Widow's Benefit and Retirement Pensions Amendment Regulations (Northern Ireland), 1957

REGULATIONS, DATED 29TH JULY, 1957, MADE BY THE MINISTRY OF LABOUR AND NATIONAL INSURANCE UNDER THE NATIONAL INSURANCE ACTS (NORTHERN IRELAND), 1946 TO 1957.

1957. No. 160 [C]

The Ministry of Labour and National Insurance in exercise of the powers conferred by sections 1, 9(1)(*b*) and 10(2) of the National Insurance Act (Northern Ireland), 1957(**a**), section 62 of the National Insurance Act (Northern Ireland), 1946(**b**), and section 4(1)(*a*) of the National Insurance Act (Northern Ireland), 1955(**c**), 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 of all other powers enabling it in that behalf, hereby makes the following regulations:—

Citation, interpretation and commencement

1. These regulations, which may be cited as the National Insurance (Widow's Benefit and Retirement Pensions) Amendment Regulations (Northern Ireland), 1957, shall be read as one with the National Insurance (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland), 1948(**d**), (hereinafter referred to as "the principal regulations") and shall come into operation on the 5th August, 1957.

Provisions to be added to the principal regulations

2. The following provisions shall be added after regulation 7 of the principal regulations:—

"PART II

RE-ENTRY INTO REGULAR EMPLOYMENT AFTER RETIREMENT

Election to re-enter employment

8.—(1) Subject to the provisions of this Part of these regulations, in the case of a person of any description specified in the next following paragraph who—

(*a*) has retired for the purposes of the Act from regular employment or has otherwise become entitled to a retirement pension but is, in the case of a woman, under the age of sixty-five or, in the case of a man, under the age of seventy; and

(*b*) elects in the manner and in accordance with the conditions contained in this Part that this Part shall apply in his case;

the Act shall have effect as if that person had not retired or become entitled as aforesaid.

(**a**) 1957. c. 7. (**b**) 1946. c. 23. (**c**) 1955. c. 1.
(**d**) S.R. & O. (N.I.) 1948. No. 246 as amended by S.R. & O. (N.I.) 1951. No. 154; S.R. & O. (N.I.) 1952. No. 137; S.R. & O. (N.I.) 1953. No. 108; S.R. & O. (N.I.) 1955. No. 7; S.R. & O. (N.I.) 1956. No. 138.

(2) The persons who may so elect are persons of any description who are entitled to retirement pensions, not being—

(*a*) married women who are entitled to retirement pensions by virtue of their husband's insurance for any period which includes the date upon which their election would take effect in accordance with paragraph (4) of this regulation;

(*b*) persons who are not resident in Northern Ireland;

(*c*) persons (other than widows who are entitled to retirement pensions by virtue of their husband's insurance) to whom there apply the provisions either of sub-paragraph (*a*) of paragraph (1) of regulation 4 of the National Insurance (New Entrants Transitional) Regulations (Northern Ireland), 1948(**a**), or of sub-paragraph (*a*) of paragraph (1) of regulation 10 of the National Insurance (Pensions, Existing Contributors) (Transitional) Regulations (Northern Ireland), 1948(**b**), (which provisions relate to the retirement pensions of, respectively, certain new entrants and certain existing contributors who entered into insurance while less than ten years under pensionable age):

Provided that, where a husband and wife have both become entitled to retirement pensions by virtue of the husband's insurance, the husband shall not be entitled to elect as aforesaid without the consent of the wife, unless that consent is unreasonably withheld.

(3) Notice of election for the purpose of this Part of these regulations shall be given to the Ministry in writing on the form approved by the Ministry for the purpose, or in such other manner, being in writing, as the Ministry may accept as sufficient in the circumstances of any particular case or class of cases.

(4) Notice under the last foregoing paragraph shall take effect—

(*a*) where the notice does not specify a date as the date of the person's election, on the date on which the notice is given; and

(*b*) where the notice specifies a date, being a date not earlier than the date on which the notice is given and not later than the expiration of twenty-eight days after that date, as the date of the person's election, on the date so specified:

(**a**) S.R. & O. (N.I.) 1948. No. 221 as amended by S.R. & O. (N.I.) 1951. No. 154; S.R. & O. (N.I.) 1952. No. 137; S.R. & O. (N.I.) 1955. No. 7; S.R. & O. (N.I.) 1957. No. 44.

