Paragraph (2) of Regulation 5 of the principal regulations as amended by these Regulations

(2) The dependency benefits referred to in the preceding paragraph of this regulation are any dependency benefit under the Act or the Industrial Injuries Act or any Personal Injuries Scheme or any Service Pensions Instrument or any 1914-1918 War Injuries Scheme *or any Pneumoconiosis and Byssinosis Benefit Scheme* or any training scheme except any dependency benefit by way of an allowance in respect of a child payable for the purpose of his education.

EXPLANATORY NOTE

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

These Regulations amend the National Insurance (Overlapping Benefits) Regulations, 1948, by providing for the adjustment of certain benefits payable under the National Insurance Acts by reference to similar benefits where these are payable under any scheme made under the Pneumoconiosis and Byssinosis Benefit Act, 1951.

The preliminary draft of these Regulations (then entitled the National Insurance (Overlapping Benefits) Amendment (No. 2) Regulations, 1952) was submitted to the National Insurance Advisory Committee in accordance with Section 77 of the National Insurance Act, 1946, and their report thereon, dated the 19th February, 1952, is contained in House of Commons Paper No. 122 (Session 1951-52) published by Her Majesty's Stationery Office.

1952 No. 526

The National Insurance (Overlapping Benefits) Amendment (No. 2) Regulations, 1952

Made - - - -	14*th March*, 1952
Laid before Parliament	14*th March*, 1952
Coming into Operation	18*th March*, 1952

The National Insurance Joint Authority(**a**), in conjunction with the Treasury, in exercise of the powers conferred by section 30 of the National Insurance Act, 1946(**b**), 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 (Overlapping Benefits) Amendment (No. 2) Regulations, 1952, shall be read as one with the National Insurance (Overlapping Benefits) Regulations, 1948(**c**), as amended(**d**) (hereinafter referred to as "the principal regulations") and shall come into operation on the 18th March, 1952.

(**a**) *See* s. 63 (2), National Insurance Act, 1946 and National Insurance (Northern Ireland Reciprocal Arrangements) Regulations, 1948 (S.I. 1948/211; Rev. XVI, p. 367; 1948 I, p. 2905).

(**b**) 9 & 10 Geo. 6. c. 67.

(**c**) S.I. 1948/2711; Rev. XVI, p. 196; 1948 I, p. 2657.

(**d**) *See* regs. 19 and 21, National Insurance (Increase of Benefit, Re-entry into Regular Employment and Miscellaneous Provisions) Regulations, 1951 (S.I. 1951/1232; 1951 I, p. 1457), and S.I. 1952/422, p. 2194 above.

Amendment of the principal regulations

2. Regulation 1 of the principal regulations (which, as amended(**a**), contains definitions and general provisions) shall be amended as follows:—

(1) The definition of "treatment allowance" in paragraph (2), and paragraph (5) (which relates to the basis of reduction of personal benefit and dependency benefit where the earnings rule contained in subsection (5) of section 20 of the Act is applied), shall be omitted.

(2) After paragraph (6), there shall be inserted the following paragraph:—

"(6A) Where under any Personal Injuries Scheme, Service Pensions Instrument or 1914-1918 War Injuries Scheme there is payable to a child any personal benefit by way of a pension, that personal benefit shall, for the purposes of these regulations, be treated as dependency benefit payable to another person in respect of that child."

(3) For paragraph (7), there shall be substituted the following paragraph:—

"(7) For the purposes of these regulations, a supplement on account of unemployability shall, notwithstanding that it is payable by way of an increase of a disablement pension or disablement allowance, be treated as a separate benefit, pension or allowance."

3. Paragraph (4) of regulation 2 of the principal regulations (which, as amended(**b**), specifies the personal benefits otherwise than under the Act by reference to which personal benefits under the Act are to be adjusted) shall be amended as follows, and shall accordingly have effect as set out in Part I of the Schedule to these regulations:—

(1) In sub-paragraph (*a*), for the words "pension or allowance", there shall be substituted the words "injury benefit or a supplement on account of unemployability, or any personal death benefit,".

