The National Insurance (Overlapping Benefits) Provisional Amendment Regulations, 1951*

1951 No. 1605

Made - - - -	31*st August*, 1951
Laid before Parliament	31*st August*, 1951
Coming into Operation	5*th September*, 1951

M.N.I. 206.

The National Insurance Joint Authority(a), in conjunction with the Treasury, hereby certify under subsection (4) of section 77 of the National Insurance Act, 1946(b), that on account of urgency the following regulations should come into operation without delay, and, in exercise of the powers conferred by section 30 of that Act, and of all other powers enabling them in that behalf, hereby make the following regulations as provisional regulations:—

Citation, interpretation and commencement

1. These regulations, which may be cited as the National Insurance (Overlapping Benefits) Provisional Amendment Regulations, 1951, 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 5th September, 1951.

Amendment of the principal regulations

2. Regulation 1 of the principal regulations (which 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."

(a) *See* s. 63 (2), National Insurance Act, 1946, and National Insurance (Northern Ireland Reciprocal Arrangements) Regulations, 1948 (S.I. 1948 (No. 211) I, p. 2905).
(b) 9 & 10 Geo. 6. c. 67.
(c) S.I. 1948 (No. 2711) 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 No. 1232 p. 1457 above).

* Under section 77 (4) of the National Insurance Act, 1946, these Provisional Regulations will not continue in force for longer than three months after the receipt by the authorities making them of the Report of the National Insurance Advisory Committee on the preliminary draft thereof submitted to them in accordance with the said section 77.

3. Paragraph (4) of regulation 2 of the principal regulations (which 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 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 paragraph (3) of this regulation,".

(3) 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

(*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(a),

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,

(a) 8 & 9 Geo. 6. c. 41.

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.

(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 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".

(a) *See* reg. 4, National Insurance (Unemployment and Sickness Benefit) Regulations, 1948 (S.I. 1948 (No. 1277) I, p. 2676).

Given under the official seal of the National Insurance Joint Authority this 31st day of August, nineteen hundred and fifty-one.

(L.S.)

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

Dated this 30th day of August, nineteen hundred and fifty-one.

H. W. Bowden,
Charles Royle,
Two of the Lords Commissioners of
His 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;

(*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.

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 paragraph* (3) *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

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

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.

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