1973. No. 146 **[C]**

NATIONAL INSURANCE

Married Women

REGULATIONS, DATED 9TH MAY 1973, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES, IN CONJUNCTION WITH THE MINISTRY OF FINANCE, UNDER THE NATIONAL INSURANCE ACT (NORTHERN IRELAND) 1966.

The Ministry of Health and Social Services on behalf of the Secretary of State, in conjunction with the Ministry of Finance on behalf of the Secretary of State, so far as relates to matters with regard to which the Ministry of Finance has so directed, in exercise of powers conferred by sections 21(5), 96 and 105 of the National Insurance Act (Northern Ireland) 1966(a), and of all other powers enabling it in that behalf, hereby makes the following regulations being regulations subject to negative resolution in accordance with section 101(3) of that Act:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Insurance (Married Women) Regulations (Northern Ireland) 1973 and shall come into operation on 14th May 1973.

(2) In these regulations—

"the Act" means the National Insurance Act (Northern Ireland) 1966;

"the Insurance Act" means the National Health Insurance Act 1936(b);

"the Contributory Pensions Act" means the Widows', Orphans' and Old Age Contributory Pensions Act (Northern Ireland) 1936(c);

"the Contributions Regulations" means the National Insurance (Contributions) Regulations (Northern Ireland) 1962(d);

"the Existing Beneficiaries Regulations" means the National Insurance (Pensions, Existing Beneficiaries and Other Persons) (Transitional) Regulations (Northern Ireland) 1948(e);

"the Overlapping Benefits Regulations" means the National Insurance (Overlapping Benefits) Regulations (Northern Ireland) 1973(f);

"appropriate weekly rate" means, in relation to any benefit, the weekly rate of personal benefit by way of benefit of that description which is appropriate in the case of the person in relation to whom the provision containing that expression is to be applied;

"contribution year" and "benefit year" have the same meanings as in the National Insurance (General Benefit) Regulations (Northern Ireland) 1971(g);

"contributions" has the same meaning as in the Act save that it does not include graduated contributions under the Act;

"determining authority" means, as the case may require, an insurance officer appointed under section 67(1) of the Act, a local tribunal constituted under section 76 of the Act, or the Commissioner;

"marriage" includes any remarriage, and the word "married", wherever it occurs, shall be construed accordingly;

(a) 1966. c. 6 (N.I.).
(b) 26 Geo. 5 & 1 Edw. 8. c. 32.
(c) 26 Geo. 5 & 1 Edw. 8. c. 32 (N.I.).
(d) S.R. & O. (N.I.) 1962, No. 65.
(e) S.R. & O. (N.I.) 1948, No. 39.
(f) S.R. & O. (N.I.) 1973, No. 10.
(g) See reg. 2 of S.R. & O. (N.I.) 1971, No. 190.

"personal benefit", "Personal Injuries Scheme", "Service Pensions Instrument" and "1914-1918 War Injuries Scheme" have the same meanings as in the Overlapping Benefits Regulations;

"week" means a contribution week(**h**);

"widow's basic pension" has the same meaning as in the Existing Beneficiaries Regulations.

Married women who are employed persons

2.—(1)(*a*) A woman may elect not to be, and thereafter (subject to the provisions of paragraph (2)) shall not be, liable to pay contributions under the Act in respect of any employment as an employed person for any period during which she is married.

(*b*) Nothing in this regulation shall relieve an employer of any liability imposed on him by the Act in relation to employer's contributions.

(2)(*a*) Any such election by a married woman not to pay contributions as an employed person may be made by her at any time by giving notice in writing to the Ministry to that effect, and the election shall be operative from the beginning of the week next but one following the week in which the notice was given or from such earlier date as the Ministry may allow.

(*b*) Any such election by a married woman may be cancelled by her at any time by giving notice to the Ministry to that effect, and such cancellation shall be operative from the beginning of the week next but one following the week in which the notice was given or from such earlier date as the Ministry may allow:

Provided that such cancellation shall be without prejudice to the right of the person concerned again to make any such election from time to time.