(2) In sub-paragraph (*b*),—

(*a*) for the words "injury allowance, disablement pension or treatment allowance", there shall be substituted the words "a supplement on account of unemployability"; and

(*b*) after the words "Service Pensions Instrument", there shall be inserted the words "or any 1914-1918 War Injuries Scheme; and".

(3) Sub-paragraph (*c*) (which specifies certain benefits payable under any 1914-1918 War Injuries Scheme) shall be omitted.

4. Paragraph (2) of regulation 3 of the principal regulations (which specifies certain exceptions to the provisions of regulation 2) shall be omitted.

5.—(1) Regulation 5 of the principal regulations (which, as amended(**c**), relates to the adjustment of dependency benefit under the Act where other dependency benefit, whether under the Act or otherwise, is payable) shall be amended in accordance with the following provisions of this regulation and shall accordingly have effect as set out in Part II of the 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 this regulation,".

(a) *See* reg. 19, S.I. 1951/1232; 1951 I, p. 1457, and reg. 2, S.I. 1952/422, p. 2194 above.
(b) *See* reg. 3 (2), S.I. 1952/422, p. 2194 above.
(c) *See* reg. 3 (3), S.I. 1952/422, p. 2194 above.

(3) After the said paragraph (1), there shall be inserted the following paragraphs:—

"(1A) Notwithstanding the provisions of paragraph (1) of this regulation, where, for any period, any dependency benefit specified in paragraph (1C) of this regulation is payable or, but for those provisions, would be payable in respect of the elder or eldest child (hereafter in this paragraph referred to as "the first child") of a family which includes also a child or children in respect of whom no such dependency benefit is payable for that period (which child, or, if the family includes more than one such child, the elder or eldest of such children, is hereafter in this paragraph referred to as "the other child"), the following provisions shall apply:—

(A) If, for that period, there is payable or, but for the said paragraph (1), there would be payable, in respect of the first child,—

(*a*) any one or more of the dependency benefits so specified; and

(*b*) dependency benefit by way of an increase of unemployment benefit, sickness benefit, a retirement pension or a widow's allowance, or dependency benefit by way of widowed mother's allowance, or more than one of such dependency benefits,

the said paragraph (1) shall not, for that period, be applied in relation to those dependency benefits so as to require any dependency benefit referred to in either sub-paragraph (A) (*a*) or sub-paragraph (A) (*b*) of this paragraph to be adjusted by reference to any dependency benefit referred to in the other; but, as a special provision, the amount of any dependency benefit specified in the said sub-paragraph (A) (*b*) which (after the making of any other adjustment required by the said paragraph (1)) would be payable for that period in respect of the first child shall be reduced or extinguished for that period by the deduction therefrom of either—

(i) the amount of the dependency benefit, or, if more than one, the aggregate amount of the dependency benefits referred to in the said sub-paragraph (A) (*a*) which (after the making of any other adjustment required by the said paragraph (1)) is payable for that period in respect of the first child, or

(ii) the amount of any dependency benefit, or, if more than one, the aggregate amount of the dependency benefits, specified in paragraph (2) of this regulation which (after the making of any adjustment required by the said paragraph (1)) is payable for that period in respect of the other child,

whichever is the less.