(**b**) S.R. & O. (N.I.) 1948. No. 129 as amended by S.R. & O. (N.I.) 1949. No. 130; S.R. & O. (N.I.) 1949. No. 159; S.R. & O. (N.I.) 1951. No. 110; S.R. & O. (N.I.) 1951. No. 154; S.R. & O. (N.I.) 1952. No. 133; S.R. & O. (N.I.) 1952. No. 137; S.R. & O. (N.I.) 1953. No. 108; S.R. & O. (N.I.) 1955. No. 8; S.R. & O. (N.I.) 1956. No. 138.

Provided that in the case of a man whose wife is entitled to a retirement pension by virtue of his insurance—

(i) if she consents in writing to the election, notice shall not take effect earlier than the date of her consent; and

(ii) if she does not so consent, notice shall not take effect unless the determining authority decides that her consent has been unreasonably withheld, and in that event shall take effect in accordance with the provisions of this paragraph, unless that authority, having regard to all the circumstances of the case, determines that it shall take effect on some later date.

(5) Any such notice, if sent by post, shall be deemed to be given on the date on which it was posted.

Conditions of election

9. The following conditions shall apply to a person making an election for the purpose of the foregoing regulations:—

(*a*) Subject to the provisions of paragraphs (5) and (6) of regulation 10 of the National Insurance (Claims and Payments) Regulations (Northern Ireland), 1948(a), (which relate to the adjustment of the commencement and termination of benefit), no retirement pension shall be payable to him, or by virtue of his insurance to his wife, in respect of any period on or after the date of his election and before he subsequently retires for the purposes of the Act from regular employment or dies;

(*b*) If after making his election he subsequently so retires, he shall not thereafter be entitled to make another such election;

(*c*) After making such election, no person who was a widow at the date such election took effect shall be entitled by virtue of her former husband's insurance to widow's benefit for any subsequent period:

Provided that for the purposes of this paragraph of this regulation widow's benefit shall not include widowed mother's allowance, so far as it is, or is deemed to consist of, dependency benefit within the meaning of paragraph (4) of regulation 1 of the National Insurance (Overlapping Benefits) Regulations (Northern Ireland), 1949(b), or any portion of her widow's benefit which is protected from reduction on account of earnings by virtue of regulation 11 of the National Insurance (Pensions, Existing Beneficiaries and Other Persons) (Transi-

(a) S.R. & O. (N.I.) 1948. No. 196 as amended by S.R. & O. (N.I.) 1949. No. 142; S.R. & O. (N.I.) 1951. No. 154; S.R. & O. (N.I.) 1952. No. 46; S.R. & O. (N.I.) 1952. No. 141; S.R. & O. (N.I.) 1953. No. 123; S.R. & O. (N.I.) 1954. No. 45; S.R. & O. (N.I.) 1957. No. 72.

(b) S.R. & O. (N.I.) 1949. No. 154 as amended by S.R. & O. (N.I.) 1951. No. 154; S. R. & O. (N.I.) 1951. No. 181; S.R. & O. (N.I.) 1952. No. 65; S.R. & O. (N.I.) 1952. No. 137; S.R. & O. (N.I.) 1953. No. 80; S.R. & O. (N.I.) 1953. No. 123; S.R. & O. (N.I.) 1955. No. 7; S.R. & O. (N.I.) 1956. No. 138.

tional) Regulations (Northern Ireland), 1948(a), or regulation 12 of the National Insurance (Pensions, Existing Contributors) (Transitional) Regulations (Northern Ireland), 1948.

(*d*) Where the person is a woman who was entitled to a retirement pension otherwise than by virtue of having retired from regular employment, she shall, for the purposes of this Part of these regulations, if she subsequently so retires, cease to be treated as if she had not become entitled to a retirement pension.

