1957 No. 1322

The National Insurance (Married Women) Amendment Regulations, 1957

Laid before Parliament in draft
Made - - - - 26th July, 1957
Coming into Operation 2nd August, 1957

Whereas a draft of the following regulations was laid before Parliament and approved by resolution of each House of Parliament:

Now, therefore, the Minister of Pensions and National Insurance, acting in conjunction with the Treasury, in exercise of the powers conferred by section 59 of the National Insurance Act, 1946(a), as amended by section 2 (6) of the Family Allowances and National Insurance Act, 1956(b), and of all other powers enabling him in that behalf, hereby makes the said regulations:—

Citation, interpretation and commencement

1. These regulations, which may be cited as the National Insurance (Married Women) Amendment Regulations, 1957, shall be read as one with the National Insurance (Married Women) Regulations, 1948(c), as amended(d) (hereinafter referred to as "the principal regulations") and shall come into operation on the seventh day after the date of this instrument.

Amendment of regulation 1 *of the principal regulations*

2.—(1) In paragraph (2) of regulation 1 of the principal regulations (which makes provision for their interpretation) the following definition shall be inserted after the definition of "the Minister":—

"'the determining authority' means, as the case may require, an insurance officer, a local tribunal or the Commissioner;".

(2) After the said paragraph (2), there shall be inserted the following paragraph:—

"(2A) For the purposes of regulations 8, 8C and 8D of these regulations, a woman who has obtained a decree absolute of presumption of death and dissolution of marriage shall, notwithstanding that the man whose death has been presumed is dead, be treated as a woman whose marriage has been terminated otherwise than by the death of her husband unless the date of his death is established to the satisfaction (as respects the said regulation 8, paragraph (1) or paragraph (3) of the said regulation 8C, or the said regulation 8D) of the Minister or (as respects paragraph (2) of the said regulation 8C) of the determining authority; and, in relation to a woman who is so treated, the marriage in question shall be treated as having been terminated on the date of the decree absolute.".

(a) 9 & 10 Geo. 6. c. 67.
(b) 4 & 5 Eliz. 2. c. 50.
(c) S.I. 1948/1470 (Rev. XVI, p. 123: 1948 I, p. 2795).
(d) S. 9 and para. 15 of First Schedule, National Insurance Act, 1953 (1 & 2 Eliz. 2. c. 29); S.I. 1954/163, 1956/2108 (1954 I, p. 1381; 1956 I, p. 1681).

Regulation substituted for regulation 8 *of the principal regulations*

3. For regulation 8 of the principal regulations (which relates to the crediting of contributions for the purpose of determining the rate of unemployment and sickness benefit in the case of a woman whose marriage has been terminated) there shall be substituted the following regulation:—

" *Special credits where a woman's marriage has been terminated*

8.—(1) In the case of a woman whose marriage has been terminated by the death of her husband or otherwise, contributions shall be credited to her, subject to and in accordance with the following provisions of this regulation, for the purposes specified in paragraph (3) thereof, if at any time, in respect of weeks beginning not earlier than the twenty-sixth week next before the termination of that marriage (hereafter in this regulation referred to as " the appropriate weeks ") she has not paid twenty-six contributions as an employed person but has paid twenty-six contributions of which each is either a contribution as an employed person or a contribution as a self-employed person, and if at any time, in respect of the appropriate weeks, she has paid twenty-six contributions as an employed person.

(2) Contributions credited to a woman by virtue of the foregoing provisions of this regulation shall be—

(*a*) if she has not paid twenty-six contributions as an employed person in respect of the appropriate weeks, a contribution as a self-employed person for every week in the period beginning with the commencement of the last complete contribution year before the benefit year which includes that one of the appropriate weeks in respect of which she paid the twenty-sixth contribution as an employed or self-employed person and ending with that week; and

(*b*) if she has paid (either with or without any other contribution) twenty-six contributions as an employed person in respect of the appropriate weeks, a contribution as an employed person for every week in the period beginning with the commencement of the last complete contribution year before the benefit year which includes that one of the appropriate weeks in respect of which she paid the twenty-sixth contribution as an employed person and ending with that week:

Provided that—

(i) a contribution shall not be so credited for any week which did not fall wholly within the period of the marriage in question or for any week in respect of which she has paid, or is to be treated as having paid, or, by virtue of any provision of the regulations made under the Act except this regulation, is to be credited with, a contribution of the class of which, but for this proviso, a contribution would fall to be credited to her in accordance with this regulation or (where the contribution of that class is a contribution as a self-employed person) a contribution as an employed person;

(ii) where, in accordance with the foregoing provisions of this regulation, a contribution as an employed person falls to be credited to a woman for any week for which she has paid, or is to be treated as having paid, or is to be credited with a contribution as a self-employed person, the crediting of that contribution as an employed person shall be taken into account for the purposes specified in the next following paragraph to the exclusion of the payment or crediting of the contribution as a self-employed person.

