1964 No. 297

NATIONAL INSURANCE

The National Insurance (Widow's Benefit and Miscellaneous Provisions) Regulations 1964

Made - - - -	*27th February* 1964
Laid before Parliament	*2nd March* 1964
Coming into Operation	*3rd March* 1964

The National Insurance Joint Authority, in exercise of powers conferred by sections 18, 21, 25 and 30 of the National Insurance Act 1946(a) and the Minister of Pensions and National Insurance, in exercise of powers conferred by sections 17, 29 and 65 of that Act and Schedule 3 of the Family Allowances and National Insurance Act 1964(b), in each case in consequence of the last mentioned Act and in conjunction with the Treasury so far as relates to matters with regard to which the Treasury have so directed, and in exercise of all other powers enabling them in that behalf, hereby make the following regulations :—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Insurance (Widow's Benefit and Miscellaneous Provisions) Regulations 1964, and shall come into operation on 3rd March 1964.

(2) In these regulations, unless the context otherwise requires—

" the principal Act " means the National Insurance Act 1946 ;

" the Act of 1964 " means the Family Allowances and National Insurance Act 1964 ;

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

" the Widow's Benefit and Retirement Pensions Regulations " means the National Insurance (Widow's Benefit and Retirement Pensions) Regulations 1948(d) ;

" the 1963 Increase Regulations " means the National Insurance (Increase of Benefit and Miscellaneous Provisions) Regulations 1963(e) ;

and other expressions have the same meanings as in the principal Act.

(3) References in these regulations to any enactment or regulation shall, except in so far as the context otherwise requires, be construed as references to that enactment or regulation as amended or extended by or under any other enactment, order or regulation.

(4) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(f) shall apply in relation to this instrument and in relation to the revocations effected by it as if this instrument and the regulations revoked by it were Acts of Parliament, and as if each revocation were a repeal.

(a) 9 & 10 Geo. 6. c. 67. (b) 1964 c. 10. (c) S.I. 1948/55 (Rev. XVI, p. 36: 1948 I, p. 2822).
(d) S.I. 1948/1261 (Rev. XVI, p. 207: 1948 I, p. 2704). (e) S.I. 1963/394 (1963 I, p. 424).
(f) 52 & 53 Vict. c. 63.

Amendment of the Widow's Benefit and Retirement Pensions Regulations

2.—(1) As from 30th March 1964, the Widow's Benefit and Retirement Pensions Regulations shall be amended in accordance with the following paragraphs of this regulation.

(2) For regulation 4(1)(*a*)(ii) of the said regulations (retirement pensions on husband's insurance for women marrying after pensionable age), there shall be substituted the following sub-head :—

" (ii) that if the husband dies before the expiration of 3 years from the date of the marriage, she satisfies the requirements of section 17(1)(*b*) of the Act as amended(**a**) and of section 2(2) of the Family Allowances and National Insurance Act 1964 (which sections relate to the conditions of entitlement to widowed mother's allowance) ; or ".

(3) In regulation 7(2) of the said regulations (partial satisfaction of contribution conditions), there shall be inserted after the words " Part I " the words " or under Part IA " and for the words " columns (2), (3), (4) and (5) " there shall be substituted the words " columns (2), (3) and (4) ".

(4) For the Schedule of the said regulations (which is set out in Schedule C of the 1963 Increase Regulations and shows the reduced weekly rates of widow's benefit, of a retirement pension and of an increase of a retirement pension in respect of an adult dependant, payable where the relevant contribution conditions are partially satisfied), there shall be substituted the Schedule set out in Schedule A of these regulations.

Amendment of the Existing Beneficiaries Regulations

3.—(1) As from 30th March 1964, the Existing Beneficiaries Regulations shall be amended in accordance with the following paragraphs of this regulation.

(2) In regulation 4(1) of the said regulations as amended(**b**) (certain existing widow pensioners under the Contributory Pensions Acts to be entitled to widowed mothers' allowances), there shall be omitted from sub-paragraph (*a*) the words from " and who " to the end of the said sub-paragraph, excluding the word " or " and the words " and a widowed mother's allowance payable under this sub-paragraph shall be treated for the purposes of section 2(2) of the Family Allowances and National Insurance Act 1964, and section 2(1) of the National Insurance Act 1963, as if it were a widowed mother's allowance payable under section 17(1)(*b*)(i) of the Act and for the purposes of section 23(1B) of the Act as if any such child as is mentioned in sub-paragraph (*a*)(i) of this regulation were mentioned in the said section 17(1)(*b*)(i) ; " shall be added after the words " a child of her family ".

