SCHEDULE

Showing in Column 1, by paragraphs, personal benefits which, if payable under any enactment, scheme or instrument mentioned in the corresponding paragraph of Column 2, do not preclude the payment in full of any personal benefit under the Act mentioned in the corresponding paragraph of Column 3.

[For new Schedule substituted by S.I. 1948 No. 2711, *see* p. 2665 below.]

EXPLANATORY NOTE

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

These Provisional Regulations provide for adjusting benefits payable under the National Insurance Act, 1946, for periods in respect of which certain benefits, pensions and allowances are payable out of public funds (Part II and the Schedule). They also provide for adjusting some of the benefits payable under the Act when the beneficiary has been maintained free of charge for specified periods in a hospital maintained or administered by a public or local authority or under the National Health Service Acts (Part III). Part IV provides for adjusting sickness benefit in certain circumstances where weekly payments are being made to a beneficiary under the Workmen's Compensation Acts. Part V provides for certain miscellaneous matters relating to increases of benefit.

The National Insurance (Overlapping Benefits) Regulations, 1948

1948 No. 2711

Made - - - -	*16th December,* 1948
Laid before Parliament	*16th December,* 1948
Coming into Operation	*23rd December,* 1948

M.N.I. 155.

The National Insurance Joint Authority, in conjunction with the Treasury so far as relates to matters with regard to which the Treasury have so directed, in exercise of the powers conferred by section 30 of the National Insurance Act, 1946, and of all other powers enabling them in that behalf, hereby make the following regulations:— 9 & 10 Geo. 6. c. 67.

PART I

General

1.—(1) These regulations may be cited as the National Insurance (Overlapping Benefits) Regulations, 1948, and shall come into operation on the 23rd December, 1948. Citation, commencement and interpretation.

(2) In these regulations, unless the context otherwise requires,—

"the Act" means the National Insurance Act, 1946;

"the Industrial Injuries Act" means the National Insurance (Industrial Injuries) Act, 1946; 9 & 10 Geo. 6. c. 62.

"the Minister" means the Minister of National Insurance;

"beneficiary" means the person to whom any benefit, pension or allowance is payable;

" personal benefit " means that benefit, pension or allowance (whether under the Act or otherwise) which, apart from these regulations, is payable to a person otherwise than in respect of another person who is a child or an adult dependant ;

" dependency benefit " means that benefit, pension or allowance (whether under the Act or otherwise) which, apart from these regulations, is payable to a person in respect of another person who is a child or an adult dependant ;

" death benefit " means any benefit, pension or allowance (whether under the Act or otherwise) which, apart from these regulations, is payable in respect of the death of any person ;

" personal death benefit " means any personal benefit by way of death benefit ;

" the deceased " means, in relation to any death benefit, the person in respect of whose death that benefit, apart from these regulations, is payable ;

" disablement pension " includes a disablement payment on a pension basis and retired pay or a pension in respect of any disablement, wound, injury or disease ;

" widow's basic pension " and " contributory old age pension " have the same meanings as in the National Insurance (Pensions, Existing Beneficiaries and Other Persons) (Transitional) Regulations, 1948(a);

" Personal Injuries Scheme " means any scheme made under the Personal Injuries (Emergency Provisions) Act, 1939, or under the Pensions (Navy, Army, Air Force and Mercantile Marine) Act, 1939 ;

2 & 3 Geo. 6. c. 82.

" Service Pensions Instrument " means any Royal Warrant, Order in Council or other instrument (not being a 1914-1918 War Injuries Scheme) under which a disablement pension may be paid out of public funds in respect of any disablement, wound, injury or disease attributable to or aggravated by service in the naval, military or air forces of the Crown or in any nursing service or other auxiliary service of any of the said forces or in the Home Guard or in any other organisation established under the control of the Admiralty, the Army Council or the Air Council or under which any pension or allowance may be paid out of public funds to any person after the death of some other person in continuation of any payments made during the lifetime of that person in respect of his service in any of the said forces, services and organisations ;

2 & 3 Geo. 6. c. 83.

" 1914-1918 War Injuries Scheme " means any scheme made under the Injuries in War (Compensation) Act, 1914, or under the Injuries in War Compensation Act, 1914 (Session 2), or under the Injuries in War (Compensation) Act, 1915, or any Government scheme for compensation in respect of persons injured in any merchant ship or fishing vessel as the result of hostilities during the 1914-1918 War ;

4 & 5 Geo. 5. c. 30. 5 & 6 Geo. 5. c. 18. 5 & 6 Geo. 5. c. 24.

