1957 No. 1333

The National Insurance (Pensions, Existing Beneficiaries and Other Persons) (Transitional) Amendment Regulations, 1957

Made - - - -	*29th July*, 1957
Laid before Parliament	*2nd August*, 1957
Coming into Operation	*5th August*, 1957

The Minister of Pensions and National Insurance, acting in conjunction with the Treasury, in exercise of powers conferred by section 65 of the National Insurance Act, 1946(a), as amended by section 4 (1) of the National Insurance Act, 1954(b), and section 10 (2) of the National Insurance Act, 1957(c), and of all other powers enabling him in that behalf, hereby makes the following regulations :—

Citation, interpretation and commencement

1. These regulations, which may be cited as the National Insurance (Pensions, Existing Beneficiaries and Other Persons) (Transitional) Amendment Regulations, 1957, shall be read as one with the National Insurance (Pensions, Existing Beneficiaries and Other Persons) (Transitional) Regulations, 1948(d), as amended(e), (hereinafter referred to as " the principal regulations ") and shall come into operation on the 5th August, 1957.

Amendment of regulation 3 of the principal regulations

2.—(1) Regulation 3 of the principal regulations shall be amended in accordance with the provisions of the next following paragraph of this regulation and shall accordingly have effect as set out in Part I of the Schedule hereto.

(2) In paragraph (*a*) of the proviso to paragraph (2) of the said regulation 3 immediately before the words " subsection (3) of section 28 " the word " and " shall be deleted, and immediately after the word " benefit " at the end of the said paragraph (*a*) there shall be added " and subsection (1) of section 2 of the National Insurance Act, 1957, (which subsection amends the Act in relation to widow's benefit and retirement pensions for widows) ; ".

(3) In paragraph (*b*) of the proviso to paragraph (2) of the said regulation 3 immediately before the words " section 23 and 24 of the Act " the words " and of " shall be deleted and at the end of the said paragraph (*b*) there shall be added " and subsection (1) of section 1 of the National Insurance Act, 1957, (which subsection gives power to make regulations providing for re-entry into regular employment for certain persons who have retired from regular employment or have otherwise become entitled to a retirement pension) ; ".

(a) 9 & 10 Geo. 6. c. 67. (b) 3 & 4 Eliz. 2. c. 1.
(c) 5 & 6 Eliz. 2. c. 26. (d) S.I. 1948/55 (Rev. XVI, p. 36: 1948 I, p. 2822).
(e) The relevant amending regulations are S.I. 1949/1151, 1952/1559, 1956/1199 (1949 I, p. 2744; 1952 I, p. 2118; 1956 I, p. 1625).

Amendment of regulation 4 of the principal regulations

3.—(1) Regulation 4 of the principal regulations shall be amended in accordance with the provisions of the next following paragraph of this regulation and shall accordingly have effect as set out in Part II of the Schedule hereto.

(2) After paragraph (*b*) of the proviso to paragraph (3) of regulation 4 there shall be added the following paragraph:—

"(*c*) where subsection (1) of section 2 of the National Insurance Act, 1957, (which subsection amends the Act in relation to widow's benefit and retirement pensions for widows) applies to a widow to whom a widowed mother's allowance or a widow's pension is, or but for any disqualification would be, payable by virtue of this regulation, subsection (6) of the said section 21 shall not apply to her, but, if she was insured under the Contributory Pensions Acts immediately before the appointed day, she may elect that, for the purpose of calculating the yearly average of the contributions paid by or credited to her for the purpose of her right to a retirement pension by virtue of her own insurance, she shall be treated as if she had not then been insured under those Acts.".

Amendment of regulation 11 of the principal regulations

4.—(1) Regulation 11 of the principal regulations shall be amended in accordance with the provisions of the next following paragraph of this regulation and shall accordingly have effect as set out in Part III of the Schedule hereto.

(2) Immediately after paragraph (2) of regulation 11 of the principal regulations there shall be inserted the following paragraph:—

"(3) Where subsection (1) of section 2 of the National Insurance Act, 1957, applies to a widow to whom a widowed mother's allowance or a widow's pension is or but for any disqualification would be, payable by virtue of regulation 4 of these regulations, then, in the application of the provisions of subsection (5) of section 20 of the Act to a retirement pension to which she becomes entitled by virtue of her own insurance, such a pension shall not be reduced to less than a rate equal to the rate below which the retirement pension, which would have been payable to her by virtue of her husband's insurance but for the said subsection (1), could not have been reduced by reason of the provisions of sub-paragraphs (*c*) and (*d*) of paragraph (1) of this regulation:

Provided that this paragraph shall not apply to any period after the widow has remarried.".

Dated this 29th day of July, 1957.

John Boyd-Carpenter,

Minister of Pensions and National Insurance.

Dated this 29th day of July, 1957.

Harwood Harrison,

Anthony Barber,

Two of the Lords Commissioners of Her Majesty's Treasury.