(B) If, for that period, there is payable or, but for the said paragraph (1), there would be payable, in respect of the first child,—

(*a*) one of the dependency benefits under the Act specified in paragraph (1C) of this regulation; and

(*b*) dependency benefit by way of an increase of injury benefit or disablement pension under section 17 of the Industrial Injuries Act,

the said paragraph (1) shall not, for that period, be applied in relation to those dependency benefits so as to require the dependency benefit referred to in sub-paragraph (B) (*a*) of this paragraph to be adjusted by reference to the dependency benefit specified in sub-paragraph (B) (*b*) of this paragraph; but, as a special provision,

the amount of the dependency benefit referred to in the said sub-paragraph (B) (*a*) which (after the making of any other adjustment required by the said paragraph (1)) would be payable for that period in respect of the first child shall be reduced or extinguished for that period by the deduction therefrom of either—

(i) the amount of the dependency benefit specified in sub-paragraph (B) (*b*) of this paragraph which is payable for that period in respect of the first child, or

(ii) the amount of any dependency benefit, or, if more than one, the aggregate amount of the dependency benefits, specified in paragraph (2) of this regulation which (after the making of any adjustment required by the said paragraph (1)) is payable for that period in respect of the other child,

whichever is the less.

(1B) Where, for the purposes of section 23 of the Act or of section 17 of the Industrial Injuries Act (which sections relate to increases of benefit in respect of children), a child is, under the relevant subsection (2) of those sections, treated as a child of a man's family, that child shall be so treated for the purposes of the last foregoing paragraph.

(1C) The dependency benefits referred to in paragraph (1A) of this regulation are:—

(*a*) dependency benefit by way of a guardian's allowance under section 19 of the Act,

(*b*) dependency benefit by way of an orphan's pension under the Act payable by virtue of the National Insurance (Pensions, Existing Beneficiaries and Other Persons) (Transitional) Regulations, 1948(**a**), and

(*c*) dependency benefit by way of a death benefit allowance at the rate of ten shillings a week under section 21 of the Industrial Injuries Act,

being in each case dependency benefit in respect of a child who is, for the purpose of determining the number of allowances payable under the Family Allowances Act, 1945(**b**), treated as excluded from the family(**c**)."

(4) In paragraph (2) of the said regulation, for the words "the preceding paragraph", there shall be substituted the words "sub-paragraph (*a*) of paragraph (1), and in sub-paragraphs (A) (ii) and (B) (ii) of paragraph (1A),".

(5) At the end of the said regulation, there shall be added the following paragraph:—

"(3) Notwithstanding the foregoing provisions of this regulation (hereafter in this paragraph referred to as "the said provisions"), in any case where—

(*a*) two or more dependency benefits are or, but for the said provisions, would be payable for any period in respect of a child included in the family of any person (being a family which includes more than one child); and

(*b*) one of those dependency benefits is a child's allowance; and

(**a**) S.I. 1948/55; Rev. XVI, p. 36; 1948 I, p. 2822.
(**b**) 8 & 9 Geo. 6. c. 41.
(**c**) *See* s. 30 (4), National Insurance Act, 1946, reg. 3 (2), National Insurance (Pensions, Existing Beneficiaries and Other Persons) (Transitional) Regulations, 1948, and s. 30 (2), National Insurance (Industrial Injuries) Act, 1946.

(*c*) an adjustment of dependency benefits made in accordance with the said provisions would be such that the amount payable for that period in respect of the following benefits, namely,—

(i) dependency benefits in respect of the children included in that family, and

(ii) any allowance or allowances for that family under the Family Allowances Act, 1945,

would be less than the total amount which, after the application of the said provisions, would have been payable for that period in respect of the said benefits if there had not been payable for that period any child's allowance in respect of any child so included, and if the said benefits included every allowance under the said Act which, but for the payment of a child's allowance, would have been payable if it had been claimed,

the said provisions shall not, for that period, be applied in relation to any child's allowance so payable, but the amount which, but for the said provisions, would be payable for that period, by way of a child's allowance in respect of the child, or (if more than one child) the elder or eldest child, so included in respect of whom a child's allowance would be so payable, shall be reduced or extinguished by the deduction therefrom of the amount (if any) by which the said total amount is less than the total amount which, but for the said provisions, would be payable for that period in respect of the said benefits."