(3)(*a*) A married woman who has elected not to pay contributions in accordance with the provisions of this regulation, and who is at the time of the election in an employed contributor's employment or thereafter enters such employment, shall, at that time or at the commencement of the subsequent employment, as the case may be, make application to the Ministry for a certificate of such election, which shall be issued to her by the Ministry on any such application, and the married woman shall produce such certificate to her employer forthwith.

(*b*) If a married woman cancels any such election in accordance with the provisions of this regulation, she shall surrender the certificate to the Ministry at the time of the cancellation, and forthwith notify her employer of the cancellation.

(4) Where a married woman has cancelled her election not to pay contributions as an employed person, any contributions paid by or credited to her as an employed person (or, if she becomes self-employed, as a self-employed person) on or after the date on which the cancellation became operative shall not be taken into account for the purpose of determining her right to unemployment benefit or sickness benefit under the Act unless, before the day for which benefit is claimed, in the case of unemployment benefit, Condition I of Schedule 1 has been satisfied, and, in the case of sickness benefit, Condition II of that Schedule has been satisfied, and unless in either case the contributions so paid or credited are in respect of weeks commencing on or after the operative date of the said cancellation.

(h) See s.106(1) of National Insurance Act (Northern Ireland) 1966.

Married women who are self-employed persons

3.—(1)(*a*) A woman shall be excepted from liability to pay contributions in respect of any period during which she is married and is a self-employed person unless, during that period, she elects otherwise in accordance with the following provisions of this regulation.

(*b*) Every such election by a married woman shall be either an election to be liable to pay contributions as a self-employed person or an election to be liable to pay contributions as if she were a non-employed person notwithstanding that she is a self-employed person, and a woman who makes any such election shall, during the operation of the election but subject to the provisions of the Act and of regulations 5 and 6, be liable to pay the contributions which she has elected to be liable to pay:

Provided that, in relation to a married woman who has attained pensionable age but has not attained the age of 65, any such election made by her to be liable to pay contributions as if she were a non-employed person shall be treated as if it were an election to be liable to pay contributions as if she were a non-employed person and had not attained pensionable age.

(*c*) Where a married woman has elected under the foregoing provisions of this regulation to be liable to pay contributions as if she were a non-employed person, every such contribution paid by her in respect of a week commencing on or after 1st March 1954 and occurring during the operation of any such election shall be treated as if it were a contribution as a self-employed person for the purposes of regulation 4(1) and Condition II of Schedule 1 and, if it is paid in respect of a week commencing on or after the date on which she attained pensionable age, for the purposes of section 30(1) of the Act (increase in the weekly rate of a retirement pension where contributions as an employed or self-employed person have been paid by the beneficiary in respect of the period after his attaining pensionable age).

(2)(*a*) Every election by a married woman under the foregoing provisions of this regulation shall be made by her by giving notice in writing to the Ministry, and if such notice is given before the expiration of 13 weeks (or such longer period as the Ministry, having regard to all the circumstances of the case, may allow) beginning with the week next following the date on which she became or again became a married woman who was a self-employed person, the election shall be operative from that date, but if such notice is given thereafter, the election shall be operative from the beginning of the week in which the said notice was given.

(*b*) Any such election by a married woman may be cancelled by her at any time by giving notice in writing to the Ministry to that effect, and such notice shall be operative from the beginning of the week in which the notice was given.

(3) Where a married woman did not elect to pay contributions as a self-employed person under the Act, or elected to pay contributions as if she were a non-employed person, and subsequently elects to pay contributions as a self-employed person, any contributions paid by or credited to her as a self-employed person (or, if she becomes employed, as an employed person) on or after the date on which such latter election became operative shall not be taken into account for the purpose of determining her right to sickness

benefit under the Act unless, before the day for which benefit is claimed, Condition II of Schedule 1 has been satisfied, and unless the contributions so paid or credited are in respect of weeks commencing on or after the operative date of such election.

