Overlapping Benefits Regulations (Northern Ireland), 1949

REGULATIONS, DATED 18TH AUGUST, 1949, MADE BY THE NATIONAL INSURANCE JOINT AUTHORITY, IN CONJUNCTION WITH THE MINISTRY OF FINANCE, UNDER THE NATIONAL INSURANCE ACT (NORTHERN IRELAND), 1946.

1949. No. 154

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 the powers conferred by section 29 of the National Insurance Act (Northern Ireland), 1946, 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), 1949, and shall come into operation on the 18th August, 1949.

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

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

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

" the Ministry " means the Ministry of Labour and National Insurance for Northern Ireland ;

" 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 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 ;

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

" 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, or under the Injuries in War Compensation Act, 1914 (Session 2), or under the Injuries in War (Compensation) Act, 1915, 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 ;

" treatment allowance " means an allowance payable to a person undergoing a course of medical, surgical or rehabilitative treatment in consequence of a disablement in respect of which a pension under a Personal Injuries Scheme, Service Pensions Instrument or 1914-1918 War Injuries Scheme may be or has been paid, or an allowance payable to any such person pending the determination of the question whether he is entitled to receive such a pension ;

" 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 ;

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

(3) References in these regulations to any enactment, Scheme, Warrant, order, instrument or regulations shall include references to such enactment, Scheme, Warrant, order, instrument or regulations as amended by any subsequent enactment, Scheme, Warrant, order, instrument or regulations.

(4) 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 shall, subject to the provisions of the next following paragraph, 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 seven shillings and sixpence ; 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 seven shillings and sixpence a week.

(5) Where any benefit which consists, or is deemed to consist, both of personal benefit and of dependency benefit falls to be reduced by virtue of the provisions of subsection (3) of section 16 of the Act or subsection (5) of section 19 of the Act, then, for the purposes of these regulations, any reduction made by virtue of those provisions shall be deemed to have been made —

(*a*) after the making of any reduction or adjustment which is not required to be made by virtue of those provisions ; and

(*b*) in relation first to that part of that benefit which is, or is deemed to be, dependency benefit.

(6) 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 subsection (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.

(7) For the purposes of these regulations, where, for any period for which a disablement pension, disablement allowance or injury allowance is payable, there is payable therewith, otherwise than by way of an increase thereof, an allowance for constant attendance or a supplement on account of unemployability or an allowance for special hardship, the amount of the disablement pension, disablement allowance or injury allowance payable for that period shall be treated as increased by the amount of the allowance or supplement payable therewith for that period.

(8) The Interpretation Act, 1889, applies for the purpose of the interpretation of these regulations in like manner as it applies for the purpose of the interpretation of an Act of the Parliament of Northern Ireland.

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) of this regulation (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 paragraphs (1) and (2) of regulation 3 and to the provisions of regulation 4, be adjusted by reference to each of the specified benefits (if any) payable for that period in accordance with the provisions of paragraph (2) of this regulation ; 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 (3) of regulation 3, be made in accordance with the provisions of paragraph (3) of this regulation.

(2) Where in accordance with paragraph (1) of this regulation 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) of this regulation, 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) of this regulation 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 pension or allowance under the Industrial Injuries Act ;

(*b*) any personal benefit by way of injury allowance, disablement pension or treatment allowance, or any personal death benefit by way of pension or allowance (not being a pension or allowance calculated by reference to the necessities of the beneficiary), under any Personal Injuries Scheme or Service Pensions Instrument ;

(*c*) any personal benefit by way of disablement allowance or treatment allowance, or any personal death benefit by way of pension or allowance (not being a pension or allowance calculated by reference to the necessities of the beneficiary), under any 1914-1918 War Injuries Scheme ; and

(*d*) 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 schedule to these regulations shall not be adjusted by reference to any specified benefit in the corresponding paragraph of the second column of the said schedule.

(2) Any personal benefit under the Act by way of unemployment benefit, sickness benefit, widow's benefit (not being widow's basic pension) or retirement pension (not being contributory old age pension) shall not be adjusted by reference to any personal benefit by way of disablement pension, disablement allowance, injury allowance (not being injury benefit) or treatment allowance which is payable under the Industrial Injuries Act or any Personal Injuries Scheme or any Service Pensions Instrument or any 1914-1918 War Injuries Scheme and with which there is not payable (either by way of an increase thereof or as a separate benefit) a supplement on account of unemployability.

(3) 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 said schedule and the other is specified in the corresponding paragraph of the second column of the said schedule.