SCHEDULE

PART I Regulation 2

CONTAINING REGULATION 3 OF THE PRINCIPAL REGULATIONS AS AMENDED BY THESE REGULATIONS*

Description of additional benefits to be included in benefit under the Act

3.—(1) Subject to the provisions of these regulations, there shall be included in the descriptions of benefit under the Act benefit of the following descriptions:—

(*a*) widow's basic pension;

(*b*) child's allowance;

(*c*) orphan's pension;

(*d*) contributory old age pension.

(2) Subject as aforesaid, for the purposes of the provisions of the Act and the orders and regulations for the time being in force thereunder, a widow's basic pension shall be treated as widow's benefit, a child's allowance or an orphan's pension shall be treated as guardian's allowance, and a contributory old age pension shall be treated as retirement pension:

Provided that—

(*a*) a widow's basic pension shall not be so treated for the purposes of the provisions of subsection (3) of section 18 of the Act (which subsection relates to widows' pensions for widows who would otherwise cease to be entitled to widow's benefit), paragraph (*b*) of subsection (1) and subsection (6) of section 21 thereof (which paragraph and subsection respectively relate to retirement pensions for widows in receipt of widow's benefit immediately before attaining pensionable age and for widows not so in receipt of widow's benefit), subsection (3) of section 28 thereof (which subsection also relates to retirement pensions for widows in receipt of widow's benefit), *and subsection* (1) *of section* 2 *of the National Insurance Act*, 1957, (*which subsection amends the Act in relation to widow's benefit and retirement pensions for widows*);

(*b*) a contributory old age pension shall not be so treated for the purposes of the provisions of paragraph (*a*) of subsection (1) of section 17 of the Act (which paragraph relates to the conditions for a widow's allowance), subsection (5) of section 20 and subsection (3) of section 21 of the Act (which subsections relate to the reduction of retirement pension in respect of earnings), sections 23 and 24 of the Act (which sections relate to increases of benefit in respect of children and adult dependants respectively) *and subsection* (1) *of section* 1 *of the National Insurance Act*, 1957, (*which subsection gives power to make regulations providing for re-entry into regular employment for certain persons who have retired from regular employment or have otherwise become entitled to a retirement pension*);

(*c*) a child's allowance and an orphan's pension shall not be so treated for the purpose of subsection (2) of section 19 of the Act (which subsection relates to the person to receive a guardian's allowance) in any case unless the Minister so determines.

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

PART II Regulation 3

CONTAINING REGULATION 4 OF THE PRINCIPAL REGULATIONS AS AMENDED BY THESE REGULATIONS*

Certain existing widow pensioners under the Contributory Pensions Acts to be entitled to widowed mothers' allowances, widows' pensions, etc.

4.—(1) Subject to the provisions of the Act and of these regulations, an existing widow pensioner shall be entitled to a widowed mother's allowance for any period for which—

(*a*) she has a family which includes a child—

(i) in respect of whom immediately before the appointed day an additional allowance under the Contributory Pensions Acts was payable by virtue of her husband's insurance, or,

(ii) who—

(*aa*) at the husband's death was, or could have been treated under paragraph 3 of the Schedule to the Family Allowances Act, 1945, as, a child of his family ; or

(*bb*) is a son or daughter of theirs ; or

(*cc*) having at the death of a previous husband of hers by a marriage which ended with that husband's death been a child of that husband's family, was at the death of the last husband a child of her family,

and who, if for the time being included in her family only by virtue of her contributing to the cost of providing for him, is so included by virtue of her so contributing at the rate of sixteen shillings and sixpence a week or more ; or

(*b*) subject to the exception and condition prescribed in regulation 8 of the National Insurance (Widow's Benefit and Miscellaneous Provisions) Regulations, 1956, while not having such a family as aforesaid, she has residing with her a person who is under the age of eighteen years and is, has been, or would, but for the fact that at the husband's death that person was not in Great Britain, be or have been, a child falling within paragraph (i) or within sub-paragraph (*aa*), (*bb*) or (*cc*) of paragraph (ii) of sub-paragraph (*a*) of this paragraph.

(2) Subject as aforesaid, an existing widow pensioner, who on the appointed day has not attained pensionable age and is by reason of any infirmity incapable of self-support, shall as from that day be entitled to a widow's pension for any period before she attains pensionable age during which she is incapable of self-support by reason of that infirmity and is not entitled to a widowed mother's allowance.

(3) For the purposes of section 18 of the Act (which section relates to widows' pensions in special cases) a widow's pension which is payable by virtue of the foregoing paragraph of this regulation shall be treated as if it were a pension payable by virtue of subsection (3) of that section, and the provisions of that section and of section 21 of the Act (which section relates to retirement pensions for women by virtue of their husbands' insurance) shall, subject to the provisions of these regulations, apply to a widow to whom a widowed mother's allowance or a widow's pension is payable by virtue of this regulation as if her husband had satisfied the relevant contribution conditions:

Provided that—

(*a*) for the purpose of applying the provisions of subsections (1) to (3) of the said section 18 to any such widow, she shall be treated as if she were a widow in relation to whom the conditions of paragraph (*c*) of subsection (1) of section 17 of the Act (which paragraph relates to the conditions for widow's pension) were not satisfied ;

