

extinguished by the deduction therefrom of the amount of any resettlement benefit which, at the commencement of that period, either was payable to him and was unpaid, or would have been so payable to him if he had then satisfied the conditions for the receipt thereof.

EXPLANATORY NOTE

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

These Regulations substitute a single definition of "free in-patient treatment" for the existing definitions, in the National Insurance (Hospital In-Patients) Regulations (Northern Ireland), 1949, of the definitions of "hospital or similar institution" and of "free in-patient treatment". The effect of the substitution is that the provisions for adjusting benefit will extend to civilian patients maintained free in service hospitals.

The Regulations also make an additional provision for the adjustment of benefit which otherwise would be payable to or in respect of a hospital patient in certain cases where (as certified by a doctor who is treating the patient) either no sum, or no more than a weekly sum which is less than the amount of the weekly benefit otherwise payable, can be applied for the patient's personal comfort or enjoyment. The provision applies only where the patient has received free in-patient treatment for at least 52 weeks. In cases where the provision applies, the benefit which otherwise would be payable and cannot be applied for the patient's personal comfort or enjoyment is not payable immediately but will become payable (to the extent to which it would otherwise have been payable for not more than 52 weeks) to the patient in the event of his or her approved discharge from hospital.

The Regulations also confine the application of the existing provision for setting-off unpaid resettlement benefit accrued for one period of free in-patient treatment against resettlement benefit accrued for another to cases in which the interval between the two periods exceeds 28 days.

The remaining provisions are of a minor or consequential character.

1960. No. 143

[C]

NATIONAL INSURANCE

General Benefit

REGULATIONS, DATED 15TH SEPTEMBER, 1960, 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, in exercise of powers conferred by section 28 of the National Insurance Act (Northern Ireland), 1946(a), and of all other powers enabling them in that behalf, hereby make the following regulations:

(a) 1946. c. 23.

Citation, interpretation and commencement

1. These regulations, which may be cited as the National Insurance (General Benefit) Amendment Regulations (Northern Ireland), 1960, shall be read as one with the National Insurance (General Benefit) Regulations (Northern Ireland), 1948(a) (hereinafter referred to as "the principal regulations"), and shall come into operation on the 19th September, 1960.

Regulation substituted for regulation 6 of the principal regulations

2. For regulation 6 of the principal regulations (which provides for exceptions from disqualification for receiving benefit for periods of imprisonment or detention in legal custody), there shall be substituted the following regulation:

"Exceptions from disqualification for imprisonment, etc.

6.—(1) The following provisions of this regulation shall have effect to except benefit from the operation of those provisions of sub-section (1) of section 28 of the Act which provide that (except where regulations otherwise provide) a person shall be disqualified for receiving any benefit, and an increase of benefit shall not be payable in respect of any person as the beneficiary's wife or husband, for any period during which that person is undergoing imprisonment or detention in legal custody (hereafter in this regulation referred to as 'the said provisions').

(2) The said provisions shall not operate to disqualify a person for receiving a guardian's allowance.

(3) The said provisions shall not operate to disqualify a person for receiving sickness benefit, widow's benefit, child's special allowance, maternity allowance or retirement pension, or to make an increase of benefit not payable in respect of a person, for any period during which that person is undergoing imprisonment or detention in legal custody in connection with a charge brought or intended to be brought against him in criminal proceedings or pursuant to any sentence or order for detention made by a court in such proceedings unless, in relation to him, a penalty is imposed at the conclusion of those proceedings.

(4) In the last foregoing paragraph, 'penalty' means a sentence of imprisonment, corrective training, preventive detention, Borstal training, or detention under section 55 of the Children and Young Persons Act (Northern Ireland), 1950(b), or an order for detention in a remand home or a training school, but does not include any sentence of imprisonment or order for detention in default of payment of a sum adjudged to be paid on conviction.