" treatment allowance " means an allowance payable to a person undergoing a course of medical, surgical or rehabilitative treatment in consequence of a disablement in respect of which a pension under a Personal Injuries Scheme, Service Pensions Instrument or 1914-1918 War Injuries Scheme may be or has been paid, or an allowance payable to any such person pending the determination of the question whether he is entitled to receive such a pension ;

" training allowance " means an allowance (whether by way of periodical grants or otherwise) payable, out of public funds, by a Government department to a person for his maintenance, or in respect

(a) S.I. 1948 No. 55, p. 2822 below.

of any dependant of his, for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to him ;

" training scheme " means a scheme or arrangement under which a training allowance may be paid ;

and other expressions have the same meanings as in the Act.

(3) References in these regulations to any enactment, Scheme, Warrant, order, instrument or regulations shall include references to such enactment, Scheme, Warrant, order, instrument or regulations as amended by any subsequent enactment, Scheme, Warrant, order, instrument or regulations.

(4) Subject to the provisions of the next following paragraph, for the purposes of these regulations, where any benefit by way of widowed mother's allowance is or may be payable to a widow by reason of her having a family which includes a child or children, that benefit shall be deemed to consist of—

(*a*) dependency benefit by way of widowed mother's allowance payable to the widow in respect of that child or the elder or eldest of those children at the weekly rate of seven shillings and sixpence ; and

(*b*) personal benefit by way of widowed mother's allowance payable to the widow otherwise than in respect of any child at the weekly rate at which the first mentioned benefit is or may be payable reduced by seven shillings and sixpence a week.

(5) Where any benefit which consists, or is deemed to consist, both of personal benefit and of dependency benefit falls to be reduced by virtue of the provisions of subsection (3) of section 17 of the Act or subsection (5) of section 20 of the Act, then, for the purposes of these regulations, any reduction made by virtue of those provisions shall be deemed to have been made—

(*a*) after the making of any reduction or adjustment which is not required to be made by virtue of those provisions ; and

(*b*) in relation first to that part of that benefit which is, or is deemed to be, dependency benefit.

(6) Where under section 24 of the Industrial Injuries Act (which section provides for the payment in certain cases of an allowance to a woman having the care of a child or children of the family of a person who dies as the result of an industrial accident) there is payable any death benefit, that death benefit shall, for the purposes of these regulations and notwithstanding the provisions of paragraph (*c*) of subsection (1) of section 30 of that Act (which paragraph refers to death benefit under the said section 24 as being payable in respect of a child), be treated as personal benefit.

(7) For the purposes of these regulations, where, for any period for which a disablement pension, disablement allowance or injury allowance is payable, there is payable therewith, otherwise than by way of an increase thereof, an allowance for constant attendance or a supplement on account of unemployability or an allowance for special hardship, the amount of the disablement pension, disablement allowance or injury allowance payable for that period shall be treated as increased by the amount of the allowance or supplement payable therewith for that period.

(8) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. 52 & 53 Vict. c. 63.

PART II

Adjustment of benefit where a pension or an allowance is payable out of public funds

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

2.—(1) Where, for any period, any personal benefit under the Act and one or more of the personal benefits specified in paragraph (4) of this regulation (hereafter in this regulation and in regulation 3 referred to as " the specified benefits ") or any other personal benefit under the Act are or, but for this regulation, would be payable to any person, then for that period—

(*a*) every personal benefit under the Act which is or would be so payable shall, subject to the provisions of paragraphs (1) and (2) of regulation 3 and to the provisions of regulation 4, be adjusted by reference to each of the specified benefits (if any) payable for that period in accordance with the provisions of paragraph (2) of this regulation ; and

(*b*) where (after such adjustment, if any) more than one personal benefit under the Act would be payable for that period, an adjustment between those personal benefits shall, subject to the provisions of paragraph (3) of regulation 3, be made in accordance with the provisions of paragraph (3) of this regulation.

