EXPLANATORY NOTE

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

These regulations make provision for dealing with transitional cases affected by the changes in the conditions for disablement benefit made by the National Insurance (Industrial Injuries) Act, 1953. They also contain amendments of regulations made under the National Insurance (Industrial Injuries) Act, 1946, consequential on the passing of the Act of 1953.

BENEFITS

1953 No. 1314

The National Insurance (Industrial Injuries) (Benefit) Amendment Regulations, 1953

Made - - - -	*26th August*, 1953
Laid before Parliament	*26th August*, 1953
Coming into Operation	*2nd September*, 1953

The Industrial Injuries Joint Authority, in exercise of powers contained in section 30, and section 82 of the National Insurance (Industrial Injuries) Act, 1946(**a**), as amended by section 6 of the National Insurance (Industrial Injuries) Act, 1953(**b**) and the Minister of National Insurance in exercise of powers conferred by subsection (2A) of section 14 of the said Act of 1946, as amended by the National Insurance (Industrial Injuries) Act, 1948(**c**) and section 3(2) of the said Act of 1953, and of all other powers enabling them in that behalf, hereby make the following regulations:—

Citation, commencement and interpretation

1. These regulations, which may be cited as the National Insurance (Industrial Injuries) (Benefit) Amendment Regulations, 1953, shall be read as one with the National Insurance (Industrial Injuries) (Benefit) Regulations, 1948(**d**) as amended(**e**) (hereinafter referred to as the principal regulations) and shall come into operation on the 2nd September, 1953.

Amendment of Part III of the principal regulations

2. In sub-paragraph (*a*) of paragraph (2) of regulation 4A of the principal regulations(**f**), (which regulation relates to the circumstances in which for the purposes of section 14 of the Act, a beneficiary may be treated as being incapable of following an occupation or employment notwithstanding that he has worked thereat), for the words "three months" there shall be substituted the words "six months".

(**a**) 9 & 10 Geo. 6. c. 62. (**b**) 1 & 2 Eliz. 2. c. 43. (**c**) 11 & 12 Geo. 6. c. 42.
(**d**) S.I. 1948/1372; Rev. XVI, p. 441; 1948 I, p. 2918.
(**e**) S.I. 1949/691; 1951/833, 1233, 1606; 1952/1250, 1633: 1949 I, p. 2762; 1951 I, pp. 1499, 1501, 1502; 1952 II, pp. 2231, 2214.
(**f**) This regulation was inserted by regulation 2 of S.I. 1952/1633; 1952 II, p. 2214.

Amendment of Part VI of the principal regulations

3. The following regulations shall be inserted in Part VI of the principal regulations after regulation 25:—

"*Provisions as to incapacity for work*

25A.—(1) A person, having suffered an industrial accident, who apart from the provisions of this paragraph would not be treated as incapable of work as a result thereof, shall, for the purposes of the Act, be so treated in respect of any day on which as a result of that accident he satisfies the conditions specified in paragraph (*a*) or paragraph (*b*) of regulation 3 or in regulation 3A of the National Insurance (Unemployment and Sickness Benefit) Regulations, 1948(**a**) as amended(**b**), (which regulations relate to deeming persons to be incapable of work for the purposes of the National Insurance Act).

(2) Subject to the provisions of subsection (2) of section 11 of the Act (which subsection relates to incapacity for work on the day of the accident) a day shall not be treated for the purposes of benefit as a day of incapacity for work if it is a day which in the opinion of the determining authority would not be treated under paragraph (1) of regulation 6 of the said regulations (which regulation relates to the days not to be treated as days of unemployment or incapacity for work) as—

(*a*) a day of interruption of employment by reason of sub-paragraph (*a*) thereof; or

(*b*) a day of incapacity for work by reason of sub-paragraph (*f*) or (*g*) thereof.

(3) 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.

