STATUTORY INSTRUMENTS

1971 No. 1440

SOCIAL SECURITY

The National Insurance (Industrial Injuries) (Hospital In-Patients) Regulations 1971

Made - - -	28*th August* 1971
Laid before Parliament	17*th September* 1971
Coming into Operation	20*th September* 1971

The Industrial Injuries Joint Authority, in exercise of powers conferred by section 33(2)(*a*) of the National Insurance (Industrial Injuries) Act 1965(**a**) and the Secretary of State for Social Services, in exercise of the powers conferred upon him by section 30A of that Act (added by section 10(1) of the National Insurance Act 1971(**b**)) 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 said Act of 1971 and which accordingly, by virtue of section 16 of, and paragraph 2(1)(*a*) of Schedule 6 to, the said Act of 1971, are exempt from the requirements of section 62(2) of the said Act of 1965 (reference to Industrial Injuries Advisory Council) :—

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Insurance (Industrial Injuries) (Hospital In-Patients) Regulations 1971 and shall come into operation on 20th September 1971.

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

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

"the National Insurance Act" means the National Insurance Act 1965(**c**);

"the In-Patients Regulations" means the National Insurance (Hospital In-Patients) Regulations 1949(**d**), as amended (**e**) ;

"benefit" means benefit under the Act ;

"beneficiary" means, in relation to any benefit, the person to whom that benefit is or, but for the provisions of these regulations, would be payable ;

"personal benefit" means that benefit which, apart from these regulations, is payable to a person otherwise than in respect of another person who is a child dependant or an adult dependant ;

(**a**) 1965 c. 52. (**b**) 1971 c. 50.
(**c**) 1965 c. 51. (**d**) S.I. 1949/1461 (1949 I, p. 2718).
(**e**) S.I. 1951/1232, 1952/2179, 1957/1849, 2077, 1960/1283, 1969/1361, 1971/1220, 1419, (1951 I, p. 1457; 1952 II, p. 2147; 1957 I, pp. 1546, 1556; 1960 II, p. 2163; 1969 III, p. 4048; 1971 II, p. 3556).

"dependency benefit" means that benefit which, apart from these regulations, is payable to a person in respect of another person who is a child dependant or an adult dependant ;

"prescribed accommodation" has the same meaning as in the In-Patients Regulations ;

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

(3) For the purpose of these regulations a person shall be regarded as receiving or having received free in-patient treatment for any period during which he would be so regarded for the purposes of the In-Patients Regulations by virtue of regulation 1(2A) of those regulations.

(4) 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.

(5) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(**a**) shall apply for the purpose of the interpretation of these regulations as they apply for the purpose of the interpretation of an Act of Parliament.

PART II

ADJUSTMENT OF BENEFIT

2. The provisions of this Part of these regulations shall have effect subject to the provisions of Part III and Part IV.

3.—(1) The provisions of regulations 3, 4 and 5 (save regulation 5 (4)(*c*)) of the In-Patients Regulations (adjustment of personal benefit) shall apply to personal benefit by way of injury benefit, unemployability supplement, widow's pension under section 19(2)(*a*) of the Act and widower's pension under section 20 of the Act as if the reference to personal benefit under the National Insurance Act specified in those regulations included a reference to the personal benefit specified in this regulation, and in particular as if the reference in regulation 5(4)(*d*) of those regulations to sickness benefit, invalidity benefit or a retirement pension included a reference to unemployability supplement under the Act.

(2) Where a person to whom personal benefit under the Act and personal benefit under the National Insurance Act, adjusted in accordance with the provisions of regulation 2 of the National Insurance (Overlapping Benefits) Regulations 1948(**b**) by reference to the personal benefit payable under the Act, are both payable for the same period then the following provisions shall apply—

(*a*) any reduction of personal benefit under these regulations shall be limited to the difference (if any) between any reduction made under the In-Patients Regulations and the amount or rate of the appropriate reduction specified in the In-Patients Regulations ;

(*b*) in cases to which this paragraph applies, regulations 3(4) and 5(1) of the In-Patients Regulations shall have effect as if the rate of personal benefit there specified were the aggregate of the rates of personal benefit under the Act and the National Insurance Act.

