1970. No. 281 **[C]**

NATIONAL INSURANCE

Old Persons' Pensions

REGULATIONS, DATED 3RD NOVEMBER 1970, MADE BY THE NATIONAL INSURANCE JOINT AUTHORITY AND THE MINISTRY OF HEALTH AND SOCIAL SERVICES, IN CONJUNCTION WITH THE MINISTRY OF FINANCE, UNDER THE NATIONAL INSURANCE ACTS (NORTHERN IRELAND) 1966 TO 1970.

The National Insurance Joint Authority, in exercise of powers conferred by section 49 of the National Insurance Act (Northern Ireland) 1966(**a**) and the Ministry of Health and Social Services, in exercise of powers conferred by sections 51, 96 and 105 of that Act and by sections 1, 8(5) and 9(4) of the National Insurance (Old Persons' and Widows' Pensions and Attendance Allowance) Act (Northern Ireland) 1970(**b**), in each case in conjunction with the Ministry of Finance so far as relates to matters with regard to which the Ministry of Finance has so directed, and in each case in consequence of the passing of the said Act of 1970, and in exercise of all other powers enabling them in that behalf, hereby make the following regulations, being regulations subject to negative resolution in accordance with section 101(3) as extended by section 101(4) of the said Act of 1966:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Insurance (Old Persons' Pensions) Regulations (Northern Ireland) 1970 and shall come into operation as respects regulations 8, 9, 10 and this regulation in so far as it relates to those provisions with effect from 2nd November 1970 and as respects the remainder of the regulations on 3rd November 1970.

(2) In these regulations—

"the Act of 1970" means the National Insurance (Old Persons' and Widows' Pensions and Attendance Allowance) Act (Northern Ireland) 1970;

"husband" in relation to any woman who has been married more than once means her last husband;

"a period of 10 years" means a period of, or periods amounting in the aggregate to, 3652 days;

"the principal Act" means the National Insurance Act (Northern Ireland) 1966.

(3) For the purposes of regulations 3(1)(*c*)(ii), 3(1)(*d*), 4(1)(*a*)(ii), 6(3) and 13 a person shall be deemed to be entitled to a pension if he would have been so entitled had he made a claim for it.

Conditions for entitlement to retirement pension for persons over pensionable age on 5th July 1948

2.—(1) The conditions specified in paragraph (2) shall be conditions for entitlement to a retirement pension by virtue of section 1(1)(*a*) of the Act of 1970 (retirement pensions for persons over pensionable age on 5th July 1948).

(**a**) 1966. c. 6 (N.I.). (**b**) 1970. c. 28 (N.I.).

(2) The conditions referred to in paragraph (1) are that the person concerned—

(*a*) has been resident in Northern Ireland for a period of 10 years between 5th July 1948 and 1st November 1970, inclusive of both dates; and

(*b*) was ordinarily so resident on 2nd November 1970 or the date of his claim for a pension by virtue of the said section 1(1)(*a*).

Retirement pension for widows of persons over pensionable age on 5th July 1948

3.—(1) Subject to the provisions of these regulations, a widow whose husband was over pensionable age on 5th July 1948 shall be entitled to a retirement pension at the appropriate weekly rate ascertained in accordance with the provisions of regulation 7 if she—

(*a*) is over pensionable age; and

(*b*) has retired from regular employment; and

(*c*) was over 50 years of age either—

(i) when her husband died; or

(ii) if she was entitled to a widowed mother's allowance by virtue of regulation 5, when she ceased to be so entitled; and

either—

(*d*) her husband was at any time entitled to a pension by virtue of section 1(1)(*a*) of the Act of 1970; or

(*e*) he died before 2nd November 1970 and—

(i) she has been resident in Northern Ireland for a period of 10 years between 5th July 1948 and 1st November 1970, inclusive of both dates; and

(ii) she was ordinarily so resident on 2nd November 1970 or the date of her claim for benefit under section 1(1) of the Act of 1970; and

(iii) her husband was ordinarily so resident on the date of his death.