6. For regulation 12 of the principal regulations (which relates to the amount deemed to be payable in respect of any benefit, etc., for any day), there shall be substituted the following regulation:—

"*Provisions for adjusting benefit, etc., for part of a week*

12.—(1) Where, in accordance with the provisions of these regulations, any benefit under the Act is required to be adjusted for a part only of a week, then, for the purposes of making that adjustment and of determining the amount of that benefit which is payable for the part (if any) of that week for which it is not so required to be adjusted, the amount of the appropriate weekly rate of that benefit and of every benefit by reference to which it is so required to be adjusted (including for this purpose, but for no other purpose, any allowance under the Family Allowances Act, 1945, required to be taken into account for the purposes of paragraph (3) of regulation 5) shall, if it is not payable for that week at a daily rate, equal to one sixth of the appropriate weekly rate, for each day of the week excluding Sunday, be deemed to be so payable:

Provided that, if the benefit or one of the benefits so required to be adjusted is unemployment benefit or sickness benefit which is, or but for the provisions of these regulations, would be payable to a person in whose case the day to be disregarded in accordance with regulations(a) made under paragraph (*d*) of subsection (2) of section 11 of the Act (which paragraph relates to disregarding Sunday or some other prescribed day for the purpose of unemployment and sickness benefit) is a day other than Sunday, the first reference in this paragraph to Sunday shall be construed as a reference to that other day.

(a) *See* reg. 4, National Insurance (Unemployment and Sickness Benefit) Regulations, 1948 (S.I. 1948/1277; Rev. XVI, p. 212; 1948 I, p. 2676).

(2) In the last preceding paragraph, the expression " appropriate weekly rate " means, in relation to any benefit, the weekly rate at which it would be payable but for the provisions of these regulations.

(3) In this regulation, the expression " benefit " (except in the expressions " unemployment benefit " and " sickness benefit ") includes any pension or allowance (whether under the Act or otherwise)."

7. In paragraph (5) of Column 2 of the Schedule to the principal regulations (which Schedule, as amended(**a**), specifies the cases in which personal benefits under the Act are not required to be adjusted), for the words " Any disablement pension, disablement allowance, injury allowance (not being injury benefit) or treatment allowance ", there shall be substituted the words " A supplement on account of unemployability ".

Revocation of provisional regulations

8. The National Insurance (Overlapping Benefits) Provisional Amendment Regulations, 1951(**b**), 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 National Insurance Joint Authority this 14th day of March, nineteen hundred and fifty-two.

(L.S.)

T. C. Stephens,
Secretary,
National Insurance Joint Authority.

Dated this 14th day of March, nineteen hundred and fifty-two.

Herbert Butcher,
Dennis Vosper,
Two of the Lords Commissioners of
Her Majesty's Treasury.

SCHEDULE

CONTAINING PROVISIONS OF THE PRINCIPAL REGULATIONS WHICH ARE AMENDED BY THESE REGULATIONS*

Regulation 3. PART I

Paragraph (4) *of Regulation* 2 *of the principal regulations as amended by these Regulations*

(4) The personal benefits referred to in this regulation and in regulation 3 as " the specified benefits " are—

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

(*aa*) any personal benefit by way of a supplement on account of unemployability under any Pneumoconiosis and Byssinosis Benefit Scheme;

(*b*) any personal benefit by way of *a supplement on account of unemployability* or any personal death benefit by way of pension or allowance (not being a pension or allowance calculated by reference to the necessities of the beneficiary), under any Personal Injuries Scheme or Service Pensions Instrument *or any 1914-1918 War Injuries Scheme; and*

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

(**a**) *See* reg. 4, S.I. 1952/422, p. 2194 above.. (**b**) S.I. 1951/1605; 1951 I, p. 1493.

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

Regulation 5. PART II

Regulation 5 of the principal regulations as amended by these Regulations

Adjustment of dependency benefit under the Act where other dependency benefit (whether under the Act or otherwise) is payable.

