## (5) WIDOW'S BENEFIT AND RETIREMENT PENSIONS

# The National Insurance (Widow's Benefit and Retirement Pensions) Regulations, 1948

## 1948 No. 1261

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| *Made* - - - - | 15*th June*, 1948 |
| *Laid before Parliament* | 15*th June*, 1948 |
| *Coming into Operation* | 18*th June*, 1948 |

M.N.I. 117.

The National Insurance Joint Authority, in conjunction with the Treasury so far as relates to matters with regard to which the Treasury have so directed, in exercise of the powers conferred by sections 18, 21, 23 and 25 of the National Insurance Act, 1946, and the Minister of National Insurance, in exercise of the powers conferred by section 43 (5) of that Act, and of all other powers enabling them in that behalf, hereby make the following regulations:—

9 & 10 Geo. 6. c. 67.

Citation, commencement and interpretation.

**1.**—(1) These regulations may be cited as the National Insurance (Widow's Benefit and Retirement Pensions) Regulations, 1948, and shall come into operation on the 18th June, 1948.

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

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

" the Minister " means the Minister of National Insurance;

" insurance officer ", " local tribunal " and " the Commissioner " have the same meanings as in the National Insurance (Determination of Claims and Questions) Regulations, 1948(a);

" the determining authority " means, as the case may require, an insurance officer, a local tribunal or the Commissioner;

" disqualification " shall in relation to any period include any period during which, by virtue of the proviso to subsection (2) of section 17 of the Act, widow's benefit is not payable by reason of the widow cohabiting with a man as his wife;

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

(3) References in these regulations to any enactment or regulations shall include a reference to such enactment or regulations as amended by any subsequent enactment, order or regulations.

52 & 53 Vict. c. 63.

(4) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

Widows' pensions for widows incapable of self-support.

**2.**—(1) Where a widow in relation to whom neither the conditions for a widow's pension contained in paragraph (*c*) of subsection (1) of section 17 of the Act (which paragraph imposes conditions of entitlement to a widow's pension) nor the alternative conditions contained in subsection (1) of section 18 of the Act are satisfied, would, but for the provisions of this regulation, cease to be entitled to widow's benefit at a

(a) S.I. 1948 No. 1144, p. 2720 below.

time when she is by reason of any infirmity incapable of self-support(a) and is under pensionable age, she shall, for any subsequent period during which she is incapable of self-support by reason of that infirmity have the same right (if any) to a widow's pension in respect of the marriage in respect of which she was entitled to the widow's benefit as if the said conditions were satisfied.

(2) The following provisions shall apply in the case of a widow who claims a widow's pension by virtue of the preceding paragraph of this regulation:—

(*a*) The widow shall from time to time as required by the Minister furnish evidence by means of a certificate (in such form as the Minister may approve) that by reason of an infirmity she is incapable of self-support, and shall at any time, if so directed by the Minister, submit herself to medical examination by a medical board appointed by him consisting of two or more medical practitioners.

(*b*) For the purpose of the determination by an insurance officer or a local tribunal of any question as to the nature of an infirmity, or whether an infirmity is the same infirmity as that by reason of which the widow was previously incapable of self-support, a certificate given by any such medical board shall be conclusive evidence.

(3) The provisions of the preceding paragraph shall apply in the case of a widow who claims a widow's pension by virtue of paragraph (2) of regulation 4 of the National Insurance (Pensions, Existing Beneficiaries and Other Persons) (Transitional) Regulations, 1948(b), subject to the qualification that where the claim is made before the appointed day(c) she may (instead of furnishing a certificate in accordance with sub-paragraph (*a*) of the preceding paragraph) elect to have her case submitted to a medical board appointed by the Minister in accordance with the said sub-paragraph (*a*).

Condition as to duration of marriage in relation to widows' pensions in the case of widows who have been married more than once.