Married women who are non-employed persons

4.—(1) A woman shall be excepted from insurance under the Act during any period during which she is married and is a non-employed person unless she elects (in accordance with paragraph (2), but subject to the provisions of regulations 5 and 6) either to be liable to pay contributions as a non-employed person or to remain in insurance under the Act without paying contributions:

Provided that no such person shall be entitled to elect to remain in insurance without paying contributions unless immediately before the date on which the election would otherwise be effective she satisfies one of the following conditions, namely:

(*a*) that not less than 156 contributions, whether as an employed person or self-employed person, have been paid in respect of her since her entry into insurance under the Act; or

(*b*) in the case of a person who became insured under the Insurance Act or the Contributory Pensions Act before 30th September 1946, and who continued to be insured or treated as insured under either of those Acts up to immediately before 5th July 1948, that not less than 104 contributions have been paid in respect of her before 5th July 1948, under those Acts since her last entry into insurance under either of those Acts; or

(*c*) in the case of a person who became so insured on or after 30th September 1946, or, having become so insured before that day, had had less than 104 such contributions so paid in respect of her before 5th July 1948, and who in either case continued to be insured or treated as insured under either the Insurance Act or the Contributory Pensions Act up to immediately before 5th July 1948, that not less than 156 contributions, whether under those Acts or the Act, have been paid in respect of her since her last entry into insurance under the Insurance Act or the Contributory Pensions Act;

and, for the purpose of this proviso, if more than one contribution has been paid under the said Acts for any one week, any such contributions shall be treated as if they were one contribution.

(2)(*a*) Every election by a married woman under the foregoing provisions of this regulation shall be made by her by giving notice in writing to the Ministry, and if such notice is given before the expiration of 13 weeks (or such longer period as the Ministry, having regard to all the circumstances of the case, may allow) beginning with the week next following the date on which she became or again became a married woman who was a non-employed person, the election shall be operative from that date, but if such notice is given thereafter, the election shall be operative from the beginning of the week in which the said notice was given.

(*b*) Any such election by a married woman may be cancelled by her at any time by giving notice in writing to the Ministry to that effect, and such notice shall be operative from the beginning of the week in which the notice was given.

(3) Where a married woman, being a person who as a non-employed person did not elect to pay contributions under the Act or elected to be insured only, subsequently pays, or has credited to her, contributions either as an employed person or self-employed person, any such contributions shall not be taken into account for the purpose of determining her right to unemployment or sickness benefit, unless before the day for which benefit is claimed, in the case of unemployment benefit, Condition I of Schedule 1 has been satisfied, and, in the case of sickness benefit, Condition II of that Schedule has been satisfied, in either case in respect of weeks to which the said subsequent payment or crediting of contributions relates.

(4) Where a married woman by reason of any provision of this regulation ceases to be an insured person under the Act, but thereafter becomes insured thereunder, the date of her entry into insurance shall (subject to any regulations(i) made under the transitory provisions of paragraph 17 of Schedule 9 to the Act) be the date on which she first became an insured person under the Act, notwithstanding that she may have ceased to be an insured person on more than one occasion.

Special condition relating to payment of contributions by married women as non-employed persons in certain cases

5. A married woman who—

(*a*) being an employed person, has, in respect of any period, elected not to be liable to pay contributions; or

(*b*) being a self-employed person, has, in respect of any period, not elected to be liable to pay contributions as a self-employed person, or has cancelled any election as a self-employed person to be liable to pay contributions as if she were a non-employed person (not being for the purpose of paying contributions as a self-employed person); or

(*c*) being a non-employed person, has, in respect of any period, not elected to be liable to pay contributions;

shall, after any such election, failure to elect or cancellation of an election, not be entitled to pay contributions as, or as if she were, a non-employed person unless and until (after making any necessary election or cancellation of an election in accordance with these regulations) she has in respect of weeks commencing after the election, failure or cancellation, as the case may be, satisfied Condition II of Schedule 1.

