1973. No. 307 **[C]**

NATIONAL INSURANCE

Hospital In-Patients

REGULATIONS, DATED 31ST AUGUST 1973, MADE BY THE NATIONAL INSURANCE JOINT AUTHORITY AND THE MINISTRY OF HEALTH AND SOCIAL SERVICES, IN CONJUNCTION WITH THE MINISTRY OF FINANCE, UNDER THE NATIONAL INSURANCE ACTS (NORTHERN IRELAND) 1966 TO 1969.

The National Insurance Joint Authority, in exercise of powers conferred by section 49(1) of the National Insurance Act (Northern Ireland) 1966(**a**) and the Ministry of Health and Social Services on behalf of the Secretary of State, in exercise of powers conferred by section 106(3) of that Act and section 8 of the National Insurance &c. (No. 2) Act (Northern Ireland) 1969(**b**), in each case in conjunction with the Ministry of Finance on behalf of the Secretary of State so far as relates to matters with regard to which the Ministry of Finance has so directed, and in exercise of all other powers enabling them in that behalf, hereby make the following regulations being regulations subject to negative resolution in accordance with sections 101(3) and 8(5) respectively of those Acts:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Insurance (Hospital In-Patients) Regulations (Northern Ireland) 1973 and shall come into operation on 3rd September 1973.

(2) In these regulations—

"the Act" means the National Insurance Act (Northern Ireland) 1966;

"benefit" means benefit under the Act other than attendance allowance;

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

"the Overlapping Benefits Regulations" means the National Insurance (Overlapping Benefits) Regulations (Northern Ireland) 1973(**c**);

"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 or an adult dependant, but shall not include earnings-related supplement under section 2 of the National Insurance (No. 2) Act (Northern Ireland) 1966(**d**) or widow's supplementary allowance under section 4(1) of that Act;

(**a**) 1966. c. 6 (N.I.).
(**b**) 1969. c. 19 (N.I.).
(**c**) S.R. & O. (N.I.) 1973, No. 10.
(**d**) 1966. c. 16 (N.I.).

"prescribed accommodation" means, in relation to any person, any residential accommodation provided for that person under the Welfare Services Act (Northern Ireland) 1971(e);

"tuberculosis patient" means a person (not being a person under treatment in a hospital or similar institution for the purposes of the Mental Health Act (Northern Ireland) 1961(f)) who is under treatment for tuberculosis of the respiratory system.

(3) For the purposes of these regulations, a person shall be regarded as receiving or having received free in-patient treatment for any period for which he is or has been maintained free of charge while undergoing medical or other treatment as an in-patient—

(*a*) in a hospital or similar institution maintained or administered under the Health Services Act (Northern Ireland) 1971(g), or by or on behalf of the Secretary of State for Social Services, or the Secretary of State for Defence; or

(*b*) in pursuance of arrangements made, or having effect as if made, by the Northern Ireland Hospitals Authority constituted under the said Act of 1971, the Secretary of State for Social Services or the Secretary of State for Defence, in a hospital or similar institution not so maintained or administered;

and, for this purpose, a person shall only be regarded as not being maintained free of charge in a hospital or similar institution for any period if he is paying or has paid, in respect of his maintenance, charges which are designed to cover the whole cost of the accommodation or services (other than services by way of treatment) provided for him in the hospital or similar institution for that period.

PART II

ADJUSTMENT OF BENEFIT

2. The provisions of this Part shall have effect subject to the provisions of Part III and regulation 16.

Personal benefit

3.—(1) Where the conditions for the receipt of personal benefit by way of sickness benefit, invalidity benefit, widow's allowance, widowed mother's allowance, widow's pension, age addition or retirement pension are satisfied in relation to any person who receives, or has received, continuously, for a period exceeding 8 weeks, free in-patient treatment, the weekly rate of that personal benefit which, but for the provisions of these regulations, would be payable for any period after the first 8 weeks of that treatment shall be reduced subject to and in accordance with the following provisions of these regulations, so however that in the case of a person to whom two or more such personal benefits (being benefits by way of retirement pension, age addition, or both), or to whom invalidity pension and invalidity allowance are payable, the weekly rate referred to in this paragraph shall be the aggregate of the weekly rates of those benefits.