(2) Where in accordance with paragraph (1) of this regulation any personal benefit under the Act is required to be adjusted for any period by reference to any specified benefit or benefits, then the amount which, but for this regulation, would be payable for that period in respect of that personal benefit under the Act shall be reduced or extinguished by the deduction therefrom of the amount payable for that period in respect of that specified benefit or those specified benefits and, subject to any further adjustment to be made in accordance with paragraph (3) of this regulation, only the balance (if any) shall be payable for that period in respect of that personal benefit under the Act.

(3) Where in accordance with paragraph (1) of this regulation an adjustment between any personal benefits under the Act is required to be made for any period, then the amount payable for that period in respect of those personal benefits shall be the amount which, but for this provision, would be payable for that period in respect of one of those personal benefits (if they would be so payable at equal rates) or that one of them which would be so payable for that period at the higher or highest rate.

(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 pension or allowance under the Industrial Injuries Act ;

(*b*) any personal benefit by way of injury allowance, disablement pension or treatment allowance, 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 ;

(*c*) any personal benefit by way of disablement allowance or treatment allowance, 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 1914-1918 War Injuries Scheme ; and

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

Exceptions to regulation 2.

3.—(1) Any personal benefit under the Act which is specified in any paragraph of the first column of the Schedule to these regulations shall not be adjusted by reference to any specified benefit in the corresponding paragraph of the second column of the said Schedule.

(2) Any personal benefit under the Act by way of unemployment benefit, sickness benefit, widow's benefit (not being widow's basic pension) or retirement pension (not being contributory old age pension) shall not be adjusted by reference to any personal benefit by way of disablement pension, disablement allowance, injury allowance (not being injury benefit) or treatment allowance which is payable under the Industrial Injuries Act or any Personal Injuries Scheme or any Service Pensions Instrument or any 1914-1918 War Injuries Scheme and with which there is not payable (either by way of an increase thereof or as a separate benefit) a supplement on account of unemployability.

(3) An adjustment shall not be made between any two personal benefits under the Act of which one is specified in any paragraph of the first column of the said Schedule and the other is specified in the corresponding paragraph of the second column of the said Schedule.

Further exception to regulation 2.

4.—(1) Where, for any period, any personal benefit under the Act by way of retirement pension is or, but for these regulations, would be payable by virtue of her deceased husband's insurance to a widow aged 70 or over who, on the 5th July, 1948, either—

(*a*) had attained the age of 70 and, immediately before that day, was entitled to an old age pension under the Old Age Pensions Act, 1936, payable by virtue of the Widows', Orphans' and Old Age Contributory Pensions Act, 1936, to her by virtue of her deceased husband's insurance ; or

26 Geo. 5. & 1 Edw. 8. c. 31.

(*b*) attained or had attained the age of 60 and, on her attaining the age of 70, would, but for the Act, have been entitled to such an old age pension,

26 Geo. 5. & 1 Edw. 8. c. 33.

and to whom personal benefit by way of dependants war pension (as defined in subsection (6) of section 14 of the National Health Insurance and Contributory Pensions (Emergency Provisions) Act, 1939) is payable in respect of the death of her deceased husband and was so payable immediately before the 5th July, 1948, then the amount payable to her for that period in respect of that personal benefit by way of retirement pension shall not, as the result of any adjustment thereof made in accordance with the provisions of regulation 2 by reference only to that personal benefit by way of dependants war pension, be reduced below the amount which, but for the Act, would have been payable to her for that period in respect of that old age pension.

2 & 3 Geo. 6. c. 84.

(2) The foregoing provisions of this regulation shall not apply in relation to any personal benefit under the Act by way of retirement pension payable to a widow in respect of any period before she attained the age of 70.

(3) Where, for any period, the foregoing provisions of this regulation apply in relation to any personal benefit under the Act by way of retirement pension which, in accordance with the provisions of regulation 2, is required to be adjusted by reference to one or more of the

personal benefits specified in paragraph (4) of that regulation other than the personal benefit by way of dependants war pension, then that personal benefit by way of retirement pension shall be adjusted for that period first by reference only to the personal benefit by way of dependants war pension and then by reference only to the other personal benefit or personal benefits so specified.

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

5.—(1) 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.

(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.

Adjustment of dependency benefit under the Act where personal benefit is payable.