5.—(1) *Subject to the provisions of this regulation,* where, for any period, any dependency benefit under the Act is or, but for this regulation, would be payable to any person in respect of a child or an adult dependant, that dependency benefit shall be adjusted—

(*a*) in the case of dependency benefit in respect of a child, by reference to any other dependency benefit specified in paragraph (2) of this regulation which is payable for that period in respect of that child ; or

(*b*) in the case of dependency benefit in respect of an adult dependant, by reference to any other dependency benefit so specified which is payable for that period to that person in respect of that or any other adult dependant or to any person in respect of that adult dependant,

so that the amount which, but for this regulation, would be payable in respect of that dependency benefit under the Act shall be reduced or extinguished by the deduction therefrom of the amount payable for that period in respect of that other dependency benefit or those other dependency benefits by reference to which the dependency benefit under the Act is required by this regulation to be adjusted and only the balance (if any) shall be payable for that period in respect of that dependency benefit under the Act.

Notwithstanding the provisions of paragraph (1) of this regulation, where, for any period, any dependency benefit specified in paragraph (1C) of this regulation is payable or, but for those provisions, would be payable in respect of the elder or eldest child (hereafter in this paragraph referred to as " the first child ") of a family which includes also a child or children in respect of whom no such dependency benefit is payable for that period (which child, or, if the family includes more than one such child, the elder or eldest of such children, is hereafter in this paragraph referred to as " the other child "), the following provisions shall apply :—

(*A*) *If, for that period, there is payable or, but for the said paragraph (1), there would be payable, in respect of the first child,—*

(*a*) *any one or more of the dependency benefits so specified ; and*

(*b*) *dependency benefit by way of an increase of unemployment benefit, sickness benefit, a retirement pension or a widow's allowance, or dependency benefit by way of widowed mother's allowance, or more than one of such dependency benefits,*

the said paragraph (1) shall not, for that period, be applied in relation to those dependency benefits so as to require any dependency benefit referred to in either sub-paragraph (A) (a) or sub-paragraph (A) (b) of this paragraph to be adjusted by reference to any dependency benefit referred to in the other ; but, as a special provision, the amount of any dependency benefit specified in the said sub-paragraph (A) (b) which (after the making of any other adjustment required by the said paragraph (1)) would be payable for that period in respect of the first child shall be reduced or extinguished for that period by the deduction therefrom of either—

(i) *the amount of the dependency benefit, or, if more than one, the aggregate amount of the dependency benefits referred to in the said sub-paragraph (A) (a) which (after the making of any other adjustment required by the said paragraph (1)) is payable for that period in respect of the first child, or*

(ii) *the amount of any dependency benefit, or, if more than one, the aggregate amount of the dependency benefits, specified in paragraph (2) of this regulation which (after the making of any adjustment required by the said paragraph (1)) is payable for that period in respect of the other child,*

whichever is the less.

(B) If, for that period, there is payable or, but for the said paragraph (1), there would be payable, in respect of the first child,—

(a) one of the dependency benefits under the Act specified in paragraph (1C) of this regulation; and

(b) dependency benefit by way of an increase of injury benefit or disablement pension under section 17 of the Industrial Injuries Act,

the said paragraph (1) shall not, for that period, be applied in relation to those dependency benefits so as to require the dependency benefit referred to in sub-paragraph (B) (a) of this paragraph to be adjusted by reference to the dependency benefit specified in sub-paragraph (B) (b) of this paragraph; but, as a special provision, the amount of the dependency benefit referred to in the said sub-paragraph (B) (a) which (after the making of any other adjustment required by the said paragraph (1)) would be payable for that period in respect of the first child shall be reduced or extinguished for that period by the deduction therefrom of either—

(i) the amount of the dependency benefit specified in sub-paragraph (B) (b) of this paragraph which is payable for that period in respect of the first child, or

(ii) the amount of any dependency benefit, or, if more than one, the aggregate amount of the dependency benefits, specified in paragraph (2) of this regulation which (after the making of any adjustment required by the said paragraph (1)) is payable for that period in respect of the other child,

whichever is the less.