(2) A retirement pension payable by virtue of paragraph (1) shall commence on 2nd November 1970 or the date on which the requirements of sub-paragraphs (*a*) to (*c*) and either (*d*) or (*e*) of that paragraph are satisfied in relation to the beneficiary, whichever is the later, and shall be payable for life.

Widow's pension for widows of persons over pensionable age on 5th July 1948

4.—(1) Subject to the provisions of these regulations, a widow whose husband was over pensionable age on 5th July 1948 shall be entitled to a widow's pension at the appropriate weekly rate ascertained in accordance with the provisions of regulation 7 if—

(*a*) she was over 50 years of age either—

(i) when her husband died; or

(ii) if she was entitled to a widowed mother's allowance by virtue of regulation 5, when she ceased to be so entitled; and

(*b*) the requirements of regulation 3(1)(*d*) or (*e*) are satisfied in her case.

(2) The period for which widow's pension is payable by virtue of paragraph (1) shall be any period during which the widow is under 65 years of age, and during which she is not entitled to a widowed mother's allowance by virtue of regulation 5, so however that the pension shall not be payable for any period after the widow's remarriage or during which she is cohabiting with a man as his wife.

Widowed mother's allowance for widows of persons over pensionable age on 5th July 1948

5.—(1) Subject to the provisions of these regulations, a widow whose husband was over pensionable age on 5th July 1948 shall be entitled to a widowed mother's allowance, at the appropriate weekly rate ascertained in accordance with the provisions of regulation 7, for any period commencing on the date on which the requirements of regulation 3(1)(*d*) or (*e*) are first satisfied in her case (but not earlier than 2nd November 1970) and during which she would have been entitled to such an allowance under section 26 of the principal Act (widowed mother's allowance) had her husband satisfied the contribution conditions set out in paragraph 4(1) of Schedule 2 to that Act.

(2) The provisions of section 39(3) of the principal Act (increases in widowed mother's allowance in respect of children) shall apply to widowed mother's allowance payable by virtue of this regulation as they apply to such an allowance payable by virtue of section 26(1)(*a*) of that Act.

Retirement pension for women whose marriage has been terminated otherwise than by death

6.—(1) Subject to the provisions of these regulations, a woman whose marriage to a husband who was over pensionable age on 5th July 1948 was terminated otherwise than by his death shall be entitled to a retirement pension at the appropriate weekly rate ascertained in accordance with the provisions of regulation 7 if—

(*a*) she had attained pensionable age before the date of the termination of the marriage; and

(*b*) she has retired from regular employment; and

(*c*) the conditions set out in paragraph (2) or (3), as the case may be, are satisfied.

(2) The conditions applicable to the case of a woman whose marriage was terminated before 2nd November 1970 shall be—

(*a*) that she has been resident in Northern Ireland for a period of 10 years between 5th July 1948 and 1st November 1970, inclusive of both dates; and

(*b*) that she was ordinarily so resident on 2nd November 1970 or the date of her claim for a pension by virtue of this regulation; and

(*c*) that her husband was ordinarily so resident on the date of the termination of the marriage; and

(*d*) that she has not remarried since that termination.

(3) The condition applicable in the case of a woman whose marriage was terminated on or after 2nd November 1970 shall be that her husband was entitled to a pension by virtue of section 1(1)(*a*) of the Act of 1970.

(4) For the purposes of this regulation a voidable marriage which has been annulled, whether before or after the date when these regulations come into operation, shall be treated as if it had been a valid marriage which was terminated at the date of the annulment otherwise than by the death of the husband.

(5) A retirement pension payable by virtue of paragraph (1) shall commence on 2nd November 1970 or the date on which the requirements of paragraph (1)(*a*) to (*c*) are satisfied in relation to the beneficiary, whichever is the later, and shall be payable for life.