**3.**—(1) Where a widow has been married more than once, then for the purpose of her right to a widow's pension in respect of her last marriage, the condition as to the duration of that marriage contained in paragraph (*c*) of subsection (1) of section 17 of the Act (or, in a case to which, instead of that condition, the alternative condition contained in paragraph (*b*) of subsection (1) or in subsection (4) of section 18 of the Act applies, the said alternative condition) shall be deemed to be satisfied if the sum total of any periods before the relevant time (as defined in the next succeeding paragraph) during which she was either a married woman, or entitled to widow's benefit other than a widow's basic pension(d), or only not so entitled by reason of disqualification, amounts to not less than ten years:

Provided that if throughout the three years immediately preceding the date of any marriage of the widow, she was neither a married woman nor entitled to such widow's benefit (apart from any disqualification therefor), any period during which she was married, or was so entitled to such benefit before the date of that marriage, shall not be taken into account for the purpose of this regulation.

(a) *See* s. 78 (1), National Insurance Act, 1946, and s. 35 (5) (*a*), National Insurance (Industrial Injuries) Act, 1946 (9 & 10 Geo. 6. c. 62).

(b) S.I. 1948 No. 55, p. 2822 below.

(c) 5th July, 1948. *See* S.I. 1948 No. 54, p. 2615 above.

(d) *See* reg. 3, National Insurance (Pensions, Existing Beneficiaries and Other Persons) (Transitional) Regulations, 1948 (S.I. 1948 No. 55, p. 2822 below).

(2) In the preceding paragraph, the expression " the relevant time " means for the purposes of the said paragraph (*c*) the date of the husband's death, for the purposes of the said paragraph (*b*) the date on which the widow ceases to be entitled to a widowed mother's allowance, and for the purposes of the said subsection (4) the date on which she ceases to be entitled to a widow's pension.

Special conditions in relation to retirement pensions by virtue of the husband's insurance in the case of women marrying after pensionable age.

**4.**—(1) For the purposes of paragraph (iii) of subsection (1) of section 21 of the Act (which paragraph relates to the prescribing of further conditions for entitlement to a retirement pension by virtue of the insurance of the husband in a case where a woman married the husband after attaining pensionable age), one of the following further conditions must be satisfied in the case of a woman to whom that paragraph is applicable, that is to say:—

(*a*)—(i) that she and her husband have been married for not less than three years; or

(ii) that, if the husband dies before the expiration of three years from the date of the marriage, she has a family which includes a child who, or children one of whom, either was at the husband's death a child of his family or is a son or daughter of theirs; or

(*b*) that, immediately before the date of the marriage, she was or, but for any disqualification, would have been entitled to widow's benefit; or

(*c*) that, immediately before the said date, she was entitled to a retirement pension, or would have been so entitled but for any disqualification, or but for her failure to satisfy the condition that she had retired from regular employment; or

(*d*) that, immediately before the said date, she was entitled, otherwise than under the Act, to any pension or allowance payable out of public funds and ceased to be so entitled by reason only of her marriage or re-marriage.

(2) In the application of subsection (4) of section 20 of the Act (which subsection relates to increase of rate of retirement pension for contributions paid after pensionable age) to a retirement pension payable to a woman to whom the provisions of the preceding paragraph of this regulation apply, contributions paid by the husband for any contribution weeks terminating before the earliest date on which the woman would have become entitled to a retirement pension by virtue of those provisions, if they had then both retired from regular employment, shall not be taken into account.

Choice of retirement pension by woman.

**5.** A woman who, but for the provisions of subsection (4) of section 21 of the Act (which subsection relates to the disentitlement of women to more than one retirement pension for the same period) would be entitled for the same period to more than one retirement pension may by notice in writing to the Minister choose from time to time which pension she shall be entitled to for any week commencing after the date on which such notice is so given:

Provided that for any period in respect of which no such notice is given the woman shall be treated as if she had chosen the pension which, excluding any increase for a child, is payable at the higher or highest rate.

Priority between a man and his wife to increase of retirement pension for a child.

**6.**—(1) Where but for paragraph (*b*) of subsection (3) of section 23 of the Act (which paragraph prevents a man and his wife both being entitled for the same period to an increase of retirement pension in respect of a child), a man and his wife would both be entitled for the same period, by virtue of his insurance, to an increase of retirement pension, whether in respect of the same child or different children, the following provisions shall apply:—

(*a*) if and so long as the man and his wife are living together, the man shall, and his wife shall not, be entitled to the increase;

(*b*) if and so long as they are not living together, such one of them shall, and such other of them shall not, be entitled to the increase as the Minister may in his discretion from time to time determine.

