STATUTORY INSTRUMENTS

1971 No. 1201

SOCIAL SECURITY

The National Insurance (Industrial Injuries) (Increase of Benefit and Miscellaneous Provisions) Regulations 1971

Made - - - -	*26th July* 1971
Laid before Parliament	*4th August* 1971
Coming into Operation—	
Regulation 4(7)	*8th December* 1971
Remainder	*5th August* 1971

The Industrial Injuries Joint Authority and the Secretary of State for Social Services, in exercise of the powers conferred by the provisions of the National Insurance Acts and the National Insurance (Industrial Injuries) Act 1965(a) set out respectively in Parts I and II of Schedule 1 to this instrument, and of all other powers enabling them in that behalf, hereby make the following regulations, which contain no provisions other than such as are made in consequence of the National Insurance Act 1971(b) and which accordingly, by virtue of section 16 of and paragraph 2(1)(*a*) of Schedule 6 to that Act, are exempt from the requirements of section 62(2) of the said Act of 1965 (reference to Industrial Injuries Advisory Council):—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Insurance (Industrial Injuries) (Increase of Benefit and Miscellaneous Provisions) Regulations 1971 and shall come into operation, in the case of regulation 4(7), on 8th December 1971 and in the case of the remainder of the regulations on 5th August 1971.

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

"the principal Act" means the National Insurance (Industrial Injuries) Act 1965;

"the Act of 1971" means the National Insurance Act 1971;

"the Benefit Regulations" means the National Insurance (Industrial Injuries) (Benefit) Regulations 1964(c), as amended(d);

"the Claims and Payments Regulations" means the National Insurance (Industrial Injuries) (Claims and Payments) Regulations 1964(e);

and other expressions have the same meaning as in the principal Act.

(3) References in these regulations to any enactment or regulation shall, except in so far as the context otherwise requires, include references to such enactment or regulation as amended or extended by or under any subsequent enactment, order or regulation.

(4) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(f) shall apply for the purpose of the interpretation of

(a) 1965 c. 52. (b) 1971 c. 50.
(c) S.I. 1964/504 (1964 I, p. 833).
(d) The relevant amending instruments are S.I. 1967/832, 1969/1168, 1970/46 (1967 II, p.2482; 1969 II, p. 3432; 1970 I, p. 243).
(e) S.I. 1964/73 (1964 I, p. 115). (f) 1889 c. 63.

these Regulations as they apply for the purpose of the interpretation of an Act of Parliament.

Increase in rates and amounts of benefit payable under regulations

2.—(1) The rates and amounts of benefit of the several descriptions specified in Schedule 2 to these regulations shall be increased as from the dates respectively specified in paragraph (2) of this regulation, and accordingly the provisions of the Benefit Regulations set out in column 1 of that Schedule (which provisions relate to the said rates and amounts of benefit) shall be amended as from the appropriate date by substituting for the rates and amounts set out in column 3 of that Schedule the corresponding rates and amounts set out in column 4 thereof.

(2) The said increases shall operate, in so far as they relate to injury benefit, as from 23rd September 1971, in so far as they relate to widow's pension as from 20th September 1971, and in so far as they relate to any other benefit as from 22nd September 1971:

Provided that the increased amount of a disablement gratuity shall be payable only where the period taken into account by the assessment of the extent of disablement in respect of which the gratuity is awarded begins on or after 22nd September 1971, but nevertheless the amendment made by this regulation to Schedule 4 of the Benefit Regulations (which Schedule, as applied by regulations 6 and 8 of those regulations, prescribes, in relation to awards of disablement gratuity, the weekly rate of pension payable in lieu thereof and the weekly amount by which increase of benefit during hospital treatment is reduced) shall have effect as from 22nd September 1971, whether the period taken into account by the assessment began before or after that date.