(5) The said provisions shall not operate to disqualify a person for receiving any benefit (not being a guardian's allowance), or to make an increase of benefit not payable in respect of a person, for any period during which that person is undergoing detention in legal custody after the conclusion of criminal proceedings if it is a period during which he is liable to be detained in a hospital or similar institution in Northern Ireland as a person suffering from mental disorder unless—

(a) pursuant to any sentence or order for detention made by the court at the conclusion of those proceedings, he has undergone detention by

(a) S.R. & O. (N.I.) 1948, No. 208 as amended by S.R. & O. (N.I.) 1948, No. 195; 1949, No. 196; 1957, No. 161; 1957, No. 225 and 1957, No. 239.

(b) 1950. c. 5.

way of penalty in a prison, a Borstal institution, a remand home or a training school; and

- (b) he was removed to the hospital or similar institution while liable to be detained as a result of that sentence or order:

Provided that where, as respects a person in relation to whom each of the conditions specified in sub-paragraphs (a) and (b) is satisfied, a certificate, given by or on behalf of the Prison Governor and furnished to the Ministry, shows the earliest date on which that person would have been expected to be discharged from detention pursuant to the said sentence or order if he had not been transferred to a hospital or similar institution, the said conditions shall be deemed not to be satisfied in relation to that person as from the day next following that date.

- (6) For the purposes of the last foregoing paragraph—
- (a) 'hospital or similar institution' means any place (not being a prison, a Borstal institution, a remand home or a training school and not being at or in any such place) in which persons suffering from mental disorder are or may be received for care or treatment;
- (b) 'court' means any court in the United Kingdom, the Channel Islands or the Isle of Man or in any place to which the Colonial Prisoners Removal Act, 1884(a), applies or any naval court-martial, army court-martial or Air Force court-martial within the meaning of the Courts-Martial (Appeals) Act, 1951(b), as originally enacted or as subsequently amended, or the Court constituted by that Act;
- (c) in relation to a person who is liable to be detained in Northern Ireland as a result of any order made under the Colonial Prisoners Removal Act, 1884, references to a prison shall be construed as including references to a prison within the meaning of that Act.
- (7) In this regulation—
- (a) references to a person suffering from mental disorder shall be construed as references to a person who is receiving care or treatment under the provisions of the Lunacy and Mental Health Acts (Northern Ireland), 1821 to 1953(c);
- (b) 'training school' means a school approved under section 106 of the Children and Young Persons Act (Northern Ireland), 1950;
- (c) criminal proceedings against any person shall be deemed to be concluded upon his being found insane in those proceedings so that he cannot be tried or his trial cannot proceed."

Amendment of regulation 7 of the principal regulations

3.—(1) Regulation 7 of the principal regulations (which provides for the suspension of payment of benefit during periods of imprisonment or detention in legal custody) shall be amended in accordance with the following provisions of this regulation and shall accordingly have effect as set out in the Schedule.

(2) In sub-paragraph (a) of paragraph (1) of the said regulation 7, the words "of paragraph (2) or paragraph (3)" shall be inserted after the word "provisions".

(3) The words "penal servitude" in the said paragraph (1) shall be omitted.

(a) 47 & 48 Vict. c. 31.

(b) 14 & 15 Geo. 6. c. 46.

(c) 1948. c. 17 (Reprint to 1953).

(4) For the proviso to the said paragraph (1) there shall be substituted the following proviso:

“Provided that—

- (i) the provisions of this regulation shall not operate to require the payment of any benefit to be suspended while the beneficiary is liable to be detained in a hospital or similar institution as defined for the purposes of paragraph (5) of that regulation during a period for which, in his case, benefit to which that paragraph applies is or would be excepted from the operation of the said sub-section (1) by virtue of the provisions of that paragraph; and
- (ii) a guardian's allowance or any benefit to which sub-paragraph (b) applies may nevertheless be paid while the beneficiary is undergoing imprisonment or detention in legal custody to any person appointed for the purpose by the Ministry to receive and deal with any sums payable on behalf of the beneficiary on account of that benefit, and the receipt of any person so appointed shall be a good discharge to the Ministry and the National Insurance Fund for any sum so paid.”