(*e*) Where the person is a man whose wife is entitled to a retirement pension by virtue of his insurance and he subsequently retires for the purposes of the Act from regular employment and claims a retirement pension, his claim may be treated as including a claim by the wife for a retirement pension by virtue of his insurance.

(*f*) Where the person is a widow to whom there applied the provisions either of sub-paragraph (*a*) of paragraph (1) of regulation 4 of the National Insurance (New Entrants Transitional) Regulations (Northern Ireland), 1948, or of sub-paragraph (*a*) of paragraph (1) of regulation 10 of the National Insurance (Pensions, Existing Contributors) (Transitional) Regulations (Northern Ireland), 1948, but who was entitled to a retirement pension by virtue of her husband's insurance, then notwithstanding in the former case the provisions of subsection (3) of section 68 of the Act (which subsection relates to certain women over the age of fifty immediately before the appointed day for the purposes of the Act),—

(i) in determining for the purpose of paragraph (*a*) of this regulation whether she has or has not subsequently retired for the purposes of the Act from regular employment no account shall be taken of the provisions of the said sub-paragraphs (*a*);

(ii) sub-paragraph (*b*) and head (iii) of sub-paragraph (*c*) of the said paragraphs (1) shall not apply as respects any period on or after the date of her election and before she so subsequently retires for the purposes of the Act from regular employment, but as respects any such period she shall, unless she has made an election such as is referred to in the said sub-paragraph (*c*), be entitled to pay a contribution as a non-employed person, at the same rate as a woman under the age of sixty, for any week for which she is not liable to pay a contribution as an employed or self-employed person.

Special provisions applying after election

10.—(1) In the application of subsection (4) of section 19 of the Act (which relates to increases in retirement pensions based on contributions paid as an employed or self-employed

(a) S.R. & O. (N.I.) 1948. No. 39 as amended by S.R. & O. (N.I.) 1949. No. 124; S.R. & O. (N.I.) 1951. No. 154; S.R. & O. (N.I.) 1952. No. 133; S.R. & O. (N.I.) 1953. No. 108; S.R. & O. (N.I.) 1955. No. 8; S.R. & O. (N.I.) 1956. No. 138.

person after attaining pensionable age) to a person who has made an election under regulation 8, contributions as an employed or self-employed person paid in respect of any period occurring after pensionable age and before as well as after his first retirement shall be taken into account.

(2) Paragraph (*a*) of subsection (3) of section 20 of the Act (which paragraph provides that any increase in the rate of a woman's retirement pension by virtue of her husband's insurance under subsection (4) of section 19 shall depend on his contributions and not on hers) shall not apply to a woman who has made an election under regulation 8 in relation to contributions in respect of any period after her election.

(3) Any woman who makes an election under regulation 8 and is not then an insured person shall be treated, for the purpose of her liability to pay contributions as from the date of such election, as if she were an insured person.

(4) In the case of a woman to whom paragraph (*f*) of regulation 9 applies, contributions as an employed or self-employed person paid by virtue of the said paragraph (*f*) shall not entitle her to any increase in the rate of her retirement pension by virtue of her own insurance under subsection (4) of section 19 of the Act.

Unemployment and sickness benefit in certain cases after election

11.—(1) For the purpose of the provisions of section 25 of the Act (which relates to unemployment and sickness benefit for persons over pensionable age), a woman who is entitled to a retirement pension by virtue of her husband's insurance and makes an election under regulation 8 shall, if she is unable to satisfy the condition contained in subsection (1) of that section that on the day for which benefit is claimed she would be entitled to a retirement pension had she retired from regular employment on attaining pensionable age and made the necessary claim, be deemed nevertheless to satisfy that condition.

(2) Where the foregoing paragraph applies to a woman, the references in subsection (2) of the said section 25 to the retirement pension referred to in subsection (1) shall be construed as referring to the retirement pension to which she was entitled when she made the election.

(3) If a woman who makes an election under regulation 8 would, but for the provisions of subsection (4) of section 20 of the Act (which subsection provides that a woman shall not be entitled for the same period to more than one retirement pension), be entitled for any period which includes the date upon which her election takes effect to retirement pensions by virtue both of her own and of her husband's insurance, the references in subsection (2) of the said section 25 to the retirement pension referred to in subsection (1) shall be construed as referring to the greater of the retirement pensions to which she would, but for the said provisions, have been entitled when she made the election.

