1960 No. 1284

The National Insurance (Industrial Injuries) (Benefit) Amendment (No. 2) Regulations, 1960

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

The Minister of Pensions and National Insurance, in exercise of powers conferred by sections 32 (1) and 86 of the National Insurance (Industrial Injuries) Act, 1946(a), and after reference to the Industrial Injuries Advisory Council, hereby makes 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, 1960, shall be read as one with the National Insurance (Industrial Injuries) (Benefit) Regulations, 1948(b), (hereinafter referred to as " the principal regulations "), and shall come into operation on the nineteenth day of September, 1960.

Regulation substituted for regulation 22 of the principal regulations

2. For regulation 22 of the principal regulations (which regulation relates to exception from disqualification under subsection (1) of section 32 of the Act) there shall be substituted the following regulation :—

" *Exception from disqualification under Section 32 (1) of the Act*

22. Regulations 23 and 24 of these regulations shall have effect to except benefit from the operation of subsection (1) of section 32 of the Act which, as amended (c), provides 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 absent from Great Britain or is undergoing imprisonment or detention in legal custody."

Regulation substituted for regulation 24 of the principal regulations

3. For regulation 24 of the principal regulations (which regulation relates to exception from disqualification for receiving benefit during periods of imprisonment or detention in legal custody) there shall be substituted the following regulation :—

" *Exception from disqualification for imprisonment, etc.*

24.—(1) A person shall not be disqualified for receiving any benefit, nor shall an increase of benefit not be payable in respect of any person as the beneficiary's wife or husband, for any period during which that person

(a) 9 & 10 Geo. 6. c. 62. (b) S.I. 1948/1372 (Rev. XVI, p. 441: 1948 I, p. 2918).
(c) Statute Law Revision Act, 1953, section 1 and First Schedule (2 & 3 Eliz. 2. c. 5).

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 as defined in paragraph (4) of this regulation is imposed at the conclusion of those proceedings.

(2) A person shall not be disqualified for receiving disablement benefit, other than any increase thereof, for any period during which he is undergoing imprisonment or detention in legal custody:

Provided that the amount payable by virtue of this paragraph by way of any disablement pension or pensions in respect of any period, other than a period in respect of which that person is excepted from disqualification by virtue of the provisions of paragraph (3) of this regulation, during which that person is and has continuously been undergoing imprisonment or detention in legal custody shall not exceed in the aggregate the amount of one hundred pounds or the total amount payable by way of such pension or all such pensions for a period of one year, whichever is the less.

(3) A person shall not be disqualified for receiving any benefit, nor shall an increase of benefit not be payable in respect of any person as the beneficiary's wife or husband, 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(a), 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.

(4) For the purposes of paragraph (1) of this regulation, '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(b), or under section 57 of the Children and Young Persons (Scotland) Act, 1937(c), 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.

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

(5) For the purposes of paragraph (3) of this regulation—

(*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;

(*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.

(6) 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 to regulation 25 of the principal regulations

4. For paragraph (2) of regulation 25 of the principal regulations (which paragraph relates to the suspension of payment of benefit during periods of imprisonment or detention in legal custody) there shall be substituted the following paragraph:—

"(2) The payment of any benefit payable to any person shall be suspended whilst that person is undergoing imprisonment or detention in legal custody:

Provided that—

(*a*) this paragraph shall not apply as respects a person who, although undergoing detention in legal custody, is excepted from disqualification for receiving benefit by virtue of paragraph (3) of the preceding regulation; and

(*b*) the payment to any person of any benefit payable otherwise than in respect of a period during which he is and has continuously been undergoing imprisonment or detention in legal custody shall

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

not be suspended by virtue of this paragraph if another person (who is approved by the Minister) is appointed by that person to receive such benefit on his behalf."

Dated this twenty-fifth day of July, 1960.

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

EXPLANATORY NOTE

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

These Regulations amend regulations 22, 24 and 25 of the National Insurance (Industrial Injuries) (Benefit) Regulations, 1948, and extend the existing exceptions from the general disqualification for receiving benefit during periods of imprisonment or detention in legal custody imposed by section 32 (1) of the National Insurance (Industrial Injuries) Act, 1946, by providing that this disqualification shall not apply to a person detained in connection with criminal proceedings if at the conclusion of those proceedings no sentence or order entailing penal detention is imposed, or to a person who 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 and the period during which he would have been expected to have been undergoing such penal detention has not expired.

The provisions of the regulations relating to suspension of payment of benefit while undergoing imprisonment or detention in legal custody are also amended so as not to apply in the case of a beneficiary who, although detained in a hospital or similar institution, is excepted from disqualification

Other amendments are of a minor or consequential character.