Rates of benefit under section 1(1) *of the Act of* 1970 *and increases for adult dependants*

7.—(1) The weekly rate of benefit to which a person shall be entitled by virtue of section 1(1) of the Act of 1970 shall if that person is not a married woman be £3 and if she is a married woman be £1 17s. 0d. (and, as from 14th February 1971, £1·85), so however that a woman entitled to a retirement pension at the weekly rate of £3 shall if she marries continue to be so entitled at that rate.

(2) Where a retirement pension to which a person is entitled by virtue of section 1(1)(*a*) of the Act of 1970 falls to be increased in pursuance of section 42 of the principal Act (adult dependants), the amount of any such increase shall be reduced to an amount equal to the amount prescribed by paragraph (1) as the weekly rate of pension to which a married woman is entitled.

Adjustment of rates of benefit in cases of overlapping benefits

8.—(1) Notwithstanding the provisions of the National Insurance (Overlapping Benefits) Regulations (Northern Ireland) 1961(**c**) and subject to paragraph (2) of this regulation, where, for any period, a person is entitled to benefit by virtue of section 1(1) of the Act of 1970 and to some other benefit under the principal Act, whether of the same or a different description, the benefit by virtue of the said section 1(1) shall be adjusted by deducting therefrom the amount of that other benefit.

(2) Paragraph (1) shall not apply to a retirement pension payable to any woman who but for section 32(1) of the principal Act (which provides that a woman shall not be entitled to two retirement pensions) would also be entitled to a retirement pension under that Act at a weekly rate of less than that of the pension to which she would be entitled by virtue of section 1(1) of the Act of 1970.

(3) For the purposes of the National Insurance (Overlapping Benefits) Regulations (Northern Ireland) 1961 a retirement pension payable to a widow by virtue of section 1(1) of the Act of 1970 shall be treated as a retirement pension payable by virtue of her husband's insurance.

Restriction on benefit in certain cases

9.—(1) In the case of a widow of a member of the Royal Ulster Constabulary or the Ulster Special Constabulary who, as such a widow, is in receipt of a pension payable by virtue of the Constabulary Acts (Northern Ireland) 1922 to 1949, under the orders relating to the pensions of the Royal Ulster Constabulary or under the orders or regulations relating to the pensions of the Ulster Special Constabulary, widow's benefit shall not be payable by virtue of these regulations in respect of any week during which she is receiving an increase in the said pension under either—

(*a*) the provisions of paragraph 12 or 13B of the Schedule to the Royal Ulster Constabulary Pensions Order 1949(**d**) or of any corresponding orders from time to time in force; or

(*b*) the provisions of regulation 15 or 17 of the Ulster Special Constabulary Pensions Regulations 1950(**e**) or of any corresponding regulations from time to time in force.

(**c**) S.R. & O. (N.I.) 1961, No. 180.
(**d**) S.R. & O. (N.I.) 1949, No. 211 as amended by S.R. & O. (N.I.) 1964, No. 158.
(**e**) S.R. & O. (N.I.) 1950, No. 97.

(2) In respect of any period before 5th April 1971—

(*a*) a woman who married after attaining pensionable age shall not be entitled to a retirement pension by virtue of regulation 3 or 6 of these regulations unless she would be so entitled had the provisions of regulation 4(1)(**f**) of the National Insurance (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland) 1948(**g**) applied to her case as they apply to such a woman in relation to a retirement pension by virtue of her husband's insurance;

(*b*) a widow shall not be entitled to a pension by virtue of regulation 4 of these regulations unless either—

(i) she had been married to her husband for not less than 3 years or, by virtue of regulation 3(1)(**h**) of the National Insurance (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland) 1948 she would have been deemed to have satisfied the corresponding condition in section 27(2)(*a*) of the principal Act; or

(ii) she was entitled to widowed mother's allowance by virtue of regulation 5 of these regulations and when she ceased to be so entitled 3 years had elapsed since the date of the marriage or, by virtue of the said regulation 3(1), she would have been deemed to have satisfied the corresponding condition in section 27(3)(*b*) of the principal Act.

