STATUTORY INSTRUMENTS

1980 No. 1631

SOCIAL SECURITY

The Social Security (Industrial Injuries) (Benefit) Amendment Regulations 1980

Made - - -	*28th October* 1980
Laid before Parliament	*3rd November* 1980
Coming into Operation	*24th November* 1980

The Secretary of State for Social Services, in exercise of powers conferred on him by sections 56(7), 81(1), (2), (4) and (6), 82(5) and (6) and 119(3) of the Social Security Act 1975(**a**) and of all other powers enabling him in that behalf, after reference to the Industrial Injuries Advisory Council, hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Industrial Injuries) (Benefit) Amendment Regulations 1980 and shall come into operation on 24th November 1980.

(2) In these regulations "the Benefit Regulations" means the Social Security (Industrial Injuries) (Benefit) Regulations 1975(**b**).

Amendments of the Benefit Regulations

2.—(1) The Benefit Regulations shall be amended in accordance with the provisions of this regulation.

(2) In regulation 3 (injury benefit payable to persons who have not attained the age of 16)—

(*a*) for the words "person shall be—" in paragraph (2) there shall be substituted the words "person shall be either";

(*b*) for the words "substantially full time employment;" in paragraph (2)(*a*) there shall be substituted "substantially full time employment, or";

(*c*) for sub-paragraph (*b*) of paragraph (2) there shall be substituted the following sub-paragraph:—

"(*b*) one third of the amount specified in paragraph 1(*b*) of Part V of Schedule 4 to the Act, disregarding fractions of 10p, in any other case;".

(**a**) 1975 c. 14; section 56(7) was amended by the Child Benefit Act 1975 (c.61) section 21(1) and Schedule 4 paragraph 20.

(**b**) S.I. 1975/559; relevant amending instruments are S.I. 1976/1736, 1977/342.

(3) In regulation 37 (exception from disqualification for imprisonment, etc.) the following new paragraphs shall be added—

"(7) Where a person outside Great Britain is undergoing imprisonment or detention in legal custody and, in similar circumstances in Great Britain, he would have been excepted, by the operation of any of the preceding paragraphs of this regulation, from disqualification under the provisions referred to in regulation 36 for receiving the benefit claimed, he shall not be disqualified for receiving that benefit by reason only of his said imprisonment or detention.

(8) Paragraph (7) applies to increases of benefit rendered not payable under the said provisions as it applies to disqualification for receiving benefit.".

(4) In regulation 38 (suspension of payment of benefit) for provisos (a) and (b) in paragraph (1) the following provisos shall be substituted:—

"(*a*) this paragraph shall not apply as regards a person who, although undergoing detention in legal custody, is excepted from disqualification for receiving benefit either by reason of regulation 37(3) or by reason of regulation 37(3) as applied by regulation 37(7); and

(*b*) any benefit payable otherwise than in respect of a period during which a beneficiary is or has continuously been undergoing imprisonment or detention in legal custody may nevertheless be paid during such a period to any person appointed for the purpose by the Secretary of State to receive and deal with any sums payable on behalf of the beneficiary on account of that benefit, and the receipt of any person so appointed shall be a good discharge to the Secretary of State and the National Insurance Fund for any sum so paid."

(5) In regulation 39 (suspension of payment of benefit pending appeals or references)—

(*a*) for that part of paragraph (1) that precedes the proviso there shall be substituted—

"(1) So much of a pension or of an allowance (other than injury benefit) or of an increase of disablement benefit as is awarded in respect of a period before the date of the award shall not be payable until after the expiration of a period of 28 days from that date (or, in the case of an award of a local tribunal, within a period of 28 days from the date when the insurance officer is given notice in writing of the local tribunal decision) and if before the expiration of that period an appeal from the award or from any decision on which the award was based has been brought (or, in the case of an appeal by an insurance officer, notice of appeal has been given or sent to the claimant) until after the decision on that appeal is given; and a gratuity or any part thereof shall not be payable until after the expiration of the time limited for an appeal from the award thereof, or from any decision on which the award was based and, where any such appeal is brought, until after the decision on that appeal is given:";

(*b*) after paragraph (1) there are inserted the following paragraphs—

"(1A) Where leave is necessary for an appeal by an insurance officer against an award of a local tribunal and either—

(*a*) application for leave having been made by an insurance officer to the chairman of the local tribunal, notice of that

application is given or sent to the claimant within the 28 day period referred to in paragraph (1), or

(*b*) such an application having been refused and an application for leave to appeal having been made by the insurance officer to the Social Security Commissioner, notice of the application is given or sent to the claimant within 6 weeks of the date on which the insurance officer was notified of the refusal of the chairman of the local tribunal to give leave to appeal,

payment of the benefit (or that part of the benefit) to which the application for leave to appeal relates shall, in the case of a benefit referred to in paragraph (1), be suspended until a decision on the application (whether refusing or allowing leave to appeal) is given.

(1B) In a case where leave to appeal is given on an application referred to in paragraph (1A), paragraph (1) shall have effect as if the 28 day period to which it refers began on the date on which notice was given to the insurance officer that leave to appeal had been given.";

(*c*) at the end of paragraph (2) there shall be added "and an application made under regulation 3 of the Social Security (Correction and Setting Aside of Decisions) Regulations 1975(**a**).".

(6) Regulation 48 (temporary adjustment of amount of allowance for children of deceased's family in certain circumstances) is revoked.

Patrick Jenkin,
Secretary of State for Social Services.

28th October 1980.

(**a**) S.I. 1975/572.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations amend the Social Security (Industrial Injuries) (Benefit) Regulations 1975.

Regulation 3 is amended so as to provide a new method of calculating the amount of injury benefit payable to persons who have not attained the age of 16 (regulation 2(2)).

Regulation 37 is amended so as to except persons from disqualification for receiving benefit, and from suspension of payment of benefit, during imprisonment abroad if, in similar circumstances in Great Britain, they would be so excepted under regulations 37 and 38 of the Benefit Regulations (regulation 2(3)).

Regulation 38(1) is amended so as to provide for the appointment by the Secretary of State of persons to receive and deal with sums payable by way of benefit during any period when a beneficiary is undergoing imprisonment or detention in legal custody (regulation 2(4)).

Regulation 39 is amended so as to increase from 21 to 28 days the period during which payment of benefit for periods prior to the date of an award may be suspended and to extend the provisions for the suspension of such payments pending appeals or references to applications for the setting aside of decisions. The regulation also provides for suspending such payments, in cases where leave to appeal is necessary, during the period when an application for leave to appeal is under consideration, either by the local tribunal chairman, or by the Commissioner (regulation 2(5)).

Regulation 48, which is spent, is revoked.

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