Contribution test for married women

6. Where, in respect of a contribution year beginning after 5th July 1948 during the whole of which a person is a married woman, less than 45 contributions of any class under the Act have been paid by or credited to her she shall not be entitled in respect of any period after the end of that contribution year to pay contributions as, or as if she were, a non-employed person unless and until Condition II of Schedule 1 has been satisfied in respect of weeks commencing after the end of that contribution year.

Limitation of the operation of regulations 5 and 6

7. The provisions of regulations 5 and 6 shall not operate to prevent the payment by a married woman of any contribution in respect of any week commencing on or after 1st March 1954 except in the case of a married woman who, immediately before that date, by virtue of the operation of those provisions, either—

(i) See reg. 3 of S.R. & O. (N.I.) 1948, No. 129; S.R. & O. (N.I.) 1948, No. 228 as amended by S.R. & O. (N.I.) 1949, No. 141; reg. 2 of S.R. & O. (N.I.) 1948, No. 239.

(*a*) was not entitled to pay contributions as, or as if she were, a non-employed person notwithstanding that she had elected to be liable to pay such contributions; or

(*b*) would not have been so entitled if she had been able to elect, and had elected, so to be liable,

unless and until Condition II of Schedule 1 should have been satisfied in respect of appropriate weeks determined in accordance with those provisions; and, in the case of any such married woman, those provisions shall cease to apply if and when, on or after that date, that Condition is satisfied in respect of those weeks or she ceases to be a married woman.

Waiving of Conditions in Schedule 1 on cessation of marriage

8. Where for the purpose of any provision of these regulations a married woman is during any period in process of satisfying either Condition I or Condition II of Schedule 1, and at that time ceases to be a married woman either by reason of the death of her husband or otherwise, the Condition then applicable shall be treated as waived, and any contributions paid by her in respect of the period during which she was subject to that Condition shall be taken into account as if she had been a single woman, subject to the qualification that the waiving of the Condition shall not entitle her to payment of any benefit for any period before the cessation of the marriage which would not have been payable if the Condition had not been waived.

Special credits where a woman's marriage has been terminated

9.—(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), if at any time, in respect of weeks beginning not earlier than the 26th week next before the termination of that marriage (hereafter in this regulation referred to as "the appropriate weeks") she has not paid 26 contributions as an employed person but has paid 26 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 26 contributions as an employed person.

(2) Contributions credited to a woman by virtue of paragraph (1) shall be—

(*a*) if she has not paid 26 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 26th 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) 26 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 26th 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 paragraph (3) 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 50 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 Schedule 1 to the Contributions Regulations.

Modifications, in relation to widows, of provisions with respect to unemployment, sickness and invalidity benefit and retirement pensions

10.—(1) Subject to the following provisions of this regulation, where, otherwise than by reason of remarriage or cohabitation with a man as his wife, a woman either ceases to be entitled to a widow's allowance or ceases to be entitled to a widowed mother's allowance—

(*a*) she shall be deemed to have satisfied, as respects the 26 contributions required to have been paid, the contribution conditions for unemployment and sickness benefit;

(*b*) for the purpose of her satisfying, as respects the 50 contributions required to have been paid or credited in a contribution year, the contribution conditions for unemployment and sickness benefit and of her satisfying the conditions attaching to exception from liability to pay, and to the crediting of, contributions which are contained in Schedule 1 to the Contributions Regulations, a contribution as an employed person shall be credited to her for each week which began in the period commencing with the beginning of the last complete contribution year before the beginning of the benefit year which includes the day on which she ceases to be entitled as aforesaid and ending with that day;

(c) for the purposes of the provisions of section 20(1) of the Act (exhaustion of, and requalification for, unemployment benefit) if the day on which she ceases to be entitled as aforesaid falls during a period of interruption of employment, any part of that period before that day shall be left out of account and, if on that day her right to unemployment benefit is exhausted, she shall be deemed to have requalified therefor on that day; and

(*d*) she shall be deemed to have satisfied, as respects the 156 contributions required to have been paid, the contribution conditions for a retirement pension or an invalidity pension.