Night Workers

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—

(*a*) where a period of employment begun on a Saturday extends over midnight into Sunday, the person employed shall, in respect of such period, be treated as having been employed on Saturday only, which day shall not be treated as a day of incapacity for work; and

(*b*) where a period of employment begun on a Sunday extends over midnight into Monday, the person employed shall, in respect of such period, be treated as having been employed on Monday only, which day shall not be treated as a day of incapacity for work; and

(*c*) where a period of employment begun on any day other than Saturday or Sunday 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

(**a**) S.I. 1948/1277; Rev. XVI, p. 212; 1948 I, p. 2676.
(**b**) S.I. 1949/1391, 1983; 1949 I, pp. 2698, 2700.

(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.

25C.—(1) Save as provided in the following paragraphs of this regulation, the last two foregoing regulations shall apply to a person who has contracted or sustained a disease or injury against which he is insured under Part IV of the Act (hereinafter in this regulation referred to as a prescribed disease case) as they apply to a person who has suffered an industrial accident, and the references to an industrial accident in regulation 25A shall be construed accordingly.

(2) In considering the application to a prescribed disease case of regulation 13 of the Prescribed Diseases Regulations(a) (which regulation relates to cases where disablement benefit is not preceded by injury benefit), the provisions of paragraph (3) of regulation 25A shall be disregarded.

(3) Paragraph (3) of regulation 25B shall not apply in a prescribed disease case."

Amendment of Part VII of the principal regulations

4. In sub-paragraph (*b*) of paragraph (2) of regulation 29(b) of the principal regulations (which regulations provide for the adjustment of dependency benefit under the Act where certain specified personal benefit is payable) after the words " not being attendance allowance " there shall be inserted the words " home confinement grant,".

Amendment of Part VIII of the principal regulations

5. The following amendments shall be made in regulation 32 of the principal regulations and accordingly that regulation shall have effect as set out in the schedule to these regulations:—

(1) In paragraph (1), after the words " unemployability supplement " there shall be inserted the words " together with the like right to payments under the Act in respect of a child or adult dependant."

(2) In paragraph (2), the following sub-paragraph shall be inserted after sub-paragraph (*b*):—

" (*c*) to a payment in respect of a child in accordance with the provisions of this regulation during any period for which an increase of an allowance is payable in respect of that child under the Pneumoconiosis and Byssinosis Benefit Scheme, 1952(c) as amended(d)."

6. The following paragraphs shall be inserted after paragraph (2) of regulation 33 of the principal regulations:—

" (3) The foregoing provisions of this regulation shall also apply to a former constable or fireman who is or has been on or after the appointed day entitled as such former constable or fireman to payments on account of an injury pension payable under or by virtue of any enactment in respect of an injury received or disease contracted by him before that day or in respect of his retirement in consequence of such an injury or disease, as they apply to a person who is or has been entitled to weekly payments under the Workmen's Compensation Acts.

(4) In this regulation—

" former constable or fireman " means a person who has been—

(*a*) a member of a police force maintained for any police area mentioned in the Third Schedule to the Police Pensions Act, 1921(e) or maintained by virtue of any scheme under the Police Act, 1946(f), or under the Police (Scotland) Act, 1946(g);

(a) S.I. 1948/1371; Rev. XVI, p. 482; 1948 I, p. 3001; for amendment to regulation 13 *see* regulation 6, S.I. 1953/1227, p. 1419 above.
(b) For previous amendment to the regulation *see* S.I. 1951/1606; 1952 I, p. 1502.
(c) S.I. 1952/373; 1952 III, p. 3966. (d) S.I. 1952/1301; 1952 III, p. 3983.
(e) 11 & 12 Geo. 5. c. 31. (f) 9 & 10 Geo. 6. c. 46. (g) 9 & 10 Geo. 6. c. 71.

(*b*) a special constable appointed under the Special Constables Act, 1831(**a**) section one hundred and ninety-six of the Municipal Corporations Act, 1882(**b**), or in Scotland under the Burgh Police (Scotland) Act, 1892(**c**), the corresponding provisions of any local Act or the Special Constables (Scotland) Act, 1914(**d**);

(*c*) a member of a fire brigade maintained by a local authority; or

(*d*) a member of the National Fire Service.