Conditions relating to payment of additional benefit under awards made before the appointed or prescribed day

3. Where an award of any benefit under the principal Act has been made before the day appointed or prescribed for the payment of benefit of the description to which the award relates at a higher weekly rate by virtue of the Act of 1971 or of these regulations, paragraph 3(1) of Schedule 6 to the National Insurance Act 1969 (which relates to the effect of any such award) shall, if the period to which the award relates has not ended before that day, have effect subject to the condition that if the award has not been made in accordance with the provisions of sub-paragraph (2) of that paragraph (which sub-paragraph authorises the making of such an award providing for the payment of the benefit at the higher weekly rate as from that day) and a question arises as to—

(*a*) the weekly rate at which the benefit is payable by virtue of the Act of 1971 or of these regulations, or

(*b*) whether the conditions for the receipt of the benefit at the higher weekly rate are satisfied,

the benefit shall be or continue to be payable at the weekly rate specified in the award until the said question shall have been determined in accordance with the provisions of the principal Act.

Amendments to the Benefit Regulations

4.—(1) In regulation 9(1) of the Benefit Regulations (increase of benefit in respect of a wife, and computation of earnings), after the word "beneficiary" there shall be inserted the words "(not being a beneficiary who is entitled to an unemployability supplement and is residing with his wife)".

(2) In the said regulation 9, after paragraph (1) there shall be inserted the following paragraph:—

"(1A) For the purpose of section 18(3A) of the Act (beneficiary entitled to unemployability supplement and residing with his wife), the earnings of the wife of a beneficiary shall be calculated or estimated in accordance with the provisions of the said National Insurance (Computation of Earnings) Regulations as if the manner and basis of the calculation or estimate were for the purposes of the National Insurance Act and of any regulations made thereunder.".

(3) In regulation 10(2)(*a*) of the Benefit Regulations (earnings condition for increase of benefit for dependent relatives), after the words "(calculated or estimated in such manner and on such basis as is prescribed by" there shall be inserted the words "paragraphs (1) and (2) of".

(4) In regulation 11(2) of the Benefit Regulations (earnings condition for increase of benefit for female person having care of child), immediately before the beginning thereof there shall be inserted the words "Subject to paragraph (2A) of this regulation," and for the words "(calculated or estimated in such manner and on such basis as is prescribed as aforesaid for the purpose of the said section 18)" there shall be substituted the words "(calculated or estimated in such manner and on such basis as is prescribed by regulation 9(1) and (2) for the purpose of the said section 18 in relation to the earnings of a wife)".

(5) In the said regulation 11, after paragraph (2) there shall be inserted the following paragraphs:—

"(2A) Where a beneficiary is entitled to unemployability supplement and any such female person is residing with him and the earnings of such female person (other than her earnings from any employment by the beneficiary in caring for a child or children of the beneficiary's family) for the calendar week ending last before any week for which he is entitled to benefit under the said section 18 in respect of such female person exceeded £9·50, the weekly rate of benefit under the said section 18 shall for the last-mentioned week be reduced—

(*a*) where the excess is less than £2·00, by 5 new pence for each complete 10 new pence of the excess, and

(*b*) where the excess is not less than £2·00, by 5 new pence for each complete 10 new pence of the excess up to £2·00 and by 5 new pence for each complete 5 new pence of any further excess.

(2B) For the purpose of the last preceding paragraph of this regulation, the weekly earnings of a female person who is residing with a beneficiary entitled to unemployability supplement shall be calculated or estimated in such manner and on such basis as is prescribed by regulation 9(1A) and (2) for the purposes of the said section 18 in relation to the earnings of a wife.".

(6) In regulation 18(*b*) of the Benefit Regulations (higher rate of pension payable to widows during a limited period following death of husband), for the words "£1·50" there shall be substituted the words "£1·80".

(7) For regulation 26 of the Benefit Regulations (provisions relating to medical treatment as an in-patient) there shall be substituted the following regulations:—

"*Condition for receipt of increase of disablement pension for constant attendance under section 15 of the Act while receiving medical treatment as an in-patient*

26.—(1) For the purposes of section 15 of the Act (increase of disablement pension in respect of the need of constant attendance), subject to paragraph (2)

of this regulation it shall be a condition for the receipt of an increase of disablement pension under the said section 15 for any period in respect of any person that during that period he is not receiving, or has not received, free in-patient treatment, and for this purpose a person shall be regarded as receiving or having received free in-patient treatment if he would be so regarded for the purposes of the National Insurance (Hospital In-Patients) Regulations 1949(a), as amended(b).