(2) Where a woman ceases to be entitled to a widowed mother's allowance as is mentioned in paragraph (1) at a time when she is entitled 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 Schedule 3 thereto, and thereafter that personal benefit, while continuing to be payable, falls to be reduced to a weekly rate which is less than the said weekly rate of widow's pension under the Act, paragraph (1) shall apply to her both when she so ceases and when that personal benefit so falls to be reduced.

(3) In relation to a widow who, at her husband's death, would be entitled to a widow's allowance but for the fact that the conditions for a widow's allowance specified in section 25(1)(*b*) of the Act (widow's allowance) are not satisfied, paragraph (1)(*d*) shall, subject to the provisions of paragraph (6), apply as if she had then ceased to be entitled to a widow's allowance.

(4) Where a woman is entitled 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—

(*a*) if the weekly rate of that personal benefit is equal to or exceeds the appropriate weekly rate of unemployment benefit or sickness benefit, the provisions of sub-paragraphs (*a*) to (*c*) of paragraph (1) shall not operate to entitle her to unemployment benefit or sickness benefit for any period before she has paid 26 contributions of the appropriate class in respect of weeks beginning after she ceased to be entitled as is mentioned in paragraph (1); and

(*b*) if the weekly rate of that personal benefit is less than the said appropriate weekly rate, the said provisions shall not operate to entitle her to unemployment benefit, sickness benefit or invalidity benefit, for any period such as is mentioned in sub-paragraph (*a*), at a weekly rate which exceeds the difference between the said appropriate weekly rate and the weekly rate of that personal benefit.

(5) Where a woman is entitled to a widow's basic pension, the provisions of regulation 2(4) of the Overlapping Benefits Regulations (limitation on adjustment) shall not apply where the other personal benefit in question is unemployment benefit, sickness benefit or invalidity pension which would not be payable but for the foregoing provisions of this regulation for any period before she has paid 26 contributions of the appropriate class in respect of weeks beginning after she ceased to be entitled as is mentioned in paragraph (1).

(6) For the purposes of a retirement pension, the provisions of paragraph (1)(*d*)—

(*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 Schedule 3 thereto; and

(*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 (*c*) shall cease to be so affected if and when she remarries.

(7) In determining for the purpose of paragraph (1) whether a woman ceases to be entitled as is mentioned in that paragraph, a woman in whose case the Ministry is satisfied that she would be or would have been entitled to widow's benefit for any period but for any one or more of the following factors, namely—

(*a*) delay or failure to make a claim therefor;

(*b*) disqualification for the receipt of benefit for any other reason except her cohabitation with a man as his wife;

(*c*) the operation of the provisions of the Overlapping Benefits Regulations;

shall be treated as if she is or (as the case may be) was entitled thereto throughout that period.

(8) In determining for the purpose of paragraph (3) whether a woman would be entitled to a widow's allowance but for the fact mentioned in that paragraph, a woman in whose case the Ministry is satisfied that she would be so entitled but for that fact and for any one or more of the factors mentioned in paragraph (7) shall be treated as if she would be so entitled but for that fact.

(9) A woman shall not be entitled by virtue of this regulation to an increase of unemployment benefit, sickness benefit or invalidity pension in respect of a child or adult dependant for any period before she has paid 26 contributions of the appropriate class in respect of weeks beginning after she ceased to be entitled as is mentioned in paragraph (1).