(3) In regulation 4(1)(*b*) of the said regulations the words " 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," shall be omitted and for the word " eighteen " there shall be substituted the word " nineteen ".

(4) The said regulation 4(1) shall accordingly have effect as set out in Schedule B of these regulations.

(5) In regulation 8 of the said regulations (widowed mother's allowance and widow's pension at reduced rates) the words " or third " shall be omitted.

(**a**) *See* s. 2 of and the Schedule of the Family Allowances and National Insurance Act 1956 (4 & 5 Eliz. 2. c. 50), s. 1 (2) and s. 6 (4) and Schedule 4 of the Family Allowances and National Insurance Act 1964. (**b**) The relevant amending instruments are S.I. 1956/1199, 1963/394 (1956 I, p. 1625; 1963 I, p. 424).

(6) In regulation 11(1)(*b*) of the said regulations—

(i) for the words "column (3)" there shall be substituted the words "column (2)";

(ii) for the words "column (4)" there shall be substituted the words "column (3)".

(7) For Schedule 1 (which is set out in Schedule F of the 1963 Increase Regulations and shows reduced rates of certain description of widow's benefit and retirement pensions payable to existing beneficiaries who are widows and the rates below which benefit is not to be reduced on account of a beneficiary's earnings), there shall be substituted the Schedule as set out in Schedule C of these regulations.

Revocation of regulations relating to widowed mother's allowance

4. As from 30th March 1964, the regulations mentioned in Schedule D of these regulations are hereby revoked to the extent mentioned in column (2) of that Schedule.

Conditions relating to payment of additional benefit under awards made before the appointed or prescribed day

5. Where an award of any benefit under the principal Act has been made before the date appointed or prescribed for the payment of benefit of the description to which the award relates at a higher weekly rate by virtue of section 2 of the Act of 1964 or of regulation 3(2) of these regulations, Schedule 3 paragraph 5(1) of that Act (effect of any such award) shall, if the period to which the award relates has not ended before that date, have effect subject to the following conditions:—

(1) If the award has not been made in accordance with the provisions of sub-paragraph (2) of that paragraph (which sub-paragraph authorises the making of such an award providing for the payment of the benefit at the higher weekly rate as from that date), and a question arises as to—

(*a*) the weekly rate at which the benefit is payable by virtue of section 2 of the Act of 1964 or of regulation 3(2) of these regulations, or

(*b*) whether the conditions for the receipt of the benefit at the higher weekly rate are satisfied,

the benefit shall be or continue to be payable at the weekly rate specified in the award until the said question shall have been determined in accordance with the provisions of the principal Act.

(2) Notwithstanding the provisions of regulation 12, as amended(**a**), of the National Insurance (Claims and Payments) Regulations 1948(**b**) (extinguishment of the right to sums payable by way of benefit), the right to any sum which, by virtue of the said paragraph 5(1), becomes payable under the award by way of additional benefit shall, as respects the period beginning with that date and ending—

(*a*) in a case where a book of serial orders (as defined in regulation 1(2), as amended(**c**), of the said regulations) for the payment of benefit to which the award relates has been issued to the beneficiary and is current on that date, with the date of the expiration of that book; or

(**a**) *See* S.I. 1952/1207, 1957/578, 1961/557 (1952 II, p. 2122; 1957 I, p. 1516; 1961 I, p. 1228).
(**b**) S.I. 1948/1041 (Rev. XVI, p. 313: 1948 I, p. 2709).
(**c**) The only relevant amendment was made by S.I. 1952/1207 (1952 II, p. 2122).

(*b*) in any other case, with the expiration of 12 months from that date;

be extinguished if payment thereof is not obtained within the period of 18 months (or such longer period as the Minister may determine in the circumstances of any particular case) from that date.