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

(*b*) for the purpose of applying the provisions of subsection (1) of the said section 21 to an existing widow pensioner who has attained pensionable age on the appointed day, and who ceases to be entitled to a widowed mother's allowance payable to her by virtue of this regulation, she shall be treated as if she were a widow who was immediately before attaining pensionable age entitled to widow's benefit in respect of the death of her husband;

(*c*) *where subsection* (1) *of section* 2 *of the National Insurance Act,* 1957, *(which subsection amends the Act in relation to widow's benefit and retirement pensions for widows) applies to a widow to whom a widowed mother's allowance or a widow's pension is, or but for any disqualification would be, payable by virtue of this regulation, subsection* (6) *of the said section* 21 *shall not apply to her, but, if she was insured under the Contributory Pensions Acts immediately before the appointed day, she may elect that, for the purpose of calculating the yearly average of the contributions paid by or credited to her for the purpose of her right to a retirement pension by virtue of her own insurance, she shall be treated as if she had not then been insured under those Acts.*

PART III Regulation 4.

CONTAINING REGULATION 11 OF THE PRINCIPAL REGULATIONS AS AMENDED BY THESE REGULATIONS*

11.—(1) In the application of the provisions of subsection (3) of section 17 or subsection (3) of section 21 of the Act to any widowed mother's allowance, widow's pension or retirement pension for a widow by virtue of her husband's insurance, to which a person is entitled by virtue of any of the foregoing provisions of these regulations, the weekly rate thereof shall not be reduced—

(*a*) in the case of a widowed mother's allowance payable by virtue of the widow's having a family at the rate of fifty-six shillings and sixpence, to less than twenty-six shillings and sixpence (exclusive of the amount of any increase in respect of any child or children other than the elder or eldest); or

(*b*) in the case of a widowed mother's allowance payable by virtue of the widow's having a family at one of the rates specified in the second column of the First Schedule to these regulations, to less than the rate set opposite thereto in the third column (exclusive of the amount of any increase in respect of any child or children other than the elder or eldest); or

(*c*) in the case of a widowed mother's allowance payable otherwise than by virtue of the widow's having a family, a widow's pension or such a retirement pension at the rate of forty shillings, to less than ten shillings; or

(*d*) in the case of a widowed mother's allowance payable otherwise than by virtue of the widow's having a family, a widow's pension or such a retirement pension at one of the rates specified in the fourth column of the said Schedule, to less than the rate set opposite thereto in the fifth column.

(2) In the application of the provisions of subsection (5) of section 20 of the Act (which subsection relates to reduction of retirement pension on account of earnings) to a retirement pension to which a person is entitled by virtue of any provision of these regulations, other than paragraph (3) of regulation 6, such a pension shall not be reduced to less than the rate at which that person's pension would, but for the repeal of the Contributory Pensions Acts, have been payable apart from any increase under the Increase of Pensions Regulations.

(3) *Where subsection* (1) *of section* 2 *of the National Insurance Act,* 1957, *applies to a widow to whom a widowed mother's allowance or a widow's pension is, or but for any disqualification would be, payable by virtue of regulation* 4 *of these regulations, then, in the application of the provisions of subsection* (5)

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

of section 20 of the Act to a retirement pension to which she becomes entitled by virtue of her own insurance, such a pension shall not be reduced to less than a rate equal to the rate below which the retirement pension, which would have been payable to her by virtue of her husband's insurance but for the said subsection (1), could not have been reduced by reason of the provisions of sub-paragraphs (c) and (d) of paragraph (1) of this regulation:

Provided that this paragraph shall not apply to any period after the widow has remarried.

EXPLANATORY NOTE

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

These Regulations amend the National Insurance (Pensions, Existing Beneficiaries and Other Persons) (Transitional) Regulations, 1948, by adding a new exception to the general rule that widow's basic pension shall be treated as widow's benefit. The new exception is for the purposes of section 2 (1) of the National Insurance Act, 1957, which subsection amends the provisions of the National Insurance Act, 1946, in relation to widows' benefit and retirement pensions for widows who are entitled to widows' benefit immediately before attaining pensionable age.

Similarly a new exception is added to the existing exceptions to the rule that a contributory old age pension shall be treated as a retirement pension. The new exception to this rule is for the purposes of subsection (1) of section 1 of the National Insurance Act, 1957, (which subsection gives power to make regulations providing for re-entry into regular employment for certain persons who have retired from regular employment or have otherwise become entitled to a retirement pension).

Provision is also made that where the said section 2 (1) applies to a widow to whom a widowed mother's allowance or a widow's pension is payable by virtue of regulation 4 of the said National Insurance (Pensions, Existing Beneficiaries and Other Persons) (Transitional) Regulations, 1948, (which provides that certain existing widow pensioners under the Contributory Pensions Acts are to be entitled to widowed mothers' allowances, widows' pensions, etc.) she may elect for the purpose of calculating yearly average for retirement pension to be treated as if she had not been insured under the repealed Widows', Orphans' and Old Age Contributory Pensions Acts, 1936 to 1941. It is also provided that part of such a widow's retirement pension by virtue of her own insurance be preserved from reduction on account of earnings.