EXPLANATORY NOTE

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

These Regulations amend the National Insurance (Industrial Injuries) (Benefit) Regulations, 1948, by providing that, in determining for the purposes of a claim for an increase of disablement benefit on the grounds of special hardship whether a person has been continuously incapable of following his regular occupation or employment of equivalent standard, any period of working thereat while waiting for surgical treatment for the effects of the relevant injury may be disregarded as well as periods of rehabilitation, training or trial.

1952 No. 1208

The National Insurance (Industrial Injuries) (Claims and Payments) Amendment Regulations, 1952

Made - - - -	23*rd June*, 1952
Laid before Parliament	24*th June*, 1952
Coming into Operation	1*st July*, 1952

The Minister of National Insurance, in exercise of powers conferred by sections 25, 27, 32 (2), 56 (1) and 86 of the National Insurance (Industrial Injuries) Act, 1946(a), and of all other powers enabling him in that behalf, hereby makes the following regulations:—

Citation, interpretation and commencement

1. These regulations, which may be cited as the National Insurance (Industrial Injuries) (Claims and Payments) Amendment Regulations, 1952, shall be read as one with the National Insurance (Industrial Injuries) (Claims and Payments) Regulations, 1948(b), (hereinafter referred to as "the principal regulations") as amended(c), and shall come into operation on the 1st July, 1952.

Amendment of regulation 1 *of the principal regulations*

2. The following additional definitions shall be inserted in paragraph (2) of regulation 1 of the principal regulations immediately after the definition of "benefit order":—

"'serial order' means one of a series of orders, including benefit orders, for the payment through the Post Office of a sum on account of benefit which is or has been contained in a book of such orders;

'draft' means a postal draft, payable order or any other instrument whatsoever (except a serial order) which is payable through the Post Office or a bank".

Amendment of regulations 12 *and* 17 *of and the Second Schedule to the principal regulations*

3. For the provisions of regulation 12 and paragraph (2) of regulation 17 of the principal regulations and the Second Schedule to those regulations there shall be substituted the provisions contained in this regulation and

(a) 9 & 10 Geo. 6. c. 62. (b) S.I. 1948/1362; Rev. XVI, p. 505; 1948 I, p. 2942.
(c) S.I. 1950/1868; 1951/743: 1950 II, p. 33; 1951 I, p. 1504.

Schedule A to these regulations (which Schedule shall be included in the principal regulations as the Second Schedule thereto):—

"**12.**—(1) Every claim for any benefit specified in column (1) of the Second Schedule to these regulations shall be made within the appropriate prescribed time specified opposite to that benefit in column (2) of that Schedule:

Provided that if in any case the claimant proves that there was reasonable cause for the failure to make the claim before the date on which it was made, the prescribed time for making that claim shall be extended to the date on which the claim is made.

(2) If a person fails to make his claim for any such benefit within the prescribed time, he shall forfeit benefit to the extent specified opposite thereto in column (3) of the said Second Schedule:

Provided that if in any case the claimant proves—

(*a*) that on a date earlier than the date on which the claim was made he was entitled to the benefit; and

(*b*) that throughout the period between the earlier date and the date on which the claim was made there was reasonable cause for delay in making such claim;

he shall not forfeit any benefit to which he would have been entitled if the claim had been made on the said earlier date.

(3) In determining whether the proviso to either of the foregoing paragraphs has been satisfied by a person who is or has been an in-patient in a hospital and who makes a claim for injury benefit such proviso shall in relation only to that claim be deemed to have been satisfied by him in respect of that one of the following periods which is appropriate, in so far as it is relevant for the purpose thereof:—

(*a*) where the person concerned has been discharged from the hospital, the period commencing on the date of his admission thereto as an in-patient and ending thirteen weeks thereafter or three weeks after the date of his discharge, whichever period is the shorter; or

(*b*) where the person concerned has not been so discharged, the period of thirteen weeks from the date of his admission to the hospital as an in-patient.

(4) For the purposes of the last foregoing paragraph:—

(*a*) in ascertaining the date of admission to hospital of the person concerned, where that person has previously been an in-patient in one or more hospitals for one or more periods, any such period shall be taken into account, provided the interval, or (if there was more than one previous period as an in-patient) each interval, between the end of such period and the beginning of the appropriate period specified in that paragraph does not exceed three weeks;

(*b*) the expression 'hospital' means any institution for the reception and treatment of persons suffering from illness or mental defectiveness and any maternity home (and, for this purpose, 'illness' includes mental illness and any injury or disability requiring medical treatment or nursing); and

(*c*) the expression 'in-patient' means a person admitted as an in-patient to a hospital for the purpose of receiving there treatment (not being treatment during convalescence) by or under the direction of a registered medical practitioner."