(10) A woman who ceases to be entitled as is mentioned in paragraph (1) on more than one occasion shall be entitled to the benefit of the provisions of that paragraph, subject as therein mentioned, on each such occasion:

Provided that, in relation to such a woman, the references in paragraphs (4), (5) and (9) to her ceasing to be entitled as aforesaid shall be construed as references to the later or last of such occasions, so, however, that a woman who, after any occasion (hereafter in this paragraph called "the occasion in question") and before the next subsequent occasion, has satisfied, in relation to the occasion in question, the requirement of paying the 26 contributions referred to in paragraphs (4), (5) and (9), shall, in relation to any right to benefit arising by reason of the application of the provisions of paragraph (1) on the occasion in question, be relieved from any restriction on that right imposed by those paragraphs as if the provisions of paragraph (1) had not applied on any subsequent occasion.

(11) Where in accordance with the provisions of sub-paragraph (*b*) of paragraph (1) a contribution is credited or treated as paid for any week, any contribution under the Act otherwise credited, paid or treated as paid for that week shall be disregarded for the purpose specified in the said sub-paragraph (*b*), but for all other purposes shall be taken into account to the exclusion of any contribution credited or treated as paid in accordance with the provisions of that sub-paragraph.

(12) Where, but for this paragraph, the provisions of regulation 9 and the provisions of this regulation would be applicable for the purpose of determining a woman's right to unemployment benefit or sickness benefit for any day, her right thereto shall be determined by reference to the provisions of that one of those two regulations which is more favourable to her, to the exclusion of the provisions of the other.

Retirement pensions for women whose marriages have been dissolved

11.—(1) Where a woman's marriage (being, in the case of a woman who has been married more than once, her last marriage before attaining pensionable age) has been terminated otherwise than by the death of her husband and she was under pensionable age on the date of that termination, then, 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 from time to time be treated as so paid or credited either—

(*a*) for each contribution year falling wholly or partly before the date of that termination; or

(*b*) for each contribution year falling wholly or partly during the period of that marriage,

a number of contributions either—

(i) equal to the yearly average (ascertained as at the date of the termination of that marriage or the date on which her husband by that marriage attained pensionable age, whichever is the earlier) of the contributions paid by or credited to that husband, or

(ii) equal to the number of contributions actually paid by or credited to her for that year,

whichever will for the time being enable her to receive the greatest amount by way of pension.

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

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

12. 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 Schedule 2 to the Act (contribution conditions for death grant), she shall be deemed to have satisfied that condition if not less than 26 contributions as an insured person were paid by or credited to her husband in respect of the period between 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 45 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 45 if they 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 (Northern Ireland) 1949(j) (partial satisfaction of contribution conditions and reduced amount of death grant), the yearly average of the contributions paid by or credited to her shall be ascertained on the basis specified in paragraph (2)(*b*) if the yearly average so ascertained is higher than the yearly average of the contributions actually paid by or credited to her.

Credits for widows

13.—(1) A contribution as a non-employed person shall be credited to a woman in respect of every week for the whole or any part of which widow's benefit (not being a widow's basic pension or a widow's pension payable at a reduced weekly rate by virtue of section 27(3A)(k) of the Act) is payable to her.

(j) See Pt. III of Sch. to S.R. & O. (N.I.) 1957, No. 267.
(k) See s. 2 of National Insurance Act (Northern Ireland) 1970 (c. 28).

(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 any week for the whole or any part of which widow's benefit (not being a widow's basic pension or a widow's pension payable at a reduced weekly rate by virtue of section 27(3A) of the Act) would have been payable to her but for the existence of one or more of the following circumstances:

(*a*) her absence from Northern Ireland,

(*b*) the operation of the provisions of regulations made under section 49 of the Act (overlapping benefits),

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

(*d*) the fact that the week in question preceded the appointed day(**l**) under the Family Allowances and National Insurance Act (Northern Ireland) 1956(**m**),

(*e*) in the case of a woman to whom widow's benefit was payable by virtue of regulation 13(1) of the National Insurance (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland) 1972(**n**), or of regulation 4(2)(**o**) of the Existing Beneficiaries Regulations (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 6th January 1958, for the whole or any part of which any of the specified benefits, as defined in regulation 2(5) 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 Schedule 3 thereto:

Provided that any week to which there related a certificate of exception from liability to pay contributions issued to her by the Ministry 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), in respect of any week commencing before 5th March 1962, 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.