(e) 1971. c. 2 (N.I.).
(f) 1961. c. 15 (N.I.).
(g) 1971. c. 1 (N.I.).

(2) In any case in which the provisions of paragraph (1) apply in relation to any of the said personal benefits, the weekly rate of any reduction of that personal benefit shall, subject to the provisions of paragraph (3), be determined, for any part of the period of free in-patient treatment which occurs during the 44 weeks next following the first 8 weeks thereof, in accordance with the provisions of regulation 4, and, for any part of the period of that treatment which occurs after the first 52 weeks thereof, in accordance with the provisions of regulation 5.

(3) In any case where a reduction of personal benefit at a rate determined in accordance with the provisions of regulations 4, 5(2), 5(3) or 5(4)(*d*) would reduce the rate of that personal benefit, where the beneficiary is a tuberculosis patient, to less than £1·60 a week, or, in any other case, to less than £1·35 a week, the reduction of that personal benefit shall not be as so determined but shall be such (if any) as will reduce the rate of that personal benefit, where the beneficiary is a tuberculosis patient, to £1·60 a week, or, in any other case, to £1·35 a week.

4. Where, by virtue of the provisions of regulation 3(2), the weekly rate of any reduction of personal benefit is to be determined for any period in accordance with the provisions of this regulation, that reduction shall be—

(*a*) for any part of that period during which the beneficiary has a dependant, at the rate of £1·35 a week; and

(*b*) for any other part of that period, at the rate of £2·70 a week.

5.—(1) Where, by virtue of the provisions of regulation 3(2), the weekly rate of any reduction of personal benefit is to be determined for any period in accordance with the provisions of this regulation, that reduction shall, subject to the following provisions of this regulation, be such (if any) as will reduce the rate of that personal benefit, where the beneficiary is a tuberculosis patient, to £1·60 a week, or, in any other case, to £1·35 a week.

(2) For any part of the period referred to in paragraph (1) during which the beneficiary has a dependant and in respect of which an application has been made by the beneficiary to the Ministry to pay on behalf of the beneficiary to that dependant, or to some other person who is approved by the Ministry and satisfies the Ministry that he will apply it for the benefit of that dependant, so much (if any) of the personal benefit as would, but for the provisions of these regulations, be payable to the beneficiary in excess, where the beneficiary is a tuberculosis patient, of £2·95 a week, or, in any other case, of £2·70 a week, the reduction of personal benefit shall be at the rate of £1·35 a week.

(3)(*a*) For any part of the period of free in-patient treatment which falls within the period of 52 weeks next following the first 52 weeks thereof, and during which the beneficiary has not a dependant or, if the beneficiary has a dependant, in respect of which any such application as is mentioned in paragraph (2) has not been made, the reduction of personal benefit shall, subject to the provisions of sub-paragraph (*b*), be at the rate of £2·70 a week.

(*b*) In addition to the reduction of benefit specified in sub-paragraph (*a*), so much (if any) of the personal benefit as would, but for the provisions of these regulations, be payable for the said part of the said period in excess, where the beneficiary is a tuberculosis patient, of £4·30 a week, or, in any other case, of £4·05 a week, shall not be payable unless and until the beneficiary is discharged from the hospital or similar institution.

(4) In relation to any beneficiary who is married, the foregoing provisions of this regulation shall have effect subject to the following provisions:

(*a*) If the husband or wife of the beneficiary is receiving free in-patient treatment after having received that treatment continuously for a period of not less than 52 weeks, then, notwithstanding the provisions of regulation 11, he or she shall not be regarded as a dependant of the beneficiary.

(*b*) If—

(i) on a day on which the beneficiary is receiving free in-patient treatment after having received that treatment continuously for a period exceeding 52 weeks, his wife or her husband is receiving free in-patient treatment after having received that treatment continuously for a period which began 52 weeks before that day, and

(ii) as respects the period of free in-patient treatment received by the beneficiary, the provisions of paragraph (3) have not applied in relation to any part of that period before that day,

those provisions shall apply as if the part of the period of free in-patient treatment received by the beneficiary next following the first 52 weeks thereof had begun on that day.