Consequential amendment of regulation 12A *of the principal regulations*

4. The following regulation shall be substituted for Regulation 12A of the principal regulations as amended(**a**) :—

" *Special provisions for injury benefit*

12A.—(1) Notwithstanding the provisions of the last foregoing regulation, where for the purposes of the provisions of the National Insurance (Industrial Injuries) (Medical Certification) Regulations, 1948(**b**), as amended(**c**), it has been certified that a person is incapable of work and will continue to be incapable of work for the period specified in the certificate, a claim for injury benefit or for an increase of injury benefit may, unless the Minister otherwise directs, be made by that person in respect of the period of four weeks or such shorter period as the Minister may in the circumstances determine, in either case commencing immediately after the date of the certificate.

(2) Any claim for injury benefit or for an increase of injury benefit made by any such person may, if it is made on the form containing the certificate, be treated by the Minister as a claim also in respect of any days in the said period of four weeks or in any such shorter period, as the case may be.

(3) Where a claim for injury benefit (including any increase thereof) has been made in accordance with the foregoing provisions of this regulation, and under arrangements made by the Minister with the consent of the Treasury payment by way of such benefit has been made to any person pending the determination of that claim, without due proof of the fulfilment of the relevant conditions or otherwise than in accordance with the provisions of the Act and the orders and regulations made thereunder, the payment so made shall, for the purposes of the said provisions, be deemed to be a payment of such benefit duly made:

Provided that in any case in which the conditions for the receipt of the benefit were not fulfilled, if it is shown to the satisfaction of an insurance officer, a local appeal tribunal or the Commissioner, as the case may be, that any person to whom such a payment has been made has not acted in good faith in all respects as to the obtaining and receipt thereof, he shall be liable to repay to the Industrial Injuries Fund any sum so paid."

Amendment of regulation 18 *of the principal regulations*

5.—(1) Regulation 18 of the principal regulations (which relates to the extinguishment of right to sums payable by way of benefit which are not obtained within the prescribed time) shall be amended in accordance with the following provisions of this regulation and shall accordingly have effect as set out in Part I of Schedule B to these regulations.

(2) In paragraph (1) of the said regulation 18, after the word " benefit " there shall be inserted the words " not being a gratuity " and for the word " three " there shall be substituted the word " six " and for the proviso to that paragraph there shall be substituted the following proviso:—

" Provided that in calculating the said period of six months no account shall be taken of—

(*a*) any period during which a serial order or draft containing the sum is in the possession of the Minister or any post office at which

(a) *See* regulation 2, S.I. 1950/1868; 1950 II, p. 33.
(b) S.I. 1948/1262; Rev. XVI, p. 519; 1948 I, p. 2996.
(c) S.I. 1952/993, p. 2238 below.

it is payable, other than a period after written notice has been given that the serial order or draft is available for collection ;

(*b*) any period during which the Minister has under consideration any representation that a serial order or draft containing the sum has not been received or has been lost, mislaid or stolen ;

(*c*) any period during which the person concerned is for the time being unable to act by reason of any mental incapacity, subject to the qualification that the total period disregarded on account of such inability to act shall not exceed one year ; or

(*d*) any period during which the determination of any question as to such extinguishment is pending."

(3) In paragraph (2) of the said regulation 18—

(*a*) after the words " a sum payable by way of benefit shall " there shall be inserted the words " subject to the provisions of the next following paragraph and of paragraph (3) of regulation 23 " ;

(*b*) in sub-paragraph (*a*), for all the words after " in the case of a sum " there shall be substituted the words " contained in a serial order, on the date on which the order is due to be paid " ; and

(*c*) for sub-paragraph (*b*), there shall be substituted the following sub-paragraphs—

" (*b*) in the case of a sum contained in a draft—

(i) if the draft is sent through the post, on the date on which it would be delivered in the ordinary course of post ; and

(ii) in any other case, on the date of issue of the draft ;

(*c*) in the case of a sum not contained in a serial order or draft, where notice is given orally or in writing that the sum is available for collection—

(i) if written notice is sent through the post, on the date on which it would be delivered in the ordinary course of post ; and

(ii) in any other case, on the date of the notice ; and

(*d*) in any case to which none of the preceding sub-paragraphs of this paragraph applies, six months (or such longer period as the Minister may determine in the circumstances of any particular case) after the date on which the sum became payable."

