STATUTORY INSTRUMENTS

1961 No. 2382

NATIONAL INSURANCE

The National Insurance (Pensions, Existing Contributors) (Transitional) Amendment Regulations, 1961

Made - - - -	*15th December*, 1961
Laid before Parliament	*28th December*, 1961
Coming into Operation	*5th January*, 1962

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), 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 Contributors) (Transitional) Amendment Regulations, 1961, shall be read as one with the National Insurance (Pensions, Existing Contributors) (Transitional) Regulations, 1948(b), as amended(c) (hereinafter referred to as "the principal regulations") and shall come into operation on the fifth day of January, 1962.

Amendment of the principal regulations

2.—(1) In the principal regulations, after regulation 8 thereof, there shall be inserted the following regulations:—

"*Election, under section* 21 (6) *of the Act, by the widow of an existing pensions contributor*

8A.—(1) Where, in accordance with an election made by a widow under subsection (6) of section 21 of the Act (which provides that where a woman, immediately before attaining pensionable age, is a widow, account may be taken of her husband's contributions for the purpose of her right to a retirement pension by virtue of her own insurance) a number of contributions equal to the yearly average (ascertained as at the date of her husband's attaining pensionable age or dying under that age) of the contributions paid by or credited to her husband is to be treated as having been paid by or credited to her for any period, that yearly average shall, if he was an existing pensions contributor, be—

(*a*) the yearly average (so ascertained) of the contributions which were required, or would have been required, to be taken into account for the purpose of his right to a retirement pension; or

(*b*) in the case of a widow who, immediately before attaining pensionable age, was entitled to widow's benefit (other than a widow's basic pension) by virtue of his insurance, the yearly average (so ascertained) of the contributions which were required to be taken into account for the purpose of her right to that benefit, if that yearly average is the higher.

(a) 9 & 10 Geo. 6. c. 67. (b) S.I. 1948/612 (Rev. XVI, p. 18: 1948, I, p. 2834).
(c) There is no amendment which relates to the subject matter of these regulations.

(2) For the purposes of sub-paragraph (*b*) of the foregoing paragraph, a widow who, immediately before attaining pensionable age, would have been entitled to widow's benefit as therein mentioned but for any one or more of the following factors, namely—

(*a*) disqualification for the receipt of benefit for any reason;

(*b*) the operation of any provision relating to overlapping benefits made under section 30 of the Act;

(*c*) the operation of any provision of either the Act or any regulations made thereunder relating to earnings;

shall be treated as if she had then been so entitled thereto; and, in relation to such a widow, the reference in that sub-paragraph to the contributions which were required to be taken into account for the purpose of her right to that benefit shall be construed as a reference to the contributions which would have been required to be taken into account for that purpose."

(2) In relation to any retirement pension payable to the widow of an existing pensions contributor by virtue of her own insurance, the foregoing provisions of this regulation shall not affect the weekly rate thereof for any period before the coming into operation of these regulations.

Dated this fifteenth day of December, 1961.

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

Dated this fourteenth 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.*)

Under the National Insurance Act, 1946, where immediately before attaining pensionable age a woman is a widow, she may elect that, for the purpose of her right to a retirement pension on her own insurance, account shall be taken of the yearly average of her husband's contributions. Under the National Insurance (Pensions, Existing Contributors) (Transitional) Regulations, 1948, in the case of a man who, immediately before the 5th July, 1948, was a contributor under the then existing Contributory Pensions Acts, the basis of calculating the yearly average of his contributions depends upon the purpose for which the calculation is made. These Regulations insert in those Regulations a provision showing which yearly average is to be taken into account, in the case of an election by such a man's widow, for the purpose of her right to a retirement pension on her own insurance for a period after these Regulations are in operation.