(2) Where a person was entitled to an increase of disablement pension under the said section 15 in respect of the period immediately before he commenced to undergo any treatment mentioned in paragraph (1) of this regulation, that paragraph shall not apply in respect of the first 4 weeks of any continuous period during which he is undergoing such treatment.

(3) For the purpose of paragraph (2) of this regulation, 2 or more distinct periods separated by an interval not exceeding 28 days, or by 2 or more such intervals, shall be treated as a continuous period equal in duration to the total of such distinct periods and ending on the last day of the later or last such period.

Treatment of distinct periods of hospital in-patient treatment as continuous for the purposes of section 16 *of the Act*

26A. For the purposes of section 16 of the Act (increase of disablement benefit during hospital treatment) a person who receives medical treatment as an in-patient for 2 or more distinct periods separated by an interval of less than a week in each case shall be treated as receiving such treatment continuously from the beginning of the first period until the end of the last.".

(8) In regulation 39(2)(*b*) of the Benefit Regulations (adjustment of dependency benefit under the principal Act where personal benefit is payable), for the words "(not being home confinement grant, maternity grant or death grant)" there shall be substituted the words "(not being maternity grant, death grant or age addition)".

(9) In regulation 42 of the Benefit Regulations (payments by way of unemployability supplement etc. to persons entitled to workmen's compensation), after paragraph (2) there shall be added the following paragraph:—

"(3) For the purposes of this regulation, the meaning in section 13A(2) of the principal Act (increase of unemployability supplement by reference to beneficiary's age on qualifying date) of 'the qualifying date' shall, subject to the provisions of subsections (3), (4) and (5) of that section, be the beginning of the first week for which the said person qualified for a payment by way of unemployability supplement under this regulation.".

(10) In regulation 44 of the Benefit Regulations (payments by way of unemployability supplement etc. to certain former constables and firemen), in the proviso to paragraph (2) the words "payment under this paragraph shall be adjusted by reference to the said injury pension so as to be payable at a weekly rate of £5, and" shall be deleted, and after paragraph (2) there shall be inserted the following paragraph:—

"(2A) For the purposes of this regulation, the meaning in section 13A(2) of the principal Act (increase of unemployability supplement by reference to beneficiary's age on qualifying date) of 'the qualifying date' shall be the same as that prescribed by regulation 42(3) in relation to persons entitled to payments by way of unemployability supplement.".

(a) S.I. 1949/1461 (1949 I, p. 2718).
(b) The relevant amending instrument is S.I. 1960/1283 (1960 II, p. 2163).

Amendment to the Claims and Payments Regulations

5. After regulation 24 of the Claims and Payments Regulations there shall be inserted the following regulation:—

"*Payment of benefit to a third party*

24A. For any period during which benefit is payable to a beneficiary in respect of another person only if the beneficiary is contributing at not less than a certain weekly rate to the maintenance of, or to the cost of providing for, that other person, then if it appears to the Secretary of State to be necessary for protecting the interests of the beneficiary or of the other person, or if the beneficiary so requests the Secretary of State, the Secretary of State may direct that the whole or part of the benefit payable to the beneficiary (whether or not benefit payable in respect of the other person) shall be paid to another person on behalf of the beneficiary.".

Given under the official seal of the Industrial Injuries Joint Authority.
(L.S.)

D. G. Kelly,
Secretary,
Industrial Injuries Joint Authority.

26th July 1971.

Signed by authority of the Secretary of State for Social Services.

Paul Dean,
Parliamentary Under Secretary of State,
Department of Health and Social Security.

26th July 1971.

