STATUTORY INSTRUMENTS

1961 No. 2498

NATIONAL INSURANCE

The National Insurance (Married Women) Amendment Regulations, 1961

Laid before Parliament in draft

Made - - - - 29th December, 1961
Coming into Operation 5th January, 1962

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, in conjunction with the Treasury, in exercise of powers conferred by section 59 of the National Insurance Act, 1946(a), and of all other powers enabling him in that behalf, after considering the report of the National Insurance Advisory Committee on the preliminary draft submitted to them, hereby makes the following regulations:—

Citation, interpretation and commencement

1. These regulations, which may be cited as the National Insurance (Married Women) Amendment Regulations, 1961, shall be read as one with the National Insurance (Married Women) Regulations, 1948(b), as amended(c), (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. In paragraph (2) of regulation 1 of the principal regulations (which paragraph relates to interpretation), after the definition of "the Industrial Injuries Act", there shall be inserted the following definition:—

"'the Contributions Regulations' means the National Insurance (Contributions) Regulations, 1948(d);".

Provisions added to the principal regulations

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

"*Credits for widows*

8E.—(1) A contribution as a non-employed person shall be credited to a woman in respect of every week, whether before or after the coming into operation of this regulation, for the whole or any part of which widow's benefit (not being a widow's basic pension) is payable to her, or would be so payable but for the provisions of subsection (3) of section 17 of the Act (which subsection relates to the reduction, based on earnings, of certain allowances and pensions).

(2) A contribution as a non-employed person shall be credited to a woman, for the purpose of her right to retirement pension, in respect of

(a) 9 & 10 Geo. 6. c. 67. (b) S.I. 1948/1470 (Rev. XVI, p. 123: 1948 I, p. 2795).
(c) National Insurance Act, 1953, s. 9 and First Schedule, paragraph 15 (1 & 2 Eliz. 2. c. 29); S.I. 1954/163, 1956/2108, 1957/1322, 1960/2429 (1954 I, p. 1381; 1956 I, p. 1681; 1957 I, p. 1681; 1960 II, p. 2358).
(d) S.I. 1948/1417 (Rev. XVI, p. 164: 1948 I, p. 2767).

any week, whether before or after the coming into operation of this regulation, for the whole or any part of which widow's benefit (not being a widow's basic pension) would have been payable (or would have been payable apart from the provisions of the said subsection (3) of section 17 of the Act) to her but for the existence of one or more of the following circumstances:—

(i) her absence from Great Britain,

(ii) the operation of the provisions of regulations made under section 30 of the Act (which relates to overlapping benefits),

(iii) her failure to make or delay in making a claim for such benefit,

(iv) the fact that the week in question preceded the appointed day under the Family Allowances and National Insurance Act, 1956(a),

(v) in the case of a woman to whom widow's benefit was payable by virtue of paragraph (1) of regulation 2 of the National Insurance (Widow's Benefit and Retirement Pensions) Regulations, 1948(b), or paragraph (2) of regulation 4 of the National Insurance (Pensions, Existing Beneficiaries and Other Persons) (Transitional) Regulations, 1948(c), (which regulations relate to widow's pension for widows incapable of self-support) for two or more periods separated by a period or periods during which such benefit was not payable because she was not incapable of self-support, the fact that she was not incapable of self-support during the latter period or periods.

(3) A contribution as a non-employed person shall be credited to a woman, for the purpose of her right to retirement pension, if and when she remarries, in respect of any week commencing on or after the 6th January, 1958, for the whole or any part of which any of the specified benefits, as defined in paragraph (4) of regulation 2 of the Overlapping Benefits Regulations, was payable to her as a widow at a weekly rate which was equal to or exceeded the weekly rate of widow's pension under the Act, current in that week, as specified in the second column of Part I of the Second Schedule thereto:

Provided that any week to which there related a certificate of exception from liability to pay contributions issued to her by the Minister pursuant to regulations providing for the grant of such certificates of exception in cases where any of those specified benefits are payable to a widow at a certain weekly rate, shall be deemed to be a week to which this paragraph applies, notwithstanding any increase in the weekly rate of widow's pension under the Act.

(4) Any contribution credited to a woman in accordance with the provisions of paragraph (1), (2) or (3) of this regulation, in respect of any week commencing before the date of the coming into operation of this regulation, may only be taken into account for the purpose of a right to benefit for any period commencing on or after that date.

(5) Where by virtue of these regulations more than one contribution is credited to a woman for any week or a contribution is credited to her for a week in respect of which a contribution is paid in respect of her or is credited to her by virtue of any other regulations, not more than one such contribution shall be taken into account for any purpose.