Persons not resident in Great Britain

6.—(1) Notwithstanding the provisions of these or any other regulations but subject to the provisions of this regulation, if a person is not resident in Great Britain immediately before 30th March 1964, then, unless and until that person becomes resident in Great Britain, the following provisions shall apply:—

(*a*) if, immediately before the said date, that person—

(i) is entitled to a widow's allowance or a widowed mother's allowance, or

(ii) is a married woman who immediately before the said date is not entitled to a retirement pension and whose husband is then so entitled and not resident in Great Britain;

she shall be disqualified for receiving any additional widow's benefit;

(*b*) if, immediately before the said date, she is entitled to a child's special allowance in respect of a child by virtue of a former husband's insurance, she shall be disqualified for receiving any additional child's special allowance in respect of that child by virtue of that husband's insurance.

(2) For the purposes of this regulation, references to additional benefit of any description are to be construed as referring to additional benefit of that description by virtue (either directly or indirectly) of section 2(1) of the Act of 1964 (new rates of widow's allowance, widowed mother's allowance and child's special allowance) or of regulation 3(2) of these regulations to the extent that that benefit is at a rate in excess of the rate at which it would have been payable but for that section or regulation.

(3) The disqualifications for the receipt of additional benefit contained in this regulation shall not apply to a person for any period during which that person is in Great Britain.

(4) For the purposes of this regulation, a person shall be treated as entitled to any benefit immediately before the said date if that person would then have been so entitled but for one or more of the following causes, namely:—

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

(*b*) any disqualification for the receipt of benefit;

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

(*d*) the cohabitation of a widow with a man as his wife;

(*e*) the absence of any child from Great Britain; or

(*f*) the fact that the date as from which section 1 of the Act of 1964 or regulation 3(3) of these regulations takes effect was not before the said date.

(5) Regulation 18 of the 1963 Increase Regulations (persons not resident in Great Britain) shall apply to a person who becomes entitled to any benefit by virtue of the provisions of section 1 or Schedule 2 paragraph 3 of the Act of 1964 or regulations 3(3) or 7 of these regulations as if those provisions had taken effect immediately before 27th May 1963.

Appointed day and transitional provisions

7.—(1) The provisions of Schedule 3 paragraphs 2 and 3 of the Act of 1964 shall apply in relation to any payment by virtue of regulations 2 and 3 of these regulations as if any reference—

(*a*) in those paragraphs to the appointed date were a reference to 30th March 1964;

(*b*) in those paragraphs to section 1 of the Act of 1964 (except the reference to the Order appointing a date for the coming into force of that section) included a reference to regulation 3(3) of these regulations; and

(*c*) in paragraph 3(2)(*a*) of the said Schedule to section 17(1)(*b*) included a reference to regulation 4(1) of the Existing Beneficiaries Regulations.

(2) A widow shall be treated as entitled to widow's benefit for the purposes of regulations 3 and 4(1) of the Widow's Benefit and Retirement Pensions Regulations if she would have been so entitled if section 1 of the Act of 1964 and regulation 3(3) of these regulations had come into force on 27th February 1964, but not so as to authorise any payment in respect of any period falling before 30th March 1964.

Given under the Official Seal of the National Insurance Joint Authority.

(L.S.)

D. J. Carter,
Secretary,
National Insurance Joint Authority.

27th February 1964.

Given under the Official Seal of the Minister of Pensions and National Insurance.

(L.S.)

Richard Wood,
Minister of Pensions and National Insurance.

27th February 1964.

John Hill,
Martin McLaren,
Two of the Lords Commissioners
of Her Majesty's Treasury.

27th February 1964.

SCHEDULE A

Regulation 2(4)

SCHEDULE SUBSTITUTED FOR THE SCHEDULE OF THE WIDOW'S BENEFIT AND RETIREMENT PENSIONS REGULATIONS

SCHEDULE

Regulation 7(2)

SHOWING REDUCED RATES OF WIDOW'S BENEFIT AND RETIREMENT PENSION AND OF INCREASE OF RETIREMENT PENSION IN RESPECT OF AN ADULT DEPENDANT