(**l**) 21st August 1956 (See S.R. & O. (N.I.) 1956, No. 122).
(**m**) 1956. c. 8.
(**n**) S.R. & O. (N.I.) 1972, No. 182.
(**o**) See Pt. II of Sch. to S.R. & O. (N.I.) 1957, No. 180.

(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 any regulations under section 5(1) of the Act of 1946 which provided for the crediting of contributions to certain women in respect 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 5th July 1948, was under pensionable age and on that date was over the age of 16, 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 (Northern Ireland) 1948(**p**) (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 any such regulations under section 5(1) of the Act of 1946 as are referred to in paragraph (6), 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 49 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

14.—(1) Subject to the provisions of paragraph (2), 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—

(*a*) her imprisonment or detention in legal custody,

(*b*) her cohabitation with a man as his wife,

(*c*) the operation of the provisions of regulations made under section 49 of the Act,

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

she shall be deemed to have satisfied, as respects the 156 contributions required to have been paid, the contribution conditions for a retirement pension.

(2) The provisions of paragraph (6) of regulation 10 other than sub-paragraph (*a*) shall apply in relation to paragraph (1) of this regulation as they apply to sub-paragraph (*d*) of paragraph (1) of that regulation.

(**p**) See Sch. to S.R. & O. (N.I.) 1958, No. 108.

Special provision relating to disqualification of married women for unemployment benefit

15. The question whether a married woman is subject to any of the disqualifications for unemployment benefit contained in section 21(3) of the Act shall be determined on the same basis as that applicable to a single woman, but not so as to exclude such consideration of the responsibilities arising from her marriage as is reasonable in the circumstances of the case.

Notice of marriage

16. It shall be the duty of every woman who, being an insured person, marries, to furnish any evidence of her marriage as may be required by the Ministry and to give notice to the Ministry in writing of her marriage not later than 13 weeks thereafter, or, if she claims benefit before the expiration of that period, at the time of making such a claim.

Notice by post

17. Any notice required by these regulations may be sent by post, and, if so sent, shall be deemed to have been given on the date on which it was posted.

Voidable marriages and presumption of death

18. For the purposes of regulations 9, 11 and 12—

(*a*) a voidable marriage which has been annulled, whether before or after 2nd September 1957, shall as from that date be treated as if it had been a valid marriage which was terminated by divorce at the date of the annulment; and

(*b*) 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 regulation 9, 11(1) or (3) or 12) of the Ministry or (as respects regulation 11(2)) 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.

Transitory provisions

19.—(1) The provisions of regulation 10 shall apply—

(*a*) in relation to a widow who, having at any time before 7th January 1957 been entitled to—

(i) a widow's allowance;

(ii) a widow's pension by virtue of section 17(3) of the Act of 1946 (widow's right to a widow's pension where she ceases to be entitled to widow's benefit at a time when she is by reason of any infirmity incapable of self-support and is under pensionable age);

(iii) a widowed mother's allowance by virtue of the provisions of regulation 4 of the Existing Beneficiaries Regulations(q); or

(iv) a widow's basic pension;

was not upon that date entitled to a widow's allowance, as if on that date she had ceased to be entitled to a widow's allowance; and

(q) See Pt. II of Sch. to S.R. & O. (N.I.) 1957, No. 180 and Sch. B to S.R. & O. (N.I.) 1964, No. 39.