(5) In paragraph (2) of the said regulation 7, for the words “any period under the provisions”, there shall be substituted the words “the period of six months referred to in paragraph (1)”, and, at the end of the said paragraph (2), there shall be added the words “for the purpose of the application of that regulation in relation to that benefit”.

Given under the Official Seal of the National Insurance Joint Authority this 15th day of September, nineteen hundred and sixty.

(L.S.)

D. J. Carter,
Secretary.

Given under the Official Seal of the Ministry of Finance for Northern Ireland this 15th day of September, nineteen hundred and sixty.

(L.S.)

K. R. Shimeld,
Assistant Secretary.

SCHEDULE

Regulation 3

Regulation 7 of the Principal Regulations as amended*

Suspension of payment of benefit during imprisonment, etc.

7.—(1) The payment to any person of any benefit—

- (a) which is excepted from the operation of sub-section (1) of the said section 28 by virtue of the provisions of *paragraph (2) or paragraph (3) of the last preceding regulation*; or
- (b) which is payable otherwise than in respect of a period during which he is undergoing imprisonment or detention in legal custody;

shall be suspended while that person is undergoing imprisonment or detention in legal custody:

Provided that—

- (i) *the provisions of this regulation shall not operate to require the payment of any benefit to be suspended while the beneficiary is liable to be detained*

*The words added or substituted by these regulations are shown in italics.

in a hospital or similar institution as defined for the purposes of paragraph (5) of that regulation during a period for which, in his case, benefit to which that paragraph applies is or would be excepted from the operation of the said sub-section (1) by virtue of the provisions of that paragraph; and

- (ii) *a guardian's allowance or any benefit to which sub-paragraph (b) applies may nevertheless be paid while the beneficiary is undergoing imprisonment or detention in legal custody to any person appointed for the purpose by the Ministry to receive and deal with any sums payable on behalf of the beneficiary on account of that benefit, and the receipt of any person so appointed shall be a good discharge to the Ministry and the National Insurance Fund for any sum so paid.*

(2) Where, by virtue of the last preceding paragraph, payment of benefit is suspended for any period, the period of suspension shall not be taken into account in calculating the period of six months referred to in paragraph (1) of regulation 12 of the National Insurance (Claims and Payments) Regulations (Northern Ireland), 1948 (which regulation relates to the extinguishment of the right to sums payable by way of benefit which are not obtained within the prescribed time) for the purpose of the application of that regulation in relation to that benefit.

EXPLANATORY NOTE

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

By virtue of a disqualifying provision of the National Insurance Act (Northern Ireland), 1946, benefit under that Act is not payable to a person, or in respect of a person as the beneficiary's husband or wife, for a period during which that person is undergoing imprisonment or detention in legal custody, subject to such exceptions as regulations may provide. The National Insurance (General Benefit) Regulations (Northern Ireland), 1948, provide for exceptions in certain circumstances; and these Regulations make additions to the circumstances in which the disqualification is removed. In so far as the disqualification would apply to a period of a person's detention between his arrest in connection with a charge against him in criminal proceedings and the end of those proceedings, these Regulations remove the disqualification if, in the result, the person is not ordered to undergo penal detention. In so far as the disqualification would apply to a period of a person's detention as a result of an order made at the end of such proceedings, these Regulations remove the disqualification if the person is liable to be detained in a hospital or similar institution as a person suffering from mental disorder unless he became so liable while undergoing penal detention in accordance with the order. In that case, the disqualification is removed as from the earliest date (if certified by the Prison Governor) on which he would have been expected to be discharged from the penal detention.

The Regulations also amend those provisions of the National Insurance (General Benefit) Regulations (Northern Ireland), 1948, which provide for the suspension of the payment of benefit while the beneficiary is undergoing imprisonment or detention in legal custody. The amendments include those necessary to ensure that the provision made for such suspension will not operate while the beneficiary is liable to be detained in a hospital or similar institution in such circumstances that the disqualification referred to in the preceding paragraph is removed by the provisions there described. The other amendments are of a minor character.