(**a**) 1889 c. 63.
(**b**) S.I. 1948/2711 (Rev. XVI, p. 196: 1948 I, p. 2657).

Dependency Benefit

4. The provisions in regulation 6 of the In-Patients Regulations (adjustment of dependency benefit) shall apply to dependency benefit under the Act as if any reference to dependency benefit under the National Insurance Act included a reference to dependency benefit under the Act, as if regulation 6(7)(*b*) were omitted and as if for the words "the said regulations of 1948" there were substituted the words "Part VII of the National Insurance (Industrial Injuries) (Benefit) Regulations 1964(**a**)".

PART III

SUPPLEMENTARY PROVISIONS

5.—(1) Subject to paragraph (3) of this regulation, the provisions of regulation 6A (benefit payable on discharge from a hospital or similar institution), regulation 6C (adjustment or further adjustment of benefit in certain cases), regulation 8 (persons constituting "dependants") and regulation 9 (two increases of the same benefit to be treated as separate benefits) of the In-Patients Regulations shall apply to benefit under the Act as if the reference to benefit in regulations 6A and 8 included a reference to benefit under the Act, the reference to dependency benefit in regulations 6C, 8 and 9 included a reference to dependency benefit under the Act, and the reference to the personal benefits specified in regulation 6C included a reference to personal benefit by way of injury benefit, unemployability supplement, widow's pension under section 19(2)(*a*) of the Act, widower's pension under section 20 of the Act.

(2) The provisions of regulation 6B (provisions as to residence) and of regulation 12 (calculation of periods) of the In-Patients Regulations shall apply for the purposes of these regulations as they apply for the purposes of the In-Patients Regulations.

(3) For the purposes of these regulations only, regulation 8 of the In-Patients Regulations shall apply as if modified in the following manner :—

(i) For the references in paragraphs (*a*) and (*c*) thereof to the National Insurance (Overlapping Benefits) Regulations 1948 there shall be substituted references to Part VII of the National Insurance (Industrial Injuries) (Benefit) Regulations 1964 ;

(ii) After paragraph (*f*) of the said regulation 8 there shall be inserted the following paragraph :—

"(*g*) an increase of disablement pension would, but for the operation of Part VII of the National Insurance (Industrial Injuries) (Benefit) Regulations 1964 and the provisions of regulation 6 of these regulations, and subject as aforesaid, be payable to a beneficiary in respect of his wife for any period in respect of which a retirement pension or other personal benefit under the National Insurance Act, or personal benefit under the Act is payable to her, if any earnings of the wife were disregarded." ;

(iii) For the words "paragraph (*a*), (*b*) or (*c*)" there shall be substituted the words "paragraph (*a*), (*b*), (*c*) or (*g*)".

(**a**) S.I. 1964/504 (1964 I, p. 833).

Priority of adjustments

6. Except in any case in which the provisions of regulation 6(7) of the In-Patients Regulations apply, where any benefit in relation to which these regulations apply falls to be adjusted in accordance with the provisions of section 29 of the Act or Part VII of the National Insurance (Industrial Injuries) (Benefit) Regulations 1964 the benefit as so adjusted in accordance with those provisions shall be the relevant benefit for the purposes of the provisions of these regulations.

PART IV

TRANSITIONAL PROVISIONS

7. For the purposes of these regulations, any period prior to the date of their coming into operation during which a person has received free in-patient treatment or has resided in any prescribed accommodation shall be disregarded.

Given under the official seal of the Industrial Injuries Joint Authority.

(L.S.)

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

27th August 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.

28th August 1971.

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These Regulations apply the National Insurance (Hospital In-Patients) Regulations 1949, as amended, to injury benefit, unemployability supplement, widow's and widower's pension and to all dependency benefit payable under the National Insurance (Industrial Injuries) Act 1965. They provide for adjusting those benefits and the conditions for the receipt of those benefits where (after an initial period not affected by these Regulations) the beneficiary or his dependant is being maintained free of charge in hospital.

These Regulations also provide for the payment in certain circumstances of resettlement benefit after discharge from hospital of a beneficiary or his dependant following a stay there of more than a year.

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.

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