(2) For the purpose of this regulation, a man and his wife shall not be deemed to be living otherwise than together unless they are permanently living in separation either by agreement or under an order of a court, or one of them has deserted the other and the separation which is incident to the desertion has not come to an end.

Partial satisfaction of contribution conditions and reduced rates of benefit.

**7.**—(1) Where a person would be entitled to widow's benefit or retirement pension but for the fact that the relevant contribution conditions are not satisfied as respects the yearly average of contributions paid or credited, that person shall nevertheless be entitled to benefit in accordance with the next succeeding paragraph, if the yearly average of contributions paid or credited is not less than thirteen.

(2) Where the full weekly rate of widow's benefit or retirement pension or increase of retirement pension for a wife under Part I of the Second Schedule to the Act is at one of the rates set out at the head of columns (2), (3), (4) and (5) of the Schedule to these regulations, then the benefit or pension or increase shall be payable at the reduced rate specified in the appropriate column of the Schedule to these regulations which corresponds with the yearly average of contributions paid or credited as shown in column (1) of that Schedule.

Given under the official seal of the National Insurance Joint Authority this 15th day of June, nineteen hundred and forty-eight.

(L.S.)

*C. D. Curtis,*
Secretary,
National Insurance Joint Authority.

Given under the official seal of the Minister of National Insurance this 15th day of June, nineteen hundred and forty-eight.

(L.S.)

*James Griffiths,*
Minister of National Insurance.

*C. James Simmons,*
*R. J. Taylor,*
Two of the Lords Commissioners of His Majesty's Treasury.

Regulation 7 (2).

## SCHEDULE

showing reduced rates of widow's benefit and retirement pension and of increase of retirement pension in respect of a wife

| (1) | (2) | (3) | (4) | (5) |
|---|---|---|---|---|
| | Full weekly rate of benefit applicable under Part I of the Second Schedule to the Act | | | |
| | s. d. 36 0 | s. d. 33 6 | s. d. 26 0 | s. d. 16 0 |
| Yearly average of contributions paid or credited | Reduced rate at which benefit is payable | | | |
| | s. d. | s. d. | s. d. | s. d. |
| 48–49 ... ... ... | 34 6 | 32 6 | 25 0 | 15 6 |
| 46–47 ... ... ... | 33 0 | 31 6 | 24 0 | 15 0 |
| 43–45 ... ... ... | 31 6 | 30 6 | 23 0 | 14 0 |
| 40–42 ... ... ... | 29 0 | 28 6 | 21 0 | 13 0 |
| 37–39 ... ... ... | 26 6 | 26 6 | 19 0 | 12 0 |
| 34–36 ... ... ... | 23 6 | 24 6 | 17 0 | 11 0 |
| 30–33 ... ... ... | 21 0 | 22 6 | 15 0 | 9 6 |
| 26–29 ... ... ... | 18 0 | 20 6 | 13 0 | 8 0 |
| 22–25 ... ... ... | 15 0 | 18 6 | 11 0 | 6 6 |
| 18–21 ... ... ... | 12 6 | 16 6 | 9 0 | 5 6 |
| 13–17 ... ... ... | 9 6 | 14 6 | 7 0 | 4 6 |

## EXPLANATORY NOTE

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

These Regulations contain miscellaneous provisions affecting widow's benefit and retirement pensions, and relate to pensions where the widow is incapable of self-support (regulation 2); the relaxing for the purposes of widows' pensions of the condition as to the duration of marriage in the case of widows married more than once (regulation 3); additional conditions for retirement pensions by virtue of the husband's insurance in the case of women marrying after pensionable age (regulation 4); the choice of retirement pension by women who, but for the provisions prohibiting double entitlement, would be entitled to more than one retirement pension (regulation 5); priority as between a man and his wife to an increase of retirement pension for a child (regulation 6); and the payment of benefit at reduced rates in the case of deficient contribution records (regulation 7).