PART III

CONTRIBUTIONS PAID AFTER PENSIONABLE AGE

Contributions to be disregarded in computing increase of retirement pension

12.—(1) Subject to the provisions of the next succeeding paragraph of this regulation a contribution paid by a woman over pensionable age in respect of any contribution week for the whole of which—

(*a*) she is entitled to and obtains payment of widow's benefit or a retirement pension by virtue of her husband's insurance (excepting widowed mother's allowance, so far as it is, or is deemed to consist of, dependency benefit within the meaning of paragraph (4) of regulation 1 of the National Insurance (Overlapping Benefits) Regulations (Northern Ireland), 1949; or

(*b*) her husband is entitled in respect of her to, and obtains payment of, an increase of the weekly rate of a retirement pension;

shall be disregarded for the purposes of subsection (4) of section 19 of the Act:

Provided that this regulation shall not apply to a woman who became entitled to a retirement pension by virtue of her husband's insurance before the date of coming into operation of this regulation.

(2) This regulation shall not apply in respect of a contribution week for which a woman obtains payment only of a contributory old age pension(**a**) or, if either regulation 11 of the National Insurance (Pensions, Existing Beneficiaries and Other Persons) (Transitional) Regulations (Northern Ireland), 1948, or regulation 12 of the National Insurance (Pensions, Existing Contributors) (Transitional) Regulations (Northern Ireland), 1948, applies in her case, of widow's benefit or a retirement pension at a rate not exceeding the rate below which, under that regulation, such benefit is not to be reduced on account of earnings."

Sealed with the Official Seal of the Ministry of Labour and National Insurance for Northern Ireland this 29th day of July, nineteen hundred and fifty-seven, in the presence of

(L.S.) *J. E. Greeves,*
Assistant Secretary to the Ministry of Labour and National Insurance for Northern Ireland.

(**a**) *See* regulation 3, National Insurance (Pensions, Existing Beneficiaries and Other Persons) (Transitional) Regulations (Northern Ireland), 1948 (S.R. & O. (N.I.) 1948. No. 39).

Sealed with the Official Seal of the Ministry of Finance for Northern Ireland this 29th day of July, nineteen hundred and fifty-seven, in the presence of

(L.S.) *W. W. Arthur,*
Assistant Secretary to the Ministry of Finance for Northern Ireland.

EXPLANATORY NOTE

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

These regulations, which amend the National Insurance (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland), 1948, provide that persons in receipt of retirement pensions, with certain exceptions, may elect to give up their pensions and re-enter regular employment. If they do this they pay contributions, and thereby may earn the right to an increased pension when they again retire. Where both husband and wife are receiving retirement pensions by virtue of his insurance he cannot elect without his wife's consent, unless that consent is unreasonably withheld, and if he does elect the wife cannot draw her pension while the election is in force. No person can make more than one election. A contribution paid by a woman over pensionable age for a week in respect of which she is entitled to certain benefit or her husband is entitled to an increase of benefit for her shall not be counted for the purpose of increasing her pension. The remaining provisions are of a minor and consequential character.

REGULATIONS, DATED 15TH NOVEMBER, 1957, MADE BY THE NATIONAL INSURANCE JOINT AUTHORITY, IN CONJUNCTION WITH THE MINISTRY OF FINANCE, UNDER THE NATIONAL INSURANCE ACT (NORTHERN IRELAND), 1946.

1957. No. 241 [C]

The National Insurance Joint Authority, in conjunction with the Ministry of Finance, in exercise of the powers conferred by section 24 of the National Insurance Act (Northern Ireland), 1946(a), and of all other powers enabling them in that behalf, hereby make the following regulations:—

Citation, interpretation and commencement

1. These regulations, which may be cited as the National Insurance (Widow's Benefit and Retirement Pensions) Amendment (No. 2) Regulations (Northern Ireland), 1957, shall be read as one with the National Insurance (Widow's Benefit and

(a) 1946. c.23.