(6) In calculating the yearly average of contributions paid by or credited to a woman for the purpose of her right to a retirement pension, any contribution credited to her by virtue of the provisions of this regulation, or

(a) 4 & 5 Eliz. 2. c. 50.
(b) S.I. 1948/1261 (Rev. XVI, p. 207: 1948 I, p. 2704).
(c) S.I. 1948/55 (Rev. XVI, p. 36: 1948 I, p. 2822).

of paragraph (2) of regulation 6 of the Contributions Regulations (which paragraph provides for the credit of contributions to certain women in receipt of widow's benefit, or retirement pension by virtue of a husband's insurance), shall be either taken into account or omitted from the calculation, whichever course may from time to time be more to her advantage.

(7) For the purpose of calculating the yearly average of the contributions paid by or credited to a woman who, immediately before the 5th July, 1948, was under pensionable age and on that date was over the age of sixteen, and who has at no time become an insured person but to whom contributions have been credited by virtue of the provisions of this regulation, the provisions of regulation 2 of the National Insurance (New Entrants Transitional) Regulations, 1949(a), as amended(b), (which relate to the period over which the yearly average of contributions is to be calculated in the case of new entrants into insurance) shall apply in her case as though she were a person becoming insured under the Act.

(8) Where a woman is in receipt of any death benefit by way of pension or allowance payable to her as the widow of the person in respect of whose death that benefit is payable under the Industrial Injuries Act, any Personal Injuries Scheme, any Service Pensions Instrument or any 1914–1918 War Injuries Scheme, any retirement pension which is payable to her wholly or in part by taking into account contributions credited to her by virtue of the provisions of this regulation, or of paragraph (2) of regulation 6 of the Contributions Regulations, shall, for the purposes of regulations for adjusting benefit payable to or in respect of any person, or the conditions for receipt thereof, made under section 30 of the Act, be treated as payable, wholly or in part, by virtue of her husband's contributions or insurance:

Provided that, in the case of a woman who has been a widow more than once, the provisions of this paragraph shall apply in relation only to contributions credited to her as the widow of her last husband.

Special provision relating to retirement pensions for widows entitled to widow's benefit

8F.—(1) Subject to the provisions of paragraph (2) of this regulation, where a woman is entitled to widow's benefit (other than widow's basic pension) immediately before she attains pensionable age or would be so entitled but for one or more of the following causes—

(i) the operation of any provisions of either the Act or any regulations made thereunder relating to earnings,

(ii) her imprisonment or detention in legal custody,

(iii) her cohabitation with a man as his wife,

(iv) the operation of the provisions of regulations made under section 30 of the Act,

(v) failure to make or delay in making a claim to such benefit,

she shall be deemed to have satisfied, as respects the one hundred and fifty-six contributions required to have been paid, the contribution conditions for a retirement pension.

(2) The provisions of paragraph (6) of regulation 8A other than sub-paragraph (*a*) shall apply in relation to paragraph (1) of this regulation as they apply to sub-paragraph (*f*) of paragraph (1) of that regulation."

(a) S.I. 1949/352 (1949 I, p. 2737).
(b) S.I. 1958/1239 (1958 II, p. 1661).

Revocation of regulation 8B of the principal regulations

4. Regulation 8B of the principal regulations is hereby revoked but without prejudice to anything duly done or suffered or to any right, privilege, obligation or liability acquired, accrued, or incurred thereunder.

Dated this 29th day of December, 1961.

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

Dated this 14th day of December, 1961.

John Hill,
W. S. I. Whitelaw,
Two of the Lords Commissioners of Her Majesty's Treasury.

EXPLANATORY NOTE

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

These Regulations amend the National Insurance (Married Women) Regulations, 1948, by the addition of two new regulations, 8E and 8F.

The new Regulations enlarge the provisions for crediting contributions to widows, contained in Regulations 6 and 6A of the National Insurance (Contributions) Regulations, 1948. Provision is now made for certain credits to be given irrespective of exception from liability to pay contributions, to widows to whom widow's benefit is payable, and, for the purpose of retirement pension, to widows to whom widow's benefit would be payable but for the existence of certain circumstances. Widows who are only entitled to benefit under the Industrial Injuries Act or a war pension, which is payable at a certain rate, will receive credits, for the purpose of retirement pension, on remarriage. The new Regulations also provide for women entitled to widow's benefit immediately before attaining pensionable age, and those who would be so entitled but for certain disqualifying causes, to be deemed to have satisfied the contribution conditions for a retirement pension as respects the minimum number of contributions required to have been paid since entry into insurance.

The remaining provisions are consequential.

The report of the National Insurance Advisory Committee on the preliminary draft of these Regulations, dated 17th November, 1961, is contained in the House of Commons Paper, No. 24 (Session 1961-62) published by Her Majesty's Stationery Office.