

1973 No. 1478

SOCIAL SECURITY

**The National Insurance (Overlapping Benefits and Miscellaneous
Amendments) Regulations 1973**

Made - - - 17th August 1973

Laid before Parliament 29th August 1973

Coming into Operation 1st October 1973

The National Insurance Joint Authority, in conjunction with the Treasury(a), in exercise of powers conferred by section 50(1) of the National Insurance Act 1965(b) and now vested in them(c), and the Secretary of State for Social Services(d), in exercise of powers conferred by section 55(3) of the said Act of 1965 as amended by section 14 of and paragraph 5(2) of Schedule 5 to the National Insurance Act 1971(e), in each case in exercise of all other powers enabling them in that behalf, and after considering the report of the National Insurance Advisory Committee on the preliminary draft submitted to them in accordance with section 108 of the said Act of 1965, hereby make the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Insurance (Overlapping Benefits and Miscellaneous Amendments) Regulations 1973 and shall come into operation on 1st October 1973.

(2) In these regulations, “the Overlapping Benefits Regulations” means the National Insurance (Overlapping Benefits) Regulations 1972(f); “the General Benefit Regulations” means the National Insurance (General Benefit) Regulations 1970(g), as amended(h); and “the Hospital In-Patients Regulations” means the National Insurance (Hospital In-Patients) Regulations 1972(i), as amended(j).

(3) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(k) shall apply in relation to this instrument and to the revocations effected by it as if this instrument and the provisions revoked by it were enactments and as if the said revocations were repeals.

(a) See s.106(5) of the National Insurance Act 1965 (c. 51).

(b) 1965 c. 51.

(c) See S.I. 1948/211 (Rev. XVI, p. 367; 1948 I, p. 2905) and ss. 104(4)(b) and 117(1) of the National Insurance Act 1965 (c. 51).

(d) For transfer of functions from the Minister of Pensions and National Insurance to (eventually) the Secretary of State, see Ministry of Social Security Act 1966 (c. 20) and S.I. 1968/1699 (1968 III, p. 4585).

(e) 1971 c. 50.

(f) S.I. 1972/604 (1972 I, p. 1994).

(g) S.I. 1970/1981 (1970 III, p. 6461).

(h) There is no amendment which relates expressly to the subject matter of these Regulations.

(i) S.I. 1972/603 (1972 I, p. 1979).

(j) There is no amendment which relates expressly to the subject matter of these Regulations.

(k) 1889 c. 63.

Amendment of regulation 1(2) of the Overlapping Benefits Regulations

2. In regulation 1(2) of the Overlapping Benefits Regulations (definitions) for the definition of "Service Pensions Instrument" there shall be substituted the following definition:—

““Service Pensions Instrument” means those provisions and only those provisions of any Royal Warrant, Order in Council or other instrument (not being a 1914-1918 War Injuries Scheme) under which a death or a disablement pension (not including a pension calculated by reference to length of service) and allowances for dependants payable with either such pension may be paid out of public funds in respect of any death or disablement, wound, injury or disease due to 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 Defence Council or formerly established under the control of the Admiralty, the Army Council or the Air Council;”.

Amendment of regulation 9 of the Overlapping Benefits Regulations

3. In regulation 9 of the Overlapping Benefits Regulations (adjustments which Part II of those regulations is not to be construed as requiring) at the end of paragraph (c) there shall be added the word “or” and the following paragraphs:—

“(d) that any benefit under the Act shall be adjusted by reference to an allowance for a dependant payable as part of a disablement pension under any Personal Injuries Scheme, any Service Pensions Instrument or any 1914-1918 War Injuries Scheme unless it is an allowance for a dependant payable only to a person who is entitled to a supplement on account of unemployability under any such Scheme or Instrument; or

(e) that any benefit under the Act shall be adjusted by reference to a benefit not under the Act where the latter benefit has itself been adjusted by reference to the benefit under the Act.”

Amendment of regulation 15 of the Overlapping Benefits Regulations

4. In regulation 15 of the Overlapping Benefits Regulations (revocations and transitional provisions) in paragraph (3) for the reference to paragraphs (1)-(3) there shall be substituted a reference to paragraphs (1) and (2).