SCHEDULE 1

PROVISIONS CONFERRING POWERS EXERCISED IN MAKING THESE REGULATIONS

PART I

Provisions conferring powers exercised by the Industrial Injuries Joint Authority

Enactment	Relevant Provisions	Relevant Amending Enactments
The National Insurance (Industrial Injuries) Act 1965(a)	Section 12(3)	—
	Section 14(7)	—
	Section 15(1)	—
	Section 18(1)(*d*) and (3)	—
	Section 18(3B)	The National Insurance Act 1971 (b), Section 8(3).
	Section 19(4)	—
	Section 30	—
	Section 33(2)	—
	Section 78(2)	—
	Section 81	—

PART II

Provisions conferring powers exercised by the Secretary of State for Social Services

Enactment	Relevant Provisions	Relevant Amending Enactments
The National Insurance (Industrial Injuries) Act 1965	Section 16	—
	Section 30A	The National Insurance Act 1971, Section 10(1)
The National Insurance Act 1969(c)	Schedule 6, paragraph 3 and 4	—
The National Insurance Act 1971	Schedule 5, paragraph 13(1)	—

(a) 1965 c. 52.
(b) 1971 c. 50.
(c) 1969 c. 44.

Regulation 2

SCHEDULE 2

AMENDMENT OF PROVISIONS OF THE BENEFIT REGULATIONS RELATING TO RATES AND AMOUNTS OF BENEFIT

1	2	3	4
Amended provision	Description of rates and amounts of benefit	Existing rate or amount	New rate or amount
Regulation 4(2)	Weekly rates of injury benefit in respect of children under the upper limit of compulsory school age:—		
	(*a*) where the employment or employments amounted to full-time or substantially full-time employment;	£4·50	£5·50
	(*b*) in any other case	£1·55	£1·85
Regulation 7	Weekly rates of allowance in respect of constant attendance:—		
	(*a*) where to a substantial extent dependent on such attendance;	£3·30	£4·00
	(*b*) maximum payable where so dependent and attendance required is greater by reason of exceptionally severe disablement; ...	£4·95	£6·00
	(*c*) where entirely or almost entirely dependent on such attendance...	£6·60	£8·00
Regulation 18(*b*)	Higher rate of widow's pension payable for first 26 weeks	£7·00	£8·40
Schedule 3 (applied by Regulation 3)	Amount of gratuities for degrees of disdisablement of:—		
	1 per cent	£55·00	£66·00
	2 per cent	£82·50	£99·00
	3 per cent	£110·00	£132·00
	4 per cent	£137·50	£165·00
	5 per cent	£165·00	£198·00
	6 per cent	£192·50	£231·00
	7 per cent	£220·00	£264·00
	8 per cent	£247·50	£297·00
	9 per cent	£275·00	£330·00
	10 per cent	£302·50	£363·00
	11 per cent	£330·00	£396·00
	12 per cent	£357·50	£429·00
	13 per cent	£385·00	£462·00
	14 per cent	£412·50	£495·00
	15 per cent	£440·00	£528·00
	16 per cent	£467·50	£561·00
	17 per cent	£495·00	£594·00
	18 per cent	£522·50	£627·00
	19 per cent	£550·00	£650·00
Schedule 4 (applied by Regulations 6 and 8)	Weekly rate of disablement pension payable in lieu of disablement gratuity for degree of disablement of:—		
	less than 20 per cent but not less than 16 per cent;	£1·70	£2·00
	less than 16 per cent but not less than 11 per cent;	£1·28	£1·50
	less than 11 per cent but not less than 6 per cent;	£0·85	£1·00
	less than 6 per cent	£0·43	£0·50

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations increase the rates of certain benefits payable under regulations made under the National Insurance (Industrial Injuries) Act 1965 in order to bring them into conformity with the higher rates of benefit payable directly under that Act by virtue of the Act of 1971, and contain consequential and transitional provisions following upon the passing of the last-mentioned Act.

These Regulations amend the National Insurance (Industrial Injuries) (Benefit) Regulations 1964 to vary the conditions relating to the earnings of a female person residing with a beneficiary entitled to unemployability supplement and having care of his children, and to make minor consequential amendments. They also provide that a beneficiary shall not be entitled to constant attendance allowance after the first four weeks in hospital if he is receiving free in-patient treatment.

The National Insurance (Industrial Injuries) (Claims and Payments) Regulations 1964 are also amended by these Regulations to provide that where a beneficiary is entitled to benefit in respect of a dependant the Secretary of State may direct that the whole or part of the benefit payable to the beneficiary shall be paid to another person on his behalf.

These Regulations are made in consequence of the National Insurance Act 1971 and in accordance with Schedule 6, paragraph 2(1), to that Act have not been referred to the Industrial Injuries Advisory Council.