(*c*) Where the benefit in question is personal benefit by way of sickness benefit and the beneficiary is a woman who is receiving free in-patient treatment after having received that treatment continuously for a period of not less than 52 weeks, for any part of the period of that treatment which occurs after the first 52 weeks thereof and for which there is payable to her husband in respect of her any dependency benefit under the Act, the reduction of that personal benefit shall be such (if any) as will reduce the weekly rate thereof, where the beneficiary is a tuberculosis patient, to £1·60 a week, or, in any other case, to £1·35 a week.

(*d*) If the beneficiary is a man and the benefit in question is personal benefit by way of sickness benefit, invalidity benefit or a retirement pension, or if the beneficiary is a woman and the benefit in question is personal benefit by way of invalidity benefit or a retirement pension, then, for any part of the period of free in-patient treatment received by the beneficiary which occurs after the first 104 weeks thereof and (where the beneficiary is a man) for which the wife of the beneficiary is entitled to a retirement pension by virtue of her own insurance—

(i) notwithstanding the provisions of regulation 11, the wife or husband of the beneficiary shall not be regarded as a dependant of the beneficiary, and

(ii) (where the beneficiary is a man and his wife would, but for the provisions of this sub-paragraph, be regarded as a dependant of the beneficiary) the reduction of the personal benefit in question shall be at the weekly rate of £3·95:

Provided that the provisions of head (i) shall not apply in the case of a beneficiary who is a woman and who is receiving an increase of invalidity pension in respect of her husband and the provisions of head (ii) shall not apply for any period in respect of which any such application as is mentioned in paragraph (2) has been made by the beneficiary in relation to any person except his wife who, for that period, is a dependant of the beneficiary.

Special provisions for certain persons entitled to widow's basic pension

6. Where a beneficiary is entitled to a widow's basic pension by virtue of the insurance of her husband who died before 5th July 1951 and to some other benefit to which regulation 3(1) relates—

(*a*) regulation 4 or 5(2) shall not require a greater reduction in those benefits than would reduce the aggregate amount payable in respect of them to a sum equal to the aggregate amount which would have been payable in respect of them had they been calculated—

(i) in the case of any benefit other than an invalidity benefit, at the rate appropriate to that beneficiary for the period immediately before 20th September 1971, and

(ii) in the case of invalidity pension, at the rate appropriate to that beneficiary for sickness benefit for that period, and

(iii) in the case of invalidity allowance, at the rate at which it is payable; and

had they been adjusted under the National Insurance (Hospital In-Patients) Regulations (Northern Ireland) 1961(**h**) as in force on 19th September 1971 (invalidity pension and invalidity allowance as so calculated being for this purpose aggregated and treated as sickness benefit);

(*b*) regulation 5(1) shall not operate to permit the aggregate amount payable in respect of those benefits in the case of a tuberculosis patient to exceed £2·50, and in any other case to exceed £2·00.

Dependency benefit

7.—(1) The provisions of paragraphs (2) to (6) shall have effect subject to the provisions of paragraph (7).

(2) Where, apart from this regulation, the conditions for the receipt by any person (hereafter in this regulation referred to as "the beneficiary") of any dependency benefit under the Act are satisfied as respects a period for which either the beneficiary or the person in respect of whom that dependency benefit is or, apart from this regulation, would be payable (hereafter in this regulation referred to as "the dependant") is receiving free in-patient treatment, that dependency benefit shall be payable subject to and in accordance with the following provisions of this regulation.

(3) In any case (not being a case in which the provisions of paragraph (4) apply) where the beneficiary is married and the dependant is his wife or her husband and is receiving free in-patient treatment after having received that treatment continuously for a period of not less than 8 weeks, the following provisions shall apply:

(*a*) The weekly rate of the dependency benefit which, but for this regulation, would be payable to the beneficiary in respect of the dependant—

(i) for any part of the period of free in-patient treatment received by the dependant which occurs during the 96 weeks next following the first 8 weeks thereof shall be reduced by £1·35 or by such lesser amount (if any) as will reduce that weekly rate, where the dependant is a tuberculosis patient, to £1·60 a week, or, in any other case, to £1·35 a week; and

(**h**) S.R. & O. (N.I.) 1961, No. 179.