1971. No. 191 **[C]**

NATIONAL INSURANCE (INDUSTRIAL INJURIES)

Benefit

REGULATIONS, DATED 28TH JUNE 1971, MADE BY THE INDUSTRIAL INJURIES JOINT AUTHORITY AND THE MINISTRY OF HEALTH AND SOCIAL SERVICES UNDER THE NATIONAL INSURANCE (INDUSTRIAL INJURIES) ACT (NORTHERN IRELAND) 1966.

The Industrial Injuries Joint Authority, in exercise of powers conferred by sections 18(1)(*d*) and 29(1)(*c*) of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966(**a**) and the Ministry of Health and Social Services, in exercise of powers conferred by section 31(1) of that Act and of all other powers enabling them in that behalf, hereby make the following regulations being regulations subject to negative resolution in accordance with section 80(2) of the said Act:

Citation and commencement

1. These regulations, which may be cited as the National Insurance (Industrial Injuries) (Benefit) Amendment Regulations (Northern Ireland) 1971, shall be read as one with the National Insurance (Industrial Injuries) (Benefit) Regulations (Northern Ireland) 1969(**b**) (hereinafter referred to as "the principal regulations") and shall come into operation on 1st July 1971.

Amendment of regulation 11 *of the principal regulations*

2. In sub-paragraph (*b*) of regulation 11(1) of the principal regulations (increase of benefit for female person having care of child) for the words "from which her weekly earnings (calculated or estimated in such manner and on such basis as is prescribed by regulation 9 for the purposes of the said section 18 in relation to the earnings of a wife)" there shall be substituted the words "in respect of which the weekly expenses incurred by the beneficiary" and the said regulation 11(1) shall accordingly have effect as set out in Schedule 1.

Amendment of regulation 17 *of the principal regulations*

3.—(1) In sub-paragraph (*a*) of regulation 17(1) of the principal regulations (adjustment of benefit for successive accidents where a disablement gratuity is payable) for the words "subject to a loss of faculty" there shall be substituted the words "entitled to an award as a result of an assessment of disablement" and the said regulation 17(1) shall accordingly have effect as set out in Schedule 2.

(2) In regulation 17(3) of the principal regulations after sub-paragraph (*b*) there shall be added the following sub-paragraph:

"(*c*) for the purpose of sub-paragraph (*a*) of paragraph (1) a person shall be deemed to be entitled to a disablement pension and to an award as described in the said sub-paragraph from the respective dates of commencement of the periods taken into account by the assessments relating to such pension and to such award."

(a) 1966. c. 9 (N.I.).

(b) S.R. & O. (N.I.) 1969, No. 8.

Amendment of regulation 32 *of the principal regulations*

4.—(1) Regulation 32 of the principal regulations (exception from disqualification for imprisonment, etc.) shall be amended in accordance with the provisions of paragraphs (2) to (6) and shall accordingly have effect as set out in Schedule 3.

(2) In the proviso to regulation 32(2) the words "in the aggregate the amount of £100 or" and ", whichever is the less" shall be omitted.

(3) At the end of regulation 32(3)(*b*) there shall be added the words "and, in the case of a person who is liable to be detained in the hospital or similar institution by virtue of any provision of the Mental Health Act (Northern Ireland) 1961(**c**) a direction restricting his discharge has been given under that Act and is still in force:".

(4) In regulation 32(4) the words "corrective training, preventive detention," shall be omitted; and, for the words "or detention under section 55 of the Children and Young Persons Act (Northern Ireland) 1950" there shall be substituted the words "or detention under section 73 of the Children and Young Persons Act (Northern Ireland) 1968(**d**)".

(5) In sub-paragraph (*b*) of regulation 32(5) for the words "the Courts-Martial (Appeals) Act 1951, as originally enacted or as subsequently amended, or the Court constituted by that Act" there shall be substituted the words "the Courts-Martial (Appeals) Act 1968(**e**), or the Courts-Martial Appeal Court"; and after sub-paragraph (*c*) of regulation 32(5) there shall be added the following sub-paragraph:

"(*d*) a person who is liable to be detained by virtue of any provision of the Mental Health Act (Northern Ireland) 1961 shall be treated as if a direction restricting his discharge had been given under that Act if he is to be so treated for the purposes of that Act."

