EXPLANATORY NOTE

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

These Regulations consolidate the National Insurance (Hospital In-Patients) Regulations (Northern Ireland), 1949, and subsequent amending regulations which are set out in the Schedule and are revoked by regulation 16.

No amendments other than those of a drafting or consequential nature have been made.

1961. No. 180 **[C]**

NATIONAL INSURANCE

Overlapping Benefits

REGULATIONS, DATED 17TH AUGUST, 1961, MADE BY THE NATIONAL INSURANCE JOINT AUTHORITY, IN CONJUNCTION WITH THE MINISTRY OF FINANCE, UNDER THE NATIONAL INSURANCE ACT (NORTHERN IRELAND), 1946.

The National Insurance Joint Authority, in conjunction with the Ministry of Finance so far as relates to matters with regard to which the Ministry of Finance has so directed, in exercise of powers conferred by section 29 of the National Insurance Act (Northern Ireland), 1946(a), and of all other powers enabling them in that behalf, hereby make the following regulations:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Insurance (Overlapping Benefits) Regulations (Northern Ireland), 1961, and shall come into operation on the 4th September, 1961.

(2) In these regulations—

"the Act" means the National Insurance Act (Northern Ireland), 1946;

"the Industrial Injuries Act" means the National Insurance (Industrial Injuries) Act (Northern Ireland), 1946(b);

"the Ministry" means the Ministry of Labour and National Insurance;

"beneficiary" means the person to whom any benefit, pension or allowance is payable;

"personal benefit" means that benefit, pension or allowance (whether under the Act or otherwise) 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;

"dependency benefit" means that benefit, pension or allowance (whether under the Act or otherwise) which, apart from these regulations, is

(a) 1946. c. 23. (b) 1946. c. 21.

payable to a person in respect of another person who is a child or an adult dependant;

"death benefit" means any benefit, pension or allowance (whether under the Act or otherwise) which, apart from these regulations, is payable in respect of the death of any person;

"personal death benefit" means any personal benefit by way of death benefit;

"the deceased" means, in relation to any death benefit, the person in respect of whose death that benefit, apart from these regulations, is payable;

"disablement pension" includes a disablement payment on a pension basis and retired pay or a pension in respect of any disablement, wound, injury or disease;

"widow's basic pension" and "contributory old age pension" have the same meanings as in the National Insurance (Pensions, Existing Beneficiaries and Other Persons) (Transitional) Regulations (Northern Ireland), 1948(a);

"Personal Injuries Scheme" means any scheme made under the Personal Injuries (Emergency Provisions) Act, 1939(b), or under the Pensions (Navy, Army, Air Force and Mercantile Marine) Act, 1939(c);

"Service Pensions Instrument" means any Royal Warrant, Order in Council or other instrument (not being a 1914-1918 War Injuries Scheme) under which a disablement pension may be paid out of public funds in respect of any disablement, wound, injury or disease attributable to or aggravated by service in the naval, military or air forces of the Crown or in any nursing service or other auxiliary service of any of the said forces or in the Home Guard or in any other organisation established under the control of the Admiralty, the Army Council or the Air Council or under which any pension or allowance may be paid out of public funds to any person after the death of some other person in continuation of any payments made during the lifetime of that person in respect of his service in any of the said forces, services and organisations;

"1914-1918 War Injuries Scheme" means any scheme made under the Injuries in War (Compensation) Act, 1914(d), or under the Injuries in War Compensation Act, 1914 (Session 2)(e), or under the Injuries in War (Compensation) Act, 1915(f), or any Government scheme for compensation in respect of persons injured in any merchant ship or fishing vessel as the result of hostilities during the 1914-1918 War;

"training allowance" means an allowance (whether by way of periodical grants or otherwise) payable out of public funds, by a Government department to a person for his maintenance, or in respect of any dependant of his, for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to him;

"training scheme" means a scheme or arrangement under which a training allowance may be paid.