(4) Immediately after paragraph (2) of the said regulation 18 there shall be inserted the following paragraph :—

" (2A) In determining when a sum is receivable under the provisions of the foregoing paragraph, the following provisions shall apply :—

(*a*) If a person proves that through no fault of his own he did not receive any such serial order or draft or written notice until a date later than the appropriate receivable date determined in accordance with the provisions of the foregoing paragraph, the sum contained in the order or draft or referred to in the notice shall be receivable—

(i) on that later date, or

(ii) on the date which is six months after the said appropriate receivable date,

whichever is the earlier.

(*b*) If a person proves that through no fault of his own he has not received any such serial order or draft or written notice, the sum contained in the original order or draft or referred to in the notice shall be receivable—

(i) on the date determined in accordance with the provisions of the foregoing paragraph on the basis of the issue of any further order or draft or notice in respect of that sum, or

(ii) on the date which is six months after the receivable date determined in accordance with the provisions of the foregoing paragraph on the basis of the original order or draft or notice,

whichever is the earlier.

(*c*) Subject to the provisions of paragraph (3) of regulation 23 and of the preceding sub-paragraph, a sum which in accordance with the foregoing provisions of this regulation was receivable on any date shall remain receivable on that date notwithstanding the issue since that date of a serial order or draft or notice in respect of that sum or any part thereof."

(5) In paragraph (3) of the said regulation 18, for the words " provisions of sub-paragraph (*b*) of the foregoing paragraph " there shall be substituted the words " foregoing provisions of this regulation ".

Amendment of regulation 23 of the principal regulations

6.—(1) Regulation 23 of the principal regulations (which relates to payments on death) shall be amended in accordance with the following provisions of this regulation and shall accordingly have effect as set out in Part II of Schedule B to these regulations.

(2) In paragraph (2) of the said regulation 23—

(*a*) the words " which was receivable by the deceased at the date of his death or " shall be omitted ;

(*b*) after the words " on a claim " there shall be inserted the words " proceeded with or " ; and

(*c*) for the words " and thereupon any such sum shall be receivable by such person or persons " there shall be substituted the words " and the provisions of regulation 18 shall apply to any such payment or distribution ".

(3) In paragraph (3) of the said regulation 23—

(*a*) the words " by means of a benefit order " shall be omitted ;

(*b*) for the word " shall " there shall be substituted the word " may " ; and

(*c*) for the words after the words " at that date, be " there shall be substituted the following words:—

" paid or distributed to or amongst such persons as are mentioned in the last foregoing paragraph, and the provisions of regulation 18 and of the proviso to the said paragraph shall apply to any such payment or distribution:

Provided that, for the purpose of paragraph (1) of the said regulation 18, the period of six months shall be calculated from the date on which the sum was receivable by any such person and not from the date on which it was receivable by the deceased, and for this purpose the reference in sub-paragraph (*d*) of paragraph (2) of regulation 18 to the date on which the sum became payable shall be construed as a reference to the date of the application to the Minister made in accordance with the next following paragraph of this regulation."

Transitional provisions, revocations and consequential amendments

7.—(1) Notwithstanding the foregoing provisions of these regulations, the provisions of the principal regulations shall, in the case of a sum payable by way of benefit which became payable before the coming into operation of these regulations, continue to apply for the purpose of determining the day on which that sum is receivable as if these regulations had not been made.

(2) The regulations specified in Schedule C to these regulations are hereby revoked to the extent mentioned in the third column of that Schedule, but without prejudice to anything duly done or suffered, or to any right, privilege, obligation or liability acquired, accrued or incurred thereunder.

(3) For the reference in paragraph (3) of regulation 6 of the National Insurance (Industrial Injuries) (Prescribed Diseases) Regulations, 1948(a) to regulation 17 (2) of the principal regulations there shall be substituted a reference to regulation 12 of and the Second Schedule to those regulations.

Dated this 23rd day of June, 1952.

Osbert Peake,
Minister of National Insurance.

SCHEDULE A Regulation 3

(*Note.*—The following provisions are by regulation 3 of these regulations incorporated in the principal regulations as the Second Schedule thereto.)

" SECOND SCHEDULE Regulation 12

SHOWING THE PRESCRIBED TIMES FOR CLAIMING BENEFIT AND THE EXTENT OF FORFEITURE OF BENEFIT ARISING BY REASON OF LATE CLAIMS

Description of benefit	Prescribed time for claiming benefit	Benefit forfeited by reason of failure to claim within the prescribed time
(1)	(2)	(3)
1. Injury benefit (not being an increase of benefit in respect of a child or adult dependant).	The period of twenty-one days from the day in respect of which the claim is made.	The benefit claimed.
2. Disablement benefit (not being an increase of benefit).	The period of three months from the first day on which the conditions for the receipt of that benefit are satisfied.	Benefit in respect of any period more than three months before the date on which the claim is made.
3. Death benefit	The period of three months from the date of the death of the deceased, or, where the conditions for the receipt of that benefit cannot be satisfied until some later date, from that date.	Benefit in respect of any period more than three months before the date on which the claim is made.

