STATUTORY INSTRUMENTS

1971 No. 1019

SOCIAL SECURITY

The National Insurance (Industrial Injuries) (Benefit) Amendment Regulations 1971

Made - - -	18*th June* 1971
Laid before Parliament	29*th June* 1971
Coming into Operation	1*st July* 1971

The Industrial Injuries Joint Authority, in exercise of the powers conferred by sections 18(1)(*d*) and 29 of the National Insurance (Industrial Injuries) Act 1965(**a**) and the Secretary of State for Social Services in exercise of his powers under section 31(1) of the said Act and of all other powers enabling them in that behalf, hereby make the following regulations which have been referred to the Industrial Injuries Advisory Council :—

Citation, interpretation and commencement

1. These regulations, which may be cited as the National Insurance (Industrial Injuries) (Benefit) Amendment Regulations 1971, shall be read as one with the National Insurance (Industrial Injuries) (Benefit) Regulations 1964(**b**) as amended (**c**) (hereinafter referred to as "the principal regulations") and shall come into operation on 1st July 1971.

Amendment of regulation 11 *of the principal regulations*

2. In regulation 11(1)(*b*) of the principal regulations (which relates to increase of benefit for female person having care of child) for the words "from which her weekly earnings (calculated or estimated in such manner and on such basis as is prescribed by regulation 9 for the purpose of the said section 18 in relation to the earnings of a wife)" there shall be substituted the words "in respect of which the weekly expenses incurred by the beneficiary" and the said regulation 11(1) shall accordingly have effect as set out in Schedule 1 to these regulations.

Amendment of regulation 16 *of the principal regulations*

3.—(1) In regulation 16(1)(*a*) of the principal regulations (which relates to adjustment of benefit for successive accidents where a disablement gratuity is payable) for the words "subject to a loss of faculty" there shall be substituted the words "entitled to an award as a result of an assessment of disablement" and the said regulation 16(1) shall accordingly have effect as set out in Schedule 2 to these regulations.

(**a**) 1965 c. 52. (**b**) S.I. 1964/504 (1964 I, p. 833).
(**c**) The relevant amending instruments are S.I. 1965/36, 1967/832 (1965 I, p. 40; 1967 II, p. 2482).

(2) In regulation 16(3) of the principal regulations, after sub-paragraph (*b*) there shall be added the following sub-paragraph—

"(*c*) for the purpose of paragraph (1)(*a*) of this regulation a person shall be deemed to be entitled to a disablement pension and to an award as described in the said sub-paragraph from the respective dates of commencement of the periods taken into account by the assessments relating to such pension and to such award.".

Amendment of regulation 31 *of the principal regulations*

4.—(1) In the proviso to regulation 31(2) of the principal regulations (which relates to the amount payable by virtue of exception from disqualification for receiving disablement benefit during imprisonment or detention in legal custody) the words "in the aggregate the amount of 100 pounds or" and ", whichever is the less" shall be omitted.

(2) Regulation 31(3), (4), (5) and (6) of the principal regulations (which relate to exception from disqualification for receiving benefit during imprisonment or detention in legal custody) shall be amended in accordance with the following paragraphs of this regulation.

(3) In regulation 31(3)(*a*) for the words "a remand home, or an approved school" there shall be substituted the words "or a young offenders institution".

(4) In regulation 31(4) after the words "or under section 57 of the Children and Young Persons (Scotland) Act 1937," there shall be inserted the words "or under section 1(4) of the Criminal Justice (Scotland) Act 1963," and the words "a remand home or an approved school," shall be omitted.

(5) In regulation 31(5)(*a*) for the words "a remand home, a remand centre, or an approved school" there shall be substituted the words "a remand centre or a young offenders institution".

(6) In regulation 31(6) sub-paragraph (*b*) shall be omitted.

Given under the Official Seal of the Industrial Injuries Joint Authority.

(L.S.)

D. G. Kelly,
Secretary,
Industrial Injuries Joint Authority.

18th June 1971.

Keith Joseph,
Secretary of State for Social Services.

18th June 1971.

Regulation 2 SCHEDULE 1

CONTAINING REGULATION 11(1) OF THE PRINCIPAL REGULATIONS AS AMENDED BY THESE REGULATIONS*

(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 *in respect of which the weekly expenses incurred by the beneficiary* 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.

Regulation 3 SCHEDULE 2

CONTAINING REGULATION 16(1) OF THE PRINCIPAL REGULATIONS AS AMENDED BY THESE REGULATIONS*

(1) In a case where—

(*a*) a person who is entitled, as a result of an accident, to a disablement pension (hereafter in this paragraph referred to as an "existing pension") which is payable in respect of an assessment for a period which is limited by reference to that person's life, becomes as a result of any other accident *entitled to an award as a result of an assessment of disablement* in respect of which a disablement gratuity would, but for this regulation, be payable; and

(*b*) the aggregate amount of the assessment in respect of the existing pension and of the assessment in respect of which such disablement gratuity would be payable would, if it were the amount of the assessment of the extent of the disablement resulting from any one accident suffered by that person, have entitled him to receive a disablement pension at a higher rate than the rate of such existing pension;

then, if, at any time before his claim for disablement benefit is determined, he so elects, that person shall be entitled to a disablement pension in lieu of the said disablement gratuity at a rate equal to the difference between the said higher rate and the rate of the existing pension.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations, by amending regulation 11(1)(*b*) of the National Insurance (Industrial Injuries) (Benefit) Regulations 1964, substitute the weekly expenses incurred by a beneficiary in respect of the employment of a female person to care for a child or children of his family for her weekly earnings from such employment calculated in the prescribed manner, in determining his entitlement to an increase of injury or disablement benefit.

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

By amending regulation 16 of the said Regulations, these Regulations provide that, in relation to a person's right to elect to receive a disablement pension in lieu of a gratuity in certain circumstances, the time of his entitlement to a gratuity is to be substituted for the time at which he became subject to a loss of faculty, and he is to be deemed to be entitled to the relevant benefits from the dates of commencement of the relevant periods of assessment of disablement.

These Regulations also, by amending the proviso to regulation 31(2) of the said Regulations, remove the limit of £100 to the amount payable by way of any disablement pension or pensions in respect of any period during which a person is undergoing imprisonment or detention in legal custody so that the only limit thereto in respect of such a period is one year's pension or pensions.

The other amendments to regulation 31 of the said Regulations are made in consequence of the provisions of the Criminal Justice (Scotland) Act 1963 (c. 39), the Social Work (Scotland) Act 1968 (c. 49) and the Children and Young Persons Act 1969 (c. 54). They disqualify persons detained in young offenders institutions for receiving benefit under the National Insurance (Industrial Injuries) Acts 1965 to 1969 and except from such disqualification persons who would formerly have been detained in remand homes and approved schools but who are now subject to orders made under the said Acts of 1968 and 1969.