"injury pension" has the same meaning as in section 6 of the National Insurance (Industrial Injuries) Act, 1953, but shall not include any pension awarded under a scheme made under the Personal Injuries (Emergency Provisions) Act, 1939(**e**)."

7. The following amendments shall be made in regulation 34 of the principal regulations:—

(i) after the words "constant attendance" where those words first appear, there shall be inserted the words "or in respect of a child or adult dependant".

(ii) after the words "section 15 of the Act" there shall be inserted the words "or in respect of a child or adult dependant under section 17 or section 18 of the Act".

Given under the official seal of the Industrial Injuries Joint Authority this 26th day of August, nineteen hundred and fifty-three.

(L.S.)

T. C. Stephens,
Secretary,
Industrial Injuries Joint Authority.

Given under the official seal of the Minister of National Insurance this 26th day of August, nineteen hundred and fifty-three.

(L.S.)

Osbert Peake,
Minister of National Insurance.

SCHEDULE Regulation 5

REGULATION 32 OF THE PRINCIPAL REGULATIONS AS AMENDED BY THESE REGULATIONS*

Payments by way of unemployability supplement in respect of past cases

32.—(1) A person who—

(*a*) is or has been on or after the appointed day(**f**) entitled in respect of any injury or disease to weekly payments by way of compensation under the Workmen's Compensation Acts or under any contracting-out scheme duly certified thereunder; and

(**a**) 1 & 2 Will. 4. c. 41. (**b**) 45 & 46 Vict. c. 50. (**c**) 55 & 56 Vict. c. 55.
(**d**) 4 & 5 Geo. 5. c. 53. (**e**) 2 & 3 Geo. 6. c. 82.
(**f**) *See* S.I. 1948/53; Rev. XVI, p. 422; 1948 I, p. 2914.

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

(*b*) as the result of that injury or disease could, for the purposes of section 13 of the Act, be treated as being incapable of work and likely to remain permanently so incapable;

shall have the like right to payments under the Act by way of unemployability supplement, *together with the like right to payments under the Act in respect of a child or adult dependant,* as if the injury or disease were one in respect of which a disablement pension were for the time being payable.

(2) A person shall not be entitled—

(*a*) at any time to payment in accordance with the provisions of this regulation in respect of more than one injury or disease;

(*b*) to a payment in accordance with the provisions of this regulation during any period for which he is entitled to an increase of disablement pension by way of unemployability supplement under section 13 of the Act;

(*c*) *to a payment in respect of a child in accordance with the provisions of this regulation during any period for which an increase of an allowance is payable in respect of that child under the Pneumoconiosis and Byssinosis Benefit Scheme,* 1952, *as amended.*

EXPLANATORY NOTE

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

These regulations, which amend the National Insurance (Industrial Injuries) (Benefit) Regulations, 1948, exercise powers conferred by the National Insurance (Industrial Injuries) Act, 1953, to prescribe the circumstances in which, for various purposes of the National Insurance (Industrial Injuries) Act, 1946, persons shall be treated as incapable of work, and those in which days shall not be treated as days of incapacity. There are special provisions about night workers which include a provision as to the day which is in certain cases to be treated as the day of the accident.

Also in pursuance of powers contained in the 1953 Act, the regulations provide for payment of increases in respect of dependants with the unemployability supplement payable under section 82 of the 1946 Act to persons entitled to workmen's compensation, and extend the class of persons who may receive constant attendance allowance under that section to include certain former policemen and firemen entitled to injury pensions instead of workmen's compensation.

In addition, the regulations make two minor amendments to the principal regulations. The period of work which may in certain circumstances be disregarded in determining on a claim for special hardship allowance whether the claimant has been continuously incapable of following his regular occupation or employment of equivalent standard is increased from three months to six months, and home confinement grant, which was introduced by the National Insurance Act, 1953, is added to the list of personal benefits to be disregarded when adjusting dependency benefit under the 1946 Act.