(1B) Where, for the purposes of section 23 of the Act or of section 17 of the Industrial Injuries Act (which sections relate to increases of benefit in respect of children), a child is, under the relevant subsection (2) of those sections, treated as a child of a man's family, that child shall be so treated for the purposes of the last foregoing paragraph.

(1C) The dependency benefits referred to in paragraph (1A) of this regulation are:—

(a) dependency benefit by way of a guardian's allowance under section 19 of the Act,

(b) dependency benefit by way of an orphan's pension under the Act payable by virtue of the National Insurance (Pensions, Existing Beneficiaries and Other Persons) (Transitional) Regulations, 1948, and

(c) dependency benefit by way of a death benefit allowance at the rate of ten shillings a week under section 21 of the Industrial Injuries Act,

being in each case dependency benefit in respect of a child who is, for the purpose of determining the number of allowances payable under the Family Allowances Act, 1945, treated as excluded from the family.

(2) The dependency benefits referred to in *sub-paragraph (a) of paragraph (1), and in sub-paragraphs (A) (ii) and (B) (ii) of paragraph (1A)*, of this regulation are any dependency benefit under the Act or the Industrial Injuries Act or any Personal Injuries Scheme or any Service Pensions Instrument or any 1914-1918 War Injuries Scheme or any Pneumoconiosis and Byssinosis Benefit Scheme, or any training scheme except any dependency benefit by way of an allowance in respect of a child payable for the purpose of his education.

(3) Notwithstanding the foregoing provisions of this regulation (hereafter in this paragraph referred to as "the said provisions"), in any case where—

(a) two or more dependency benefits are or, but for the said provisions, would be payable for any period in respect of a child included in the family of any person (being a family which includes more than one child); and

(b) one of those dependency benefits is a child's allowance; and

(c) an adjustment of dependency benefits made in accordance with the said provisions would be such that the amount payable for that period in respect of the following benefits, namely,—

(i) dependency benefits in respect of the children included in that family, and

(ii) any allowance or allowances for that family under the Family Allowances Act, 1945,

would be less than the total amount which, after the application of the said provisions, would have been payable for that period in respect of the said benefits if there had not been payable for that period any child's allowance in respect of any child so included, and if the said benefits included every allowance under the said Act which, but for the payment of a child's allowance, would have been payable if it had been claimed,

the said provisions shall not, for that period, be applied in relation to any child's allowance so payable, but the amount which, but for the said provisions, would be payable for that period, by way of a child's allowance in respect of the child, or (if more than one child) the elder or eldest child, so included in respect of whom a child's allowance would be so payable, shall be reduced or extinguished by the deduction therefrom of the amount (if any) by which the said total amount is less than the total amount which, but for the said provisions, would be payable for that period in respect of the said benefits.

EXPLANATORY NOTE

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

These Regulations revoke and replace the National Insurance (Overlapping Benefits) Provisional Amendment Regulations, 1951. They amend the National Insurance (Overlapping Benefits) Regulations, 1948 (the principal regulations), by reducing the number of personal benefits, payable out of public funds otherwise than under the National Insurance Act, 1946, by reference to which personal and dependency benefits under that Act are required to be adjusted. They also relax, in certain cases, the provisions of the principal regulations requiring an adjustment of certain benefits payable in respect of children; and they substitute new provisions for adjusting benefit for part of a week. The other amendments are of a minor or consequential character.

The preliminary draft of these Regulations (then entitled the National Insurance (Overlapping Benefits) Amendment Regulations, 1951) was submitted to the National Insurance Advisory Committee in accordance with Section 77 of the National Insurance Act, 1946, and their report thereon, dated the 18th December, 1951, is contained in House of Commons Paper No. 128 (Session 1951-52) published by Her Majesty's Stationery Office.