(3) The purposes for which contributions credited to a woman by virtue of the foregoing provisions of this regulation shall be so credited are—

(*a*) for the purpose of her satisfying, as respects the fifty contributions required to have been paid or credited in a contribution year, the contribution conditions for unemployment and sickness benefit; and

(*b*) for the purpose of her satisfying the conditions attaching to exception from liability to pay, and to the crediting of, contributions which are contained in the Schedule to the National Insurance (Contributions) Regulations, 1948(a)."

Amendment of regulation 8A of the principal regulations

4. In regulation 8A of the principal regulations (which regulation has effect by virtue of regulation 3 of the National Insurance (Married Women) Amendment Regulations, 1956(b)), at the end of paragraph (6) thereof (which paragraph qualifies the provision by virtue of which, in the circumstances specified in that regulation, a woman is to be deemed to have paid the contributions required to have been paid as a condition of entitlement to a retirement pension), there shall be added the following words:—

" Provided that a woman affected by sub-paragraph (*b*) or sub-paragraph (*c*) of this paragraph shall cease to be so affected if and when she remarries on or after the date of the coming into force of this proviso."

and that paragraph shall accordingly have effect as set out in the Schedule to these regulations.

Provisions added to the principal regulations

5. The following provisions shall be added after regulation 8A of the principal regulations:—

" *Women ceasing to be affected by regulation 8A (6) (b) or regulation 8A (6) (c)*

8B. Where, by virtue of the proviso to paragraph (6) of the last foregoing regulation, a woman ceases to be affected by sub-paragraph (*b*) or sub-paragraph (*c*) of that paragraph, she shall, in respect of any contribution week for which the Minister is satisfied that widow's benefit (not being a widow's basic pension) would (or would apart from her satisfying the condition of making a claim therefor) have been payable to her had not personal benefit such as is referred to in the said sub-paragraphs been payable to her, be treated for the purpose of the crediting of contributions under regulation 6 of the National Insurance (Contributions) Regulations, 1948 (which relates to persons in receipt of widow's benefit), as if such widow's benefit had been payable to her.

Retirement pensions for women whose marriages have been dissolved

8C.—(1) Where a woman's marriage has been terminated otherwise than by the death of her husband and she was under pensionable age on the date of that termination, she may elect that, in calculating for the purpose of her right to a retirement pension by virtue of her own insurance the yearly average of the contributions paid by or credited to her, there shall be treated as so paid or credited for each contribution year falling wholly or partly during the period of the marriage a number of contributions equal to the yearly average (ascertained as at the date of the termination of the marriage or of her husband's attaining pensionable age, whichever is the earlier) of the contributions paid by or credited to her husband, instead of the number of contributions actually paid by or credited to her for that year.

(a) S.I. 1948/1417 (Rev. XVI, p. 164: 1948 I, p. 2767). (b) S.I. 1956/2108 (1956 I, p. 1681).

(2) Where a woman's marriage has been terminated otherwise than by the death of her husband and she was not under pensionable age on the date of that termination, she shall, subject to the provisions of the Act, be entitled to a retirement pension by virtue of his insurance as if he had died on the date of that termination.

(3) Where at the date of the termination of a marriage otherwise than by death, the husband would, had he then died, have satisfied, as respects the number of contributions required to have been actually paid since entry into insurance, the contribution conditions for a retirement pension, the wife shall, for the purpose of her right to a retirement pension by virtue of her own insurance, be deemed to have satisfied those contribution conditions in that respect.

(4) The foregoing provisions of this regulation shall not apply in the case of a woman whose marriage has been terminated otherwise than by the death of her husband if, being under pensionable age on the date of that termination, she has remarried after that termination and before attaining that age.

Death grant in respect of the death of a woman whose marriage was dissolved

8D. Where a woman, whose marriage was terminated otherwise than by the death of her husband and who did not thereafter remarry, dies and the contribution conditions for a death grant in respect of her death are not satisfied by her, the following provisions shall apply for the purposes of such a grant:—

(1) If she did not satisfy the condition specified in head (*a*) of sub-paragraph (1) of paragraph 5 of the Third Schedule to the Act (which sub-paragraph specifies the contribution conditions for death grant), she shall be deemed to have satisfied that condition if not less than twenty-six contributions as an insured person were paid by or credited to her husband in respect of the period between the 5th July, 1948, and the date of the termination of that marriage or the date of his attaining pensionable age, whichever is the earlier.