(a) See Part I of Schedule to S.R. & O. (N.I.) 1957, No. 180 and regs. 5, 6, 7 and 9 of S.R. & O. (N.I.) 1948, No. 39.
(b) 2 & 3 Geo. 6. c. 82. (c) 2 & 3 Geo. 6. c. 83.
(d) 4 & 5 Geo. 5, c. 30. (e) 5 & 6, Geo, 5, c. 18. (f) 5 & 6 Geo. 5. c. 24.

(3) For the purposes of these regulations, where any benefit by way of widowed mother's allowance is or may be payable to a widow by reason of her having a family which includes a child or children, that benefit (apart from any increase in respect of any child other than the elder or eldest) shall be deemed to consist of—

(*a*) dependency benefit by way of widowed mother's allowance payable to the widow in respect of that child or the elder or eldest of those children at the weekly rate of twenty-five shillings; and

(*b*) personal benefit by way of widowed mother's allowance payable to the widow otherwise than in respect of any child at the weekly rate at which the first mentioned benefit is or may be payable reduced by twenty-five shillings a week.

(4) Where under section 24 of the Industrial Injuries Act (which section provides for the payment in certain cases of an allowance to a woman having the care of a child or children of the family of a person who dies as the result of an industrial accident) there is payable any death benefit, that death benefit shall, for the purposes of these regulations and notwithstanding the provisions of paragraph (*c*) of sub-section (1) of section 30 of that Act (which paragraph refers to death benefit under the said section 24 as being payable in respect of a child), be treated as personal benefit.

(5) Where under any Personal Injuries Scheme, Service Pensions Instrument or 1914-1918 War Injuries Scheme there is payable to a child any personal benefit by way of a pension, that personal benefit shall, for the purposes of these regulations, be treated as dependency benefit payable to another person in respect of that child.

(6) For the purposes of these regulations, a supplement on account of unemployability shall, notwithstanding that it is payable by way of an increase of a disablement pension or disablement allowance, be treated as a separate benefit, pension or allowance.

PART II

ADJUSTMENT OF BENEFIT WHERE A PENSION OR AN ALLOWANCE IS PAYABLE OUT OF PUBLIC FUNDS

Adjustment of personal benefit under the Act where other personal benefit (whether under the Act or otherwise) is payable

2.—(1) Where, for any period, any personal benefit under the Act and one or more of the personal benefits specified in paragraph (4) (hereafter in this regulation and in regulation 3 referred to as "the specified benefits") or any other personal benefit under the Act are or, but for this regulation, would be payable to any person, then for that period—

(*a*) every personal benefit under the Act which is or would be so payable shall, subject to the provisions of paragraph (1) of regulation 3 and to the provisions of regulation 4, be adjusted in accordance with the provisions of paragraph (2) by reference to each of the specified benefits (if any) payable for that period; and

(*b*) where (after such adjustment, if any) more than one personal benefit under the Act would be payable for that period, an adjustment between those personal benefits shall, subject to the provisions of paragraph (2) of regulation 3, be made in accordance with the provisions of paragraph (3).

(2) Where in accordance with paragraph (1) any personal benefit under the Act is required to be adjusted for any period by reference to any specified benefit or benefits, then the amount which, but for this regulation, would be payable for that period in respect of that personal benefit under the Act shall be reduced or extinguished by the deduction therefrom of the amount payable for that period in respect of that specified benefit or those specified benefits and, subject to any further adjustment to be made in accordance with paragraph (3), only the balance (if any) shall be payable for that period in respect of that personal benefit under the Act.

(3) Where in accordance with paragraph (1) an adjustment between any personal benefits under the Act is required to be made for any period, then the amount payable for that period in respect of those personal benefits shall be the amount which, but for this provision, would be payable for that period in respect of one of those personal benefits (if they would be so payable at equal rates) or that one of them which would be so payable for that period at the higher or highest rate.

(4) The personal benefits referred to in this regulation and in regulation 3 as "the specified benefits" are—

(*a*) any personal benefit by way of injury benefit or a supplement on account of unemployability, or any personal death benefit, under the Industrial Injuries Act;

(*b*) any personal benefit by way of a supplement on account of unemployability, or any personal death benefit by way of pension or allowance (not being a grant payable by reason of the beneficiary being in receipt of a pension and being over seventy years of age or a pension or allowance calculated by reference to the necessities of the beneficiary), under any Personal Injuries Scheme or Service Pensions Instrument or any 1914-1918 War Injuries Scheme; and

(*c*) any personal benefit by way of training allowance under any training scheme.