(*b*) in relation to a widow who, having been entitled, immediately before the said date, to a widow's pension by virtue of the said section 17(3), ceases, otherwise than by reason of remarriage or cohabitation with a man as his wife, to be entitled to such pension as if she had then ceased to be entitled to a widow's allowance:

Provided that the provisions of regulation 10 shall not apply by virtue of sub-paragraph (*a*) in relation to a widow who, before the said date and after she last became entitled to widow's benefit under the said Act of 1946, remarried or was disqualified for the receipt of such benefit by reason of her cohabitation with a man as his wife or in relation to a widow who would have been entitled to widow's benefit under that Act for a period immediately before that date but for disqualification by reason of such cohabitation.

(2) A widow's pension which, for the purposes of section 17 of the said Act of 1946, is treated as if it were a pension payable by virtue of subsection (3) of that section shall be so treated for the purposes of this regulation.

(3) In determining for the purpose of paragraph (1) any question as to a woman's entitlement to widow's benefit, the provisions of paragraph (7) of regulation 10 shall apply as if that question were a question for determination for the purpose of paragraph (1) of that regulation.

(4) In their application to a woman whose marriage was terminated before 14th June 1971 the provisions of regulation 11 shall not, in respect of any period before that date, have effect so as to increase the amount of benefit which would have been payable but for their coming into operation.

Modifications of the Act

20. The provisions of the Act shall have effect subject to the modifications contained in these regulations.

Revocations

21. The regulations specified in Schedule 2 are hereby revoked to the extent mentioned in column (3) of that Schedule.

Sealed with the Official Seal of the Ministry of Health and Social Services for Northern Ireland this 9th day of May 1973.

(L.S.) *C. G. Oakes,*
Assistant Secretary.

Sealed with the Official Seal of the Ministry of Finance for Northern Ireland this 9th day of May 1973.

(L.S.) *C. F. Darling,*
Assistant Secretary.

SCHEDULE 1 Regulations 2, 3, 4, 5, 6, 7 and 8

CONDITION I

(relating to unemployment benefit)

That not less than 52 contributions as an employed person, whether or not in respect of continuous weeks, have been paid by or credited to a married woman, of which at least 26 were paid contributions.

CONDITION II

(relating to sickness benefit and the payment of contributions as a non-employed person)

That not less than 52 contributions, whether as an employed person or a self-employed person and whether or not in respect of continuous weeks, have been paid by or credited to a married woman, of which at least 26 were paid contributions.

SCHEDULE 2 Regulation 21

Regulations Revoked

Statutory Rules and Orders of Northern Ireland (1)	*Citation* (2)	*Extent of Revocation* (3)
S.R. & O. (N.I.) 1957, No. 178	The National Insurance (Annulled Marriages) Regulations (Northern Ireland) 1957.	The whole regulations.
S.R. & O. (N.I.) 1962, No. 64	The National Insurance (Married Women) Regulations (Northern Ireland) 1962.	The whole regulations.
S.R. & O. (N.I.) 1967, No. 234	The National Insurance (Increase of Benefit and Miscellaneous Provisions) Regulations (Northern Ireland) 1967.	Regulation 6.
S.R. & O. (N.I.) 1970, No. 295	The National Insurance (Widows' Pensions and Miscellaneous Provisions) Regulations (Northern Ireland) 1970.	Regulation 6.
S.R. & O. (N.I.) 1971, No. 168	The National Insurance (Married Women) Amendment Regulations (Northern Ireland) 1971.	The whole regulations.
S.R. & O. (N.I.) 1971, No. 287	The National Insurance (Miscellaneous Amendments) Regulations (Northern Ireland) 1971.	In the Arrangement of Regulations the entry relating to regulation 6; regulation 6.

EXPLANATORY NOTE

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

These regulations consolidate the National Insurance (Married Women) Regulations (Northern Ireland) 1962, and subsequent amending regulations which are set out in Schedule 2 and are revoked by regulation 21.

No amendments other than those of a drafting or consequential nature have been made.

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These Orders have been exempted from printing by the Statutory Rules Act (Northern Ireland) 1958. Summaries are given in the List of Statutory Rules and Orders of a Local Character under the heading ROADS.