(6) In sub-paragraph (*b*) of regulation 32(6) for the words "section 106 of the Children and Young Persons Act (Northern Ireland) 1950" there shall be substituted the words "section 137 of the Children and Young Persons Act (Northern Ireland) 1968".

Given under the Official Seal of the Industrial Injuries Joint Authority this 28th day of June 1971.

(L.S.) *D. G. Kelly,*
Secretary.

Given under the Official Seal of the Ministry of Health and Social Services for Northern Ireland this 28th day of June 1971.

(L.S.) *C. G. Oakes,*
Assistant Secretary.

(c) 1961. c. 15.
(d) 1968. c. 34 (N.I.).
(e) 1968. c. 20.

SCHEDULE 1 Regulation 2

Regulation 11(1) of the Principal Regulations as amended*

(1) A beneficiary shall not be entitled to an increase of benefit under the said section 18 in respect of any such female person unless—

(*a*) she is residing with the beneficiary; or

(*b*) she is employed by the beneficiary in an employment *in respect of which the weekly expenses incurred by the beneficiary* are not less than the amount mentioned in the said section 18, and was so employed by him before the date of the relevant accident, subject to the qualification that the condition of employment before that date shall not apply in a case where the necessity for her employment first arose thereafter; or

(*c*) the beneficiary is contributing to her maintenance at a weekly rate of not less than the amount mentioned in the said section 18.

SCHEDULE 2 Regulation 3

Regulation 17(1) of the Principal Regulations as amended*

(1) In a case where—

(*a*) a person who is entitled, as a result of an accident, to a disablement pension (hereafter in this paragraph referred to as an "existing pension") which is payable in respect of an assessment for a period which is limited by reference to that person's life, becomes as a result of any other accident *entitled to an award as a result of an assessment of disablement* in respect of which a disablement gratuity would, but for this regulation, be payable; and

(*b*) the aggregate amount of the assessment in respect of the existing pension and of the assessment in respect of which such disablement gratuity would be payable would, if it were the amount of the assessment of the extent of the disablement resulting from any one accident suffered by that person, have entitled him to receive a disablement pension at a higher rate than the rate of such existing pension;

then, if, at any time before his claim for disablement benefit is determined, he so elects, that person shall be entitled to a disablement pension in lieu of the said disablement gratuity at a rate equal to the difference between the said higher rate and the rate of the existing pension.

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

SCHEDULE 3 Regulation 4

Regulation 32 of the Principal Regulations as amended*

Exception from disqualification for imprisonment, etc.

32.—(1) A person shall not be disqualified for receiving any benefit, nor shall an increase of benefit not be payable in respect of any person as the beneficiary's wife or husband, for any period during which that person is undergoing imprisonment or detention in legal custody in connection with a charge brought, or intended to be brought, against him in criminal proceedings, or pursuant to any sentence or order for detention made by a court in such proceedings, unless, in relation to him, a penalty as defined in paragraph (4) is imposed at the conclusion of those proceedings.

(2) A person shall not be disqualified for receiving disablement benefit, other than any increase thereof, for any period during which he is undergoing imprisonment or detention in legal custody:

Provided that the amount payable by virtue of this paragraph by way of any disablement pension or pensions in respect of any period, other than a period in respect of which that person is excepted from disqualification by virtue of the provisions of paragraph (3), during which that person is and has continuously been undergoing imprisonment or detention in legal custody shall not exceed the total amount payable by way of such pension or all such pensions for a period of one year.