6.—(1) Where, for any period, any one or more of the personal benefits specified in paragraph (2) of this regulation is or are payable to any person—

(*a*) if either—

(i) the weekly rate or the aggregate weekly rate at which that personal benefit or those personal benefits (if more than one) is or are payable for that period is equal to or exceeds twenty-six shillings a week ; or

(ii) the personal benefit or one of the personal benefits payable to that person for that period is personal benefit under the Act by way of unemployment benefit or sickness benefit which is not payable at a reduced weekly rate by reason of the partial satisfaction of the appropriate contribution conditions,

there shall not be paid in respect of that person for that period any dependency benefit under the Act ; and

(*b*) in any other case, there shall not be paid in respect of that person for that period any dependency benefit under the Act at a weekly rate exceeding the difference between the weekly rate or the aggregate weekly rate at which that personal benefit or those personal benefits (if more than one) is or are payable for that period and the rate of twenty-six shillings a week :

Provided that, where the personal benefit or one of the personal benefits payable to that person for that period is personal benefit under the Act by way of unemployment benefit or sickness benefit which is payable at a reduced weekly rate by reason of the partial satisfaction of the appropriate contribution conditions, dependency benefit under the Act shall not be paid in respect of that person for that period at a weekly rate which exceeds the weekly rate by which that personal benefit is so reduced for that period.

(2) The personal benefits referred to in the preceding paragraph of this regulation are any personal benefit specified in paragraph (4) of regulation 2 and any personal benefit under the Act not being personal benefit by way of attendance allowance.

Dependency benefit under the Act not to be paid to a person to whom a training allowance is payable.

7. Where, for any period, any personal benefit by way of training allowance is payable to any person under any training scheme, there shall not be paid to that person for that period any dependency benefit under the Act.

Construction of Part II.

8. Nothing in this Part of these regulations shall be construed as requiring either—

(*a*) that any personal benefit under the Act by way of maternity grant or death grant shall be adjusted ; or

(*b*) that any personal benefit or dependency benefit shall be adjusted by reason of personal benefit under the Act by way of maternity grant or death grant, or by reason of any other sum which is payable otherwise than in respect of a period, being payable to any person.

PART III

Adjustment of sickness benefit in workmen's compensation cases

9.—(1) Where an insured person is or has been entitled, in respect of any injury or disease, to a weekly payment for total incapacity (hereafter in this regulation referred to as " the compensation payment ") under the Workmen's Compensation Acts(a) or under any contracting out scheme duly certified thereunder, the sickness benefit (including any increase thereof) which, but for the provisions of these regulations, would be payable to the insured person in respect of that injury or disease shall be adjusted as follows :—

(*a*) For any day in respect of which the insured person is or was entitled to the compensation payment during the period of one hundred and fifty-six days (Sundays being disregarded) beginning with the first day of such entitlement, the sickness benefit shall be reduced or extinguished, as the case may be, by the deduction therefrom of the amount of the compensation payment (including any part thereof payable in respect of a child or a wife) for that day.

(a) *See* s. 30 (5) (b), National Insurance Act, 1946.

(*b*) For any day of such entitlement after the expiration of the said period of one hundred and fifty-six days the amount of dependency benefit by way of sickness benefit in respect of a child or an adult dependant shall not exceed the difference between the amount of that dependency benefit which, but for the provisions of these regulations, would be payable and the amount of any compensation payment payable in respect of that child or the wife of the beneficiary (as the case may be) for that day.

(2) For the purposes of this regulation, the amount of any compensation payment for any day shall be one sixth of the amount of the compensation payment for the week in which that day occurs :

Provided that, where the amount of the compensation payment for that week is not a multiple of sixpence, it shall be treated as the next lower amount which is a multiple of sixpence.

PART IV

Miscellaneous provisions

Priority of title to increases of benefit.

10. Where, but for any of the foregoing provisions of these regulations, two persons would both be entitled to an increase of benefit under the Act in respect of a third person, the person entitled thereto shall, as between such persons, be determined in accordance with the following order of priority :—

(*a*) Such one of the two persons as may be designated in a written notice to the Minister, signed by the other.

(*b*) Such one of the two persons as the Minister may in his discretion determine, having regard to the circumstances of the case.

Two increases of the same benefit to be treated as separate benefits.

11. For the purposes of these regulations, in any case where dependency benefit by way of increases of benefit in respect of a child and of an adult dependant is payable, each of such increases of benefit shall be treated as a separate dependency benefit.

Amount deemed to be payable in respect of benefit, etc., for any day.