(a) S.I. 1948/1371; Rev. XVI, p. 482; 1948 I, p. 3001.

Description of benefit (1)	Prescribed time for claiming benefit (2)	Benefit forfeited by reason of failure to claim within the prescribed time (3)
4. Increase of disablement benefit under section 13, 14, 15 or 16 of the Act on the grounds respectively of unemployability, special hardship, need of constant attendance or receipt of approved hospital treatment.	The period of three months from the first day on which the conditions for the receipt of the relevant increase of benefit are satisfied.	Benefit in respect of any period more than three months before the date on which the claim is made.
5. Increase, in respect of a child or adult dependant of injury benefit.	The longer of the two following periods— (*a*) the period of one month from the day in respect of which the claim is made; or (*b*) the period beginning with that day and ending one month after the date of the claim (not being a claim made after the prescribed time therefor) for injury benefit (other than the increase) in respect of that day.	The benefit claimed.
6. Increase, in respect of a child or adult dependant, of disablement benefit.	The longer of the two following periods— (*a*) the period of three months from the first day on which the conditions for the receipt of that increase of benefit are satisfied; or (*b*) the period beginning with that day and ending one month after the date of the claim (not being a claim made after the prescribed time therefor) for an increase of disablement benefit under the said sections 13 or 16 of the Act, as the case may be, is made.	Benefit in respect of any period more than three months before the date on which the claim is made.

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SCHEDULE B

CONTAINING REGULATIONS WHICH ARE AMENDED BY THESE REGULATIONS

PART I Regulation 5

REGULATION 18 OF THE PRINCIPAL REGULATIONS, AS AMENDED*

Extinguishment of right to sums payable by way of benefit which are not obtained within the prescribed time

18.—(1) The right to any sum payable by way of benefit *not being a gratuity* shall be extinguished where payment thereof is not obtained within the period of *six* months from the date on which that sum is receivable in accordance with the following provisions of this regulation:

Provided that in calculating the said period of six months no account shall be taken of—

(*a*) *any period during which a serial order or draft containing the sum is in the possession of the Minister or any post office at which it is payable, other than a period after written notice has been given that the serial order or draft is available for collection;*

(*b*) *any period during which the Minister has under consideration any representation that a serial order or draft containing the sum has not been received or has been lost, mislaid or stolen;*

(*c*) *any period during which the person concerned is for the time being unable to act by reason of any mental incapacity, subject to the qualification that the total period disregarded on account of such inability to act shall not exceed one year; or*

(*d*) *any period during which the determination of any question as to such extinguishment is pending.*

(2) For the purposes of this regulation, a sum payable by way of benefit shall, *subject to the provisions of the next following paragraph and of paragraph* (3) *of regulation* 23, be receivable—

(*a*) in the case of a sum *contained in a serial order, on the date on which the order is due to be paid;*

(*b*) *in the case of a sum contained in a draft—*

(*i*) *if the draft is sent through the post, on the date on which it would be delivered in the ordinary course of post; and*

(*ii*) *in any other case, on the date of issue of the draft;*

(*c*) *in the case of a sum not contained in a serial order or draft, where notice is given orally or in writing that the sum is available for collection—*

(*i*) *if written notice is sent through the post, on the date on which it would be delivered in the ordinary course of post; and*

(*ii*) *in any other case, on the date of the notice; and*

(*d*) *in any case to which none of the preceding sub-paragraphs of this paragraph applies, six months (or such longer period as the Minister may determine in the circumstances of any particular case) after the date on which the sum became payable.*

(*2A*) *In determining when a sum is receivable under the provisions of the foregoing paragraph, the following provisions shall apply:—*

(*a*) *If a person proves that through no fault of his own he did not receive any such serial order or draft or written notice until a date later than the appropriate receivable date determined in accordance with the provisions of the foregoing paragraph, the sum contained in the order or draft or referred to in the notice shall be receivable—*

(*i*) *on that later date, or*

(*ii*) *on the date which is six months after the said appropriate receivable date*

whichever is the earlier.