(2) If she did not satisfy either of the conditions specified in head (*b*) of the said sub-paragraph (1), she shall be deemed to have satisfied one of those conditions if either—

(*a*) not less than forty-five contributions as an insured person were paid by or credited to her husband in respect of weeks in his last complete contribution year before the date of her death or the date of his attaining pensionable age, whichever is the earlier, excluding any week which did not fall wholly or partly during the period of the marriage; or

(*b*) the yearly average of the contributions paid by or credited to her (ascertained as at the date of her death or the date of her attaining pensionable age, whichever is the earlier) would have been not less than forty-five if there were treated as so paid or credited for each contribution year falling wholly or partly during the period of the marriage a number of contributions equal to the yearly average (ascertained as at the date of the termination of the marriage or of his attaining pensionable age, whichever is the earlier) of the contributions paid by or credited to her husband, instead of the contributions actually paid by or credited to her for that year.

(3) For the purposes of regulation 10 of the National Insurance (Death Grant) Regulations, 1949(a) (which relates to the partial satisfaction of the contribution conditions for, and to a reduction of the amount of, a death grant), the yearly average of the contributions paid by or credited to her shall be ascertained on the basis specified in sub-paragraph (*b*) of the last foregoing paragraph if the yearly average so ascertained is higher than the yearly average of the contributions actually paid by or credited to her.".

Transitory provisions

6. In the case of a woman whose marriage was terminated before the date on which these regulations come into force the provisions of the regulation which, by regulation 3 of these regulations, is substituted for regulation 8 of the principal regulations and the provisions of regulation 8C which, by the last foregoing regulation, is added to the principal regulations shall apply subject to the qualification that no benefit shall be payable by virtue of either the said regulation 3 or the said regulation 8C in respect of any period before that date.

Dated this 25th day of July, nineteen hundred and fifty-seven.

John Boyd-Carpenter,
Minister of Pensions and
National Insurance.

Dated this 26th day of July, nineteen hundred and fifty-seven.

Edward Wakefield,
Anthony Barber,
Two of the Lords Commissioners
of Her Majesty's Treasury.

SCHEDULE **Regulation 4**

PARAGRAPH (6) OF REGULATION 8A OF THE PRINCIPAL REGULATIONS AS AMENDED*

(6) The provisions of sub-paragraph (*f*) of paragraph (1) of this regulation—

(*a*) shall not, in the case of a woman who, having ceased to be entitled as is mentioned in that paragraph, remarries before she attains pensionable age, apply by reason of her ceasing to be entitled as aforesaid before her remarriage;

(*b*) shall not apply in the case of a woman who is entitled when she attains pensionable age to personal benefit by way of a widow's pension under the Industrial Injuries Act or any Personal Injuries Scheme or any Service Pensions Instrument or any 1914-1918 War Injuries Scheme at a weekly rate which is equal to or exceeds the weekly rate of widow's pension under the Act which is specified in the second column of Part I of the Second Schedule thereto; and

(a) S.I. 1949/1204 (1949 I, p. 2708).

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

(*c*) shall not operate, in the case of any other woman who is entitled when she attains pensionable age to such personal benefit as aforesaid, to entitle her to a retirement pension at a weekly rate which exceeds the difference between the weekly rate of widow's pension under the Act which is so specified and the weekly rate of that personal benefit:

Provided that a woman affected by sub-paragraph (b) or sub-paragraph (c) of this paragraph shall cease to be so affected if and when she remarries on or after the date of the coming into force of this proviso.

EXPLANATORY NOTE

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

These Regulations substantially reproduce (in a modified form) and extend those provisions of the National Insurance (Married Women) Regulations, 1948, which provide for the crediting of contributions for the purpose of determining the rate of unemployment and sickness benefit in the case of a woman whose marriage is terminated. They add to those Regulations provisions for taking into account, for the purpose of a retirement pension for a woman whose marriage has been dissolved and for the purpose of a death grant in respect of the death of such a woman, contributions paid by or credited to her husband. They also provide that the limitation (imposed by those Regulations in relation to some women entitled to certain descriptions of widow's pension payable otherwise than under the National Insurance Act, 1946) on the effect of deeming them to have satisfied one of the contribution conditions for a retirement pension shall cease on remarriage; and they provide, in a case where the limitation ceases in relation to a woman, for her to be credited with contributions as if she had not been entitled to the relevant widow's pension. The remaining provisions are of a consequential character.

The preliminary draft of these Regulations was submitted to the National Insurance Advisory Committee in accordance with section 77 of the National Insurance Act, 1946, and their report thereon dated the 19th June, 1957, is contained in the House of Commons Paper No. 201 (Session 1956-57) published by Her Majesty's Stationery Office.