12.—(1) For the purposes of these regulations, the amount which, but for the provisions thereof, would be payable for any day in respect of any benefit, pension or allowance shall, if that day does not fall within a week for which the amount which would be so payable in respect of that benefit, pension or allowance is equal to the appropriate weekly rate, be deemed to be one sixth of the appropriate weekly rate.

(2) In this regulation, the expression " appropriate weekly rate " means, in relation to any benefit, pension or allowance, the weekly rate at which it would be payable but for the provisions of these regulations.

Persons to be treated as entitled to benefit for certain purposes.

13. Any person who would be entitled to any benefit under the Act but for these regulations shall be treated as if he were entitled thereto for the purpose of any rights or obligations under the Act and the regulations made thereunder (whether of himself or some other person) which depend on his being so entitled, other than for the purposes of the right to payment of that benefit.

14. Parts II, IV and V of, and the Schedule to, the National Insurance (Overlapping Benefits) Provisional Regulations, 1948(a), and so much of Part I of those regulations as relates only to the said Parts and Schedule, 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. Partial revocation of provisional regulations.

Given under the official seal of the National Insurance Joint Authority this 16th day of December, nineteen hundred and forty-eight.

(L.S.)

S. S. Menneer,
Secretary,
National Insurance Joint Authority.

C. James Simmons,
Joseph Henderson,
Two of the Lords Commissioners of His Majesty's Treasury.

SCHEDULE

Regulation 3.

Showing in Column 1, by paragraphs, personal benefits under the Act which are not required to be adjusted by reference to any personal benefit shown in the corresponding paragraph of Column 2.

Column 1	Column 2
(1) Widow's basic pension payable to a widow by virtue of the insurance of her deceased husband who died or dies before 5th July, 1951.	(1) Unemployment benefit, sickness benefit or maternity benefit payable under the Act; injury benefit payable under the Industrial Injuries Act; or training allowance payable under any training scheme.
(2) Widow's benefit.	(2) Attendance allowance payable under the Act.
(3) Unemployment benefit, sickness benefit or maternity benefit.	(3) Widow's basic pension payable under the Act to a widow by virtue of the insurance of her deceased husband who died or dies before 5th July, 1951.
(4) Attendance allowance.	(4) Widow's benefit payable under the Act.
(5) Maternity benefit, widow's basic pension or contributory old age pension.	(5) Any disablement pension, disablement allowance, injury allowance (not being injury benefit) or treatment allowance payable under the Industrial Injuries Act, any Personal Injuries Scheme, any Service Pensions Instrument or any 1914–1918 War Injuries Scheme.

(a) S.I. 1948 No. 1244, p. 2652 above.

Column 1	Column 2
(6) Unemployment benefit, sickness benefit or maternity benefit, or retirement pension which is not payable wholly or in part by virtue of a husband's contributions or insurance.	(6) Death benefit by way of pension or allowance payable to a woman as the widow of the deceased under the Industrial Injuries Act, any Personal Injuries Scheme, any Service Pensions Instrument or any 1914–1918 War Injuries Scheme.
(7) Any personal benefit.	(7) Death benefit by way of pension or allowance payable to a person otherwise than as the widow of the deceased under the Industrial Injuries Act, any Personal Injuries Scheme, any Service Pensions Instrument or any 1914–1918 War Injuries Scheme.
(8) Widow's allowance.	(8) Training allowance payable under any training scheme.

EXPLANATORY NOTE

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

These Regulations revoke (and replace, with amendments) Parts II, IV and V of, and the Schedule to, the National Insurance (Overlapping Benefits) Provisional Regulations, 1948, and so much of Part I as relates only to those Parts.

The National Insurance Advisory Committee not having reported on the draft of Part III of the Provisional Regulations at the date of making these Regulations, that Part of those Provisional Regulations (which provides for adjustment of benefit of in-patients in hospitals, etc.) and so much of Part I (which contains provisions for interpretation, etc.) as relates to that Part are left in force for the time being.

These Regulations provide for adjusting benefits payable under the National Insurance Act, 1946, for periods in respect of which certain benefits, pensions, and allowances are payable out of public funds (Part II and the Schedule). They also provide for adjusting sickness benefit in certain circumstances where weekly payments are being made to a beneficiary under the Workmen's Compensation Acts (Part III). Part IV provides for certain miscellaneous matters.