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

(b) If a person proves that through no fault of his own he has not received any such serial order or draft or written notice, the sum contained in the original order or draft or referred to in the notice shall be receivable—

(i) on the date determined in accordance with the provisions of the foregoing paragraph on the basis of the issue of any further order or draft or notice in respect of that sum, or

(ii) on the date which is six months after the receivable date determined in accordance with the provisions of the foregoing paragraph on the basis of the original order or draft or notice,

whichever is the earlier.

(c) Subject to the provisions of paragraph (3) *of regulation* 23 *and of the preceding sub-paragraph, a sum which in accordance with the foregoing provisions of this regulation was receivable on any date, shall remain receivable on that date notwithstanding the issue since that date of a serial order or draft or notice in respect of that sum or any part thereof.*

(3) Any sum payable by way of benefit to a person who is for the time being unable to act shall be receivable in accordance with the *foregoing provisions of this regulation,* notwithstanding his inability to give a receipt therefor.

PART II

Regulation 6

REGULATION 23 OF THE PRINCIPAL REGULATIONS, AS AMENDED*

Payments on death

23.—(1) On the death of a person who has made a claim for benefit or who is alleged to have been entitled to benefit, the Minister may appoint such person as he may think fit to proceed with or to make a claim for the benefit, and the provisions of these regulations shall apply subject to the necessary modifications to any such claim.

(2) Subject to the provisions of paragraph (4) of this regulation, any sum payable by way of benefit which is payable under an award on a claim *proceeded with or* made under the foregoing paragraph may be paid or distributed by the Minister to or amongst persons claiming as personal representatives, legatees, next of kin or creditors of the deceased (or, where the deceased was illegitimate, to or amongst other persons), *and the provisions of regulation* 18 *shall apply to any such payment or distribution:*

Provided that—

(a) the receipt of any such person who has attained the age of sixteen years shall be a good discharge to the Minister and the Industrial Injuries Fund for any sum so paid; and

(b) where the Minister is satisfied that any such sum or part thereof is needed for the benefit of any person under the age of sixteen years he may obtain a good discharge therefor by paying the sum or part thereof to a person over that age (who need not be a person specified in this paragraph) who satisfies the Minister that he will apply the sum so paid for the benefit of the person under the age of sixteen years.

(3) Subject as aforesaid, any sum payable by way of benefit to the deceased payment of which he had not obtained at the date of his death *may*, unless the right thereto was already extinguished at that date, be *paid or distributed to or amongst such persons as are mentioned in the last foregoing paragraph, and the provisions of regulation* 18 *and of the proviso to the said paragraph shall apply to any such payment or distribution:*

Provided that, for the purpose of paragraph (1) *of the said regulation* 18, *the period of six months shall be calculated from the date on which the sum was receivable by any such person, and not from the date on which it was receivable by the deceased, and*

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

for this purpose the reference in sub-paragraph (d) of paragraph (2) of regulation 18 to the date on which the sum became payable shall be construed as a reference to the date of the application to the Minister made in accordance with the next following paragraph of this regulation.

(4) Paragraphs (2) and (3) of this regulation shall not apply in any case unless written application for the payment of any such sum is made to the Minister within six months from the date of the deceased's death or within such longer period as the Minister may allow in any particular case.

(5) The Minister may dispense with strict proof of the title of any person claiming in accordance with the provisions of this regulation.

SCHEDULE C Regulation 7 (1)

Regulations Revoked

Statutory Instrument	Citation	Extent of Revocation
S.I. 1948 (No. 1371) I, p. 3001.	National Insurance (Industrial Injuries) (Prescribed Diseases) Regulations, 1948.	Regulation 19.
S.I. 1950 (No. 1868) II, p. 33.	National Insurance (Industrial Injuries) (Claims and Payments) Amendment Regulations, 1950.	The whole of the regulations.

EXPLANATORY NOTE

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

These Regulations amend the National Insurance (Industrial Injuries) (Claims and Payments) Regulations, 1948, by varying certain of the time limits for claiming benefit, and the provisions relating both to forfeiture for late claims and to the extinguishment of the right to sums on account of benefit which are not obtained within the prescribed time. They also amplify the provisions for determining the date on which any benefit is receivable, and provide for leaving certain periods out of account in calculating the time limit for obtaining payment of benefit after it is receivable.

1952 No. 344

The National Insurance (Industrial Injuries) (Colliery Workers Supplementary Scheme) Amendment Order, 1952

Made - - - - *22nd February,* 1952
Coming into Operation *7th March,* 1952

Whereas the National Committee for the time being constituted in accordance with the Supplementary Scheme set forth in the Schedule to the National Insurance (Industrial Injuries) (Colliery Workers Supplementary