(3) For the purposes of paragraph (1) any reference in that paragraph to an Act, order or regulation shall include a reference to any legislation passed by the Parliament of the United Kingdom or, as the case may be, any regulation having effect by virtue of such legislation, being in each case passed or made for the purposes similar to the purposes of an Act, order or regulation specified in that paragraph.

Modification of section 40(4)(b) of the principal Act

10. In section 40(4)(*b*) of the principal Act (increases of retirement pension in respect of children) after the word "insurance" there shall be inserted the words "or of section 1 of the Act of 1970".

Provision as to claims for benefit

11. Benefit under section 1 of the Act of 1970 shall not be paid without a claim being made for it unless the beneficiary is—

(*a*) in receipt of a retirement pension or widow's benefit under the principal Act and ordinarily resident in Northern Ireland on 2nd November 1970; or

(*b*) in receipt of widow's benefit by virtue of these regulations.

Provision as to payment of benefit

12. In relation to benefit payable by virtue of section 1 of the Act of 1970, regulation 10 of the National Insurance (Claims and Payments) Regulations (Northern Ireland) 1961(**i**) (time and manner of payment of certain benefits) shall in the case of a person or the wife of a person who is in receipt of a supplementary pension or allowance under the Supplementary Benefits &c.

(*f*) See Sch. 4 to S.R. & O. (N.I.) 1962, No. 27.
(**g**) S.R. & O. (N.I.) 1948, No. 246.
(**h**) See Sch. to S.R. & O. (N.I.) 1953, No. 108 and reg. 2 of S.R. & O. (N.I.) 1956, No. 138.
(**i**) S.R. & O. (N.I.) 1961, No. 221.

Act (Northern Ireland) 1966(j) have effect as if in paragraph (4)(*a*)(k) of that regulation the reference to Tuesdays and in paragraph (4)(*b*)(l) thereof the reference to Thursdays were references to the days on which his supplementary pension or allowance is paid.

Application of provisions crediting contributions to certain widows

13. When a husband who is entitled to a pension by virtue of section 1(1) of the Act of 1970 dies, the provisions of regulation 10(1) of the National Insurance (Married Women) Regulations (Northern Ireland) 1962(m) (crediting of contributions in certain cases) shall, subject to paragraph (6) of that regulation, apply to his widow as if she had then ceased to be entitled to a widow's allowance.

Given under the Official Seal of the National Insurance Joint Authority this 3rd day of November 1970.

(L.S.) *D. G. Kelly,*
Secretary.

Given under the Official Seal of the Ministry of Health and Social Services for Northern Ireland this 3rd day of November 1970.

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

Given under the Official Seal of the Ministry of Finance for Northern Ireland this 3rd day of November 1970.

(L.S.) *R. R. Butler,*
Assistant Secretary.

(j) 1966. c. 28 (N.I.).
(k) See reg. 2 of S.R. & O. (N.I.) 1966, No. 219.
(l) See reg. 2 of S.R. & O. (N.I.) 1967, No. 203.
(m) S.R. & O. (N.I.) 1962, No. 64.

EXPLANATORY NOTE

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

These regulations prescribe the rate of, and conditions for entitlement to, retirement pension for persons over pensionable age on 5th July 1948 and provide benefit for their widows and former wives.

The weekly rate of benefit is to be £3 except for married women for whom it will be £1 17s. 0d.

In order to be entitled to benefit a person must generally satisfy conditions, other than contribution conditions, similar to those which apply to the corresponding benefit under the National Insurance Act (Northern Ireland) 1966; in addition there are certain conditions as to residence in Northern Ireland.

The regulations also make provision as to claims for and payment of the benefits, and for adjustment in cases where the beneficiary is also entitled to certain other benefits, and make other provisions which are of a minor and consequential nature.