Exceptions to regulation 2

3.—(1) Any personal benefit under the Act which is specified in any paragraph of the first column of the First Schedule shall not be adjusted by reference to any specified benefit in the corresponding paragraph of the second column of that Schedule.

(2) An adjustment shall not be made between any two personal benefits under the Act of which one is specified in any paragraph of the first column of the First Schedule and the other is specified in the corresponding paragraph of the second column of that Schedule.

Further exception to regulation 2

4.—(1) Where, for any period, any personal benefit under the Act by way of retirement pension is or, but for these regulations, would be payable by virtue of her deceased husband's insurance to a widow aged 70 or over who, on the 5th July, 1948, either—

(*a*) had attained the age of 70 and, immediately before that day, was entitled to an old age pension under the Old Age Pensions Act (Northern Ireland), 1936(**a**), payable by virtue of the Widows', Orphans' and Old Age Contributory Pensions Act (Northern Ireland), 1936(**b**), to her by virtue of her deceased husband's insurance; or

(**a**) 26 Geo. 5 & 1 Edw. 8. c. 31 (N.I.). (**b**) 26 Geo. 5 & 1 Edw. 8. c. 32 (N.I.).

(*b*) attained or had attained the age of 60 and, on her attaining the age of 70, would, but for the Act, have been entitled to such an old age pension,

and to whom personal benefit by way of dependants war pension (as defined in sub-section (6) of section 14 of the National Health Insurance and Contributory Pensions (Emergency Provisions) Act, 1939(a)) is payable in respect of the death of her deceased husband and was so payable immediately before the 5th July, 1948, then the amount payable to her for that period in respect of that personal benefit by way of retirement pension shall not, as the result of any adjustment thereof made in accordance with the provisions of regulation 2 by reference only to that personal benefit by way of dependants war pension, be reduced below the amount which, but for the Act, would have been payable to her for that period in respect of that old age pension.

(2) The foregoing provisions of this regulation shall not apply in relation to any personal benefit under the Act by way of retirement pension payable to a widow in respect of any period before she attained the age of 70.

(3) Where, for any period, the foregoing provisions of this regulation apply in relation to any personal benefit under the Act by way of retirement pension which, in accordance with the provisions of regulation 2, is required to be adjusted by reference to one or more of the personal benefits specified in paragraph (4) of that regulation other than the personal benefit by way of dependants war pension, then that personal benefit by way of retirement pension shall be adjusted for that period first by reference only to the personal benefit by way of dependants war pension and then by reference only to the other personal benefit or personal benefits so specified.

Adjustment of dependency benefit under the Act where other dependency benefit (whether under the Act or otherwise) is payable

5.—(1) Subject to the provisions of this regulation, where, for any period, any dependency benefit under the Act is or, but for this regulation, would be payable to any person in respect of a child or an adult dependant, that dependency benefit shall be adjusted—

(*a*) in the case of dependency benefit in respect of a child, by reference to any other dependency benefit specified in paragraph (7) which is payable for that period in respect of that child; or

(*b*) in the case of dependency benefit in respect of an adult dependant, by reference to any other dependency benefit so specified which is payable for that period to that person in respect of that or any other adult dependant or to any person in respect of that adult dependant,

so that the amount which, but for this regulation, would be payable in respect of that dependency benefit under the Act shall be reduced or extinguished by the deduction therefrom of the amount payable for that period in respect of that other dependency benefit or those other dependency benefits by reference to which the dependency benefit under the Act is required by this regulation to be adjusted and only the balance (if any) shall be payable for that period in respect of that dependency benefit under the Act.

(2) Notwithstanding the provisions of paragraph (1), where, for any period, any dependency benefit specified in paragraph (6) is payable or, but for those provisions, would be payable in respect of the elder or eldest child (hereafter in this regulation referred to as "the first child") of a family which includes

(a) 2 & 3 Geo. 6. c. 84.