Revocation of provisions of the Overlapping Benefits Regulations and amendments consequential thereon

5.—(1) In the Overlapping Benefits Regulations, in regulation 2 (adjustment of personal benefit under the Act where other personal benefit, whether under the Act or otherwise, is payable) paragraph (4) is revoked; in regulation 5 (adjustment of dependency benefit under the Act where other dependency benefit, whether under the Act or otherwise, is payable) paragraph (3) is revoked; and in regulation 6 (adjustment of dependency benefit where personal benefit is payable) the proviso to paragraph (1) and paragraph (4) are revoked.

(2) In the said regulation 2 there shall be substituted in paragraph (1)(a) for the words “paragraphs (2) and (4)” the words “paragraph (2)” and in paragraph (1)(b) for the words “paragraphs (3) and (4)” the words “paragraph (3)”; in the said regulation 6 there shall be substituted in paragraph (1) for the words “paragraphs (3), (4) and (5)” the words “paragraphs (3) and (5)” and in paragraph (5) the words “(not being a case falling within the last foregoing paragraph)” shall be omitted; and in regulation 12 of the Overlapping Benefits Regulations (provisions for adjusting benefit, etc., for part of a week), in paragraph (1) the words “(including for this purpose, but for no other purpose, any allowance under the Family Allowances Act 1965 required to be taken into account for the purposes of regulation 5(3) of these regulations)” shall be omitted.

Amendment of the General Benefit Regulations and the Hospital In-Patients Regulations

6.—(1) In regulation 10 of the General Benefit Regulations (allocation of contributions for wife or children), in paragraph (1), for the words “and 43(1)(a)(ii)” there shall be substituted the words “43(1)(a)(ii) and 43A(1)(b)”.

(2) In regulation 16 of the Hospital In-Patients Regulations (transitional provisions, revocations and general savings), in paragraph (1)(b), for the words “regulation 6” there shall be substituted the words “regulation 7”.

Transitional provision

7. Where the date as from which the weekly rate of a benefit under the Act is increased under an Order made under section 9(5) of, and paragraph 1 of Schedule 6 to, the National Insurance and Supplementary Benefit Act 1973(a) is a later date than that on which these regulations come into operation, regulation 9(d) of the Overlapping Benefits Regulations (added to those regulations by regulation 3 of these regulations) shall apply as respects that benefit only as from the date on which its weekly rate is so increased.

Given under the official seal of the National Insurance Joint Authority.

(L.S.)

Keith Joseph,
Secretary of State for Social Services,
a member of the National Insurance
Joint Authority.

13th August 1973.

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Secretary of State for Social Services.

13th August 1973.

Tim Fortescue,
V. H. Goodhew,
Two of the Lords Commissioners of
Her Majesty's Treasury.

17th August 1973.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations amend the National Insurance (Overlapping Benefits) Regulations 1972 ("the Overlapping Benefits Regulations"), the National Insurance (General Benefit) Regulations 1970 ("the General Benefit Regulations") and the National Insurance (Hospital In-Patients) Regulations 1972 ("the Hospital In-Patients Regulations").

Regulation 1 relates to the citation, commencement and interpretation of the Regulations. Regulation 2 substitutes a new definition for the existing definition of "Service Pensions Instrument" in the Overlapping Benefits Regulations. Regulation 3 amends regulation 9 of the Overlapping Benefits Regulations, providing that benefits under the National Insurance legislation shall no longer be adjusted by reference to certain dependency increases of war pensions, also expressly providing that should a benefit not under that legislation have been adjusted by reference to a benefit under that legislation there shall be no adjustment under those Regulations. Regulations 4 and 6 rectify minor defects in the Overlapping Benefits Regulations, the General Benefit Regulations and the Hospital In-Patients Regulations. Regulation 5 revokes certain provisions of the Overlapping Benefits Regulations and makes amendments to those Regulations consequent upon the revocations. Regulation 7 contains a transitory provision related to the disregard for adjustment purposes of the dependency increases of war pensions referred to above.

The report of the National Insurance Advisory Committee on the preliminary draft of these Regulations dated 12th July 1973 is contained in Command Paper (Cmnd. 5420) published by Her Majesty's Stationery Office.

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