependency benefit by way of an increase of benefit under paragraph* (*d*) *of subsection* (1) *of section* 18 *of the Act in respect of a person who is employed by, but is not residing with, the beneficiary.*

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

EXPLANATORY NOTE

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

These Regulations amend certain provisions of the National Insurance (Industrial Injuries) (Benefit) Regulations, 1948, so as to provide that an increase of benefit may be paid for a female relative if her weekly earnings from any gainful occupation do not exceed forty shillings. They also add to the regulations provisions affecting the right to certain benefits or increases of benefit in respect of adult dependants and children, and make certain amendments relating to days of incapacity for work and to night workers. They also make further amendments to those provisions of the regulations which require an adjustment of benefit to be made, by providing for excepting certain cases in which an increase of benefit is payable in respect of a woman having the care of a child or children; and they add to the list of prescribed relatives for whom increases of benefit may be payable or who may be entitled to death benefit.

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## 1957 No. 2074

# The National Insurance (Industrial Injuries) (Increase of Benefit and Miscellaneous Provisions) Regulations, 1957

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| *Made - - - -* | *29th November,* 1957 |
| *Laid before Parliament* | *6th December,* 1957 |
| *Coming into Operation* | *7th December,* 1957 |

The Industrial Injuries Joint Authority, in exercise of powers conferred by sections 12 (6), 14 (5), 15 (2), 19 (4), 30 (1) and 79 (2) of, and paragraph 1 (2) (*b*) of the Fourth Schedule to, the National Insurance (Industrial Injuries) Act, 1946(**a**), and section 82 of that Act, as amended by section 6 of the National Insurance (Industrial Injuries) Act, 1953(**b**), and the Minister of Pensions and National Insurance, in exercise of powers conferred by section 16 (as amended by section 3 (3) of the said Act of 1953) and sections 27 (2) and 56 (2) of the said Act of 1946 and the Sixth Schedule to the National Insurance (No. 2) Act, 1957(**c**), and of all other powers enabling them in that behalf, hereby make the following regulations:—

*Citation, commencement and interpretation*

**1.**—(1) These regulations may be cited as the National Insurance (Industrial Injuries) (Increase of Benefit and Miscellaneous Provisions) Regulations, 1957, and shall come into operation on the 7th December, 1957.

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

"the principal Act" means the National Insurance (Industrial Injuries) Act, 1946;

"the Act of 1957" means the National Insurance (No. 2) Act, 1957;

"the Benefit Regulations" means the National Insurance (Industrial Injuries) (Benefit) Regulations, 1948(**d**);

"the Prescribed Diseases Regulations" means the National Insurance (Industrial Injuries) (Prescribed Diseases) Regulations, 1948(**e**);

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(a) 9 & 10 Geo. 6. c. 62. (b) 1 & 2 Eliz. 2. c. 43. (c) 6 Eliz. 2. c. 1.
(d) S.I. 1948/1372 (Rev. XVI, p. 441: 1948 I, p. 2918).
(e) S.I. 1948/1371 (Rev. XVI, p. 482: 1948 I, p. 3001).