(1)	(2)	(3)	(4)
Yearly average of contributions paid or credited	Full weekly rate of benefit applicable under Part I or Part IA of the Second Schedule to the Act		
	s. d. 95 0	s. d. 67 6	s. d. 41 6
	Reduced rate at which benefit is payable		
	s. d.	s. d.	s. d.
48–49	91 0	65 0	40 0
46–47	87 6	63 0	38 6
43–45	83 0	60 0	36 6
40–42	76 6	54 6	34 0
37–39	70 0	49 6	32 0
34–36	62 6	44 0	28 6
30–33	55 0	39 0	25 0
26–29	47 6	34 0	21 0
22–25	40 0	29 0	16 6
18–21	32 6	23 6	14 0
13–17	25 0	19 0	12 0

SCHEDULE B

Regulation 3(2) and (3)

REGULATION 4(1)* OF THE EXISTING BENEFICIARIES REGULATIONS, AS AMENDED

(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

* The words and figures substituted or added by these regulations are shown in italics.

(*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 a widowed mother's allowance payable under this sub-paragraph shall be treated for the purposes of section 2(2) *of the Family Allowances and National Insurance Act* 1964, *and section* 2(1) *of the National Insurance Act* 1963, *as if it were a widowed mother's allowance payable under section* 17(1)(*b*)(*i*) *of the Act and for the purposes of section* 23(1*B*) *of the Act as if any such child as is mentioned in sub-paragraph* (*a*)(*i*) *of this regulation were mentioned in the said section* 17(1)(*b*)(*i*); or

(*b*) she has residing with her a person who is under the age of *nineteen* 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.

Regulation 3(7) SCHEDULE C

SCHEDULE SUBSTITUTED FOR SCHEDULE 1 TO THE EXISTING BENEFICIARIES REGULATIONS

Regulations 8 and 11(1) SCHEDULE 1

Table showing:—

(1) in the first column, the rate at which a widow's pension was, or would, but for any disqualification, have been payable (apart from any additional allowance or increase) immediately before the appointed day;

(2) in the second column, the corresponding rates of widowed mother's allowance, widow's pension or retirement pension for a widow by virtue of her husband's insurance; and

(3) in the third column, the rates below which a widow's pension or such a retirement pension, as the case may be, shall not be reduced on account of earnings.

Rate (apart from additional allowance or increase) of widow's pension immediately before the appointed day (1)	Corresponding rate of widowed mother's allowance, widow's pension or retirement pension for a widow by virtue of husband's insurance (2)	Rate below which widow's pension or retirement pension for a widow by virtue of husband's insurance shall not be reduced on account of earnings (3)
s. d.	s. d.	s. d.
9 0	61 0	9 0
8 0	54 0	8 0
7 0	47 6	7 0
6 0	40 6	6 0
5 0	34 0	5 0

SCHEDULE D

Regulation 4

REGULATIONS REVOKED

Regulations (1)	Extent of revocation (2)	Subject matter of regulations (3)
The National Insurance (Overlapping Benefits) Regulations 1948(a), as amended(b).	Regulation 1(4)	Division of widowed mother's allowance into dependency benefit and personal benefit.
The National Insurance (Hospital In-Patients) Regulations 1949(c), as amended(b).	Regulation 7	Division of widowed mother's allowance into dependency benefit and personal benefit.
The National Insurance (Widow's Benefit and Miscellaneous Provisions) Regulations 1956(d).	Regulation 8	Condition of entitlement to widowed mother's allowances otherwise than by virtue of the widow having a family.

EXPLANATORY NOTE

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

These Regulations amend certain regulations made under the National Insurance Acts 1946 to 1963. They are made in consequence of the Act of 1964 and accordingly, by virtue of Schedule 3, paragraph 7 of that Act, no reference has been made to the National Insurance Advisory Committee. Provision is made to extend to widowed mothers whose allowances are paid under regulations the conditions applying where benefit is payable under the Acts and also to remove certain limitations on the payment of allowances. Provision is also made in relation to the payment of additional benefit in the case of persons not resident in Great Britain. The remaining provisions are of a minor or consequential character.

(a) S.I. 1948/2711 (Rev. XVI, p. 196: 1948 I, p. 2657).
(b) *See* S.I. 1951/1232, 1963/394 (1951 I, p. 1457; 1963 I, p. 424).
(c) S.I. 1949/1461 (1949 I, p. 2718). (d) S.I. 1956/1199 (1956 I, p. 1625).