(3) A person shall not be disqualified for receiving any benefit, nor shall an increase of benefit not be payable in respect of any person as the beneficiary's wife or husband, for any period during which that person is undergoing detention in legal custody after the conclusion of criminal proceedings if it is a period during which he is liable to be detained in a hospital or similar institution in Northern Ireland as a person suffering from mental disorder unless—

(*a*) pursuant to any sentence or order for detention made by the court at the conclusion of those proceedings, he has undergone detention by way of penalty in a prison, a borstal institution, a remand home or a training school; and

(*b*) he was removed to the hospital or similar institution while liable to be detained as a result of that sentence or order, *and, in the case of a person who is liable to be detained in the hospital or similar institution by virtue of any provision of the Mental Health Act (Northern Ireland) 1961*(f) *a direction restricting his discharge has been given under that Act and is still in force*:

Provided that where, as respects a person in relation to whom each of the conditions specified in sub-paragraphs (*a*) and (*b*) is satisfied, a certificate, given by or on behalf of the Prison Governor and furnished to the Ministry, shows the earliest date on which that person would have been expected to be discharged from detention pursuant to the said sentence or order if he had not been transferred to a hospital or similar institution, the said conditions shall be deemed not to be satisfied in relation to that person as from the day next following that date.

(4) For the purposes of paragraph (1), "penalty" means a sentence of imprisonment, borstal training, *or detention under section 73 of the Children and Young Persons Act (Northern Ireland) 1968*(g), or an order for detention in a remand home or a training school, but does not include any sentence of imprisonment or order for detention in default of payment of a sum adjudged to be paid on conviction.

(f) 1961. c. 15. (g) 1968. c. 34 (N.I.).

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

(5) For the purposes of paragraph (3)—

(*a*) "hospital or similar institution" means any place (not being a prison, a borstal institution, a remand home or a training school and not being at or in any such place) in which persons suffering from mental disorder are or may be received for care or treatment;

(*b*) "court" means any court in the United Kingdom, the Channel Islands or the Isle of Man or in any place to which the Colonial Prisoners Removal Act 1884(**h**) applies or any naval court-martial, army court-martial or air force court-martial within the meaning of *the Courts-Martial (Appeals) Act 1968*(**i**), *or the Courts-Martial Appeal Court*;

(*c*) in relation to a person who is liable to be detained in Northern Ireland as a result of any order made under the Colonial Prisoners Removal Act 1884, references to a prison shall be construed as including references to a prison within the meaning of that Act;

(*d*) *a person who is liable to be detained by virtue of any provision of the Mental Health Act (Northern Ireland) 1961 shall be treated as if a direction restricting his discharge had been given under that Act if he is to be so treated for the purposes of that Act.*

(6) In this regulation—

(*a*) "mental disorder" includes any mental disorder within the meaning of the Mental Health Act (Northern Ireland) 1961;

(*b*) "training school" means a school approved under *section 137 of the Children and Young Persons Act (Northern Ireland) 1968*;

(*c*) criminal proceedings against any person shall be deemed to be concluded upon his being found insane in those proceedings so that he cannot be tried or his trial cannot proceed.

(**h**) 47 & 48 Vict. c. 31. (**i**) 1968. c. 20.

EXPLANATORY NOTE

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

These regulations, by amending regulation 11(1)(*b*) of the National Insurance (Industrial Injuries) (Benefit) Regulations (Northern Ireland) 1969, substitute the weekly expenses incurred by a beneficiary in respect of the employment of a female person to care for a child or children of his family for her weekly earnings from such employment calculated in the prescribed manner, in determining his entitlement to an increase of injury or disablement benefit.

By amending regulation 17 of the said regulations, these regulations provide that, in relation to a person's right to elect to receive a disablement pension in lieu of a gratuity in certain circumstances, the time of his entitlement to a gratuity is to be substituted for the time at which he became subject to a loss of faculty and he is to be deemed to be entitled to the relevant benefits from the dates of commencement of the relevant periods of assessment of disablement.

These regulations also, by amending the proviso to regulation 32(2) of the said regulations, remove the limit of £100 to the amount payable by way of any disablement pension or pensions in respect of any period during which a person is undergoing imprisonment or detention in legal custody so that the only limit thereto in respect of such a period is one year's pension or pensions.

The other amendments to regulation 32 of the said regulations are of a formal nature or consequential to changes of law in other fields.