STATUTORY INSTRUMENTS

1974 No. 1757

SOCIAL SECURITY

The Widow's Benefit, Retirement Pension and Other Benefits (Transitional) Regulations 1974

Made - - - -	28*th October* 1974
Laid before Parliament	6*th November* 1974
Coming into Operation	6*th April* 1975

The Secretary of State for Social Services, in exercise of powers conferred by section 100(1) of, and paragraphs 2, 4 and 6 of Schedule 26 to, the Social Security Act 1973**(a)**, and of all other powers enabling her in that behalf, hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the Widow's Benefit, Retirement Pension and Other Benefits (Transitional) Regulations 1974 and shall come into operation on 6th April 1975.

Interpretation

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

"the Act" means the Social Security Act 1973;

"the appointed day" means 6th April 1975;

"contribution week" means a period of 7 days beginning with midnight between Sunday and Monday;

"the Contributory Pensions Acts" means the Widows', Orphans' and Old Age Contributory Pensions Acts 1936 to 1941;

"existing contributor" means a person who, within the prescribed time referred to in paragraph 17(1)(*a*) of Schedule 11 to the former principal Act, was or was deemed to be or treated as, insured under the Contributory Pensions Acts;

"former beneficiary" means—

(*a*) a person to or in respect of whom benefit under the former principal Act (including such benefit, pension or allowance as is mentioned in paragraph 17(2)(*b*) of Schedule 11 to that Act (which relates to pre-1948 beneficiaries)) is or but for a disqualification or forfeiture would be payable immediately before the appointed day; and

(a) 1973 c. 38.

(*b*) a person who immediately before that day has a prospective right to, or expectation of, such benefit;

"former contribution" means a contribution of any class paid under the former principal Act in respect of a week before the contributor concerned attained pensionable age and also—

(*a*) in relation to widowed mother's allowance, widow's pension, child's special allowance and a Category B retirement pension to which a woman is entitled by virtue of section 25(5) of the Act, means a contribution paid under the Contributory Pensions Acts, by an existing contributor in respect of a period between the contributor's last entry into insurance under those Acts and 5th July 1948 and paid for purposes which included widows' and orphans' pensions purposes; and

(*b*) in relation to a Category A retirement pension or a Category B retirement pension other than such a pension as is referred to in the preceding sub-paragraph, means a contribution paid under the Contributory Pensions Acts by an existing contributor in respect of a period between the contributor's last entry into insurance under those Acts and 5th July 1948 and paid for purposes which included old age pensions purposes;

"former contributor" means a person who was insured under the former principal Act;

"reckonable year" for the purposes of the contribution conditions for any benefit means an income tax year in which the contributor concerned has paid or been credited with contributions of a relevant class and in which the earnings factor derived from those contributions amounts to not less than that year's lower earnings limit multiplied by 50;

"year" means an income tax year;

and any other expression to which a meaning is assigned by the former principal Act has that meaning in these regulations.

(2) Any reference in these regulations to a former beneficiary who is entitled to benefit under the former principal Act shall include a person who but for any disqualification or forfeiture would be entitled to such benefit and where, on or after the appointed day, a person is, by virtue of these regulations, given entitlement to benefit under the Act, such entitlement shall be subject to any disqualification or forfeiture and subject to any reduction in the rate of benefit payable to which that person's entitlement to benefit under the former principal Act would have been subject if it had continued on or after the appointed day.

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

(4) Unless the context otherwise requires, any reference in these regulations to a numbered regulation is a reference to the regulation bearing that number in these regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation bearing that number.

(5) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(a) shall apply for the purposes of the interpretation of these regulations as they apply for the purposes of the interpretation of an Act of Parliament.

(a) 1889 c. 63.

Modifications of the Act in its application to former beneficiaries and former contributors

3. In relation to former beneficiaries and in relation to former contributors the provisions of the Act and the orders and regulations for the time being in force thereunder shall have effect subject to the modifications made by these regulations.

Benefit in respect of events or for periods commencing before the appointed day

4. Where, on or after the appointed day, a person claims, in respect of an event falling, or for a period commencing, before the appointed day, benefit under the former principal Act of a description specified in Column (1) of the Schedule to these regulations, the claim shall, subject to the provisions of regulation 5, be determined, as respects such event or for such period, as if the provisions of the former principal Act and enactments specified in the third column of Schedule 28 to the Act covering entitlement to such benefit continued in force in place of the provisions of the Act covering entitlement to benefit of a corresponding description.

Provision of alternative rights to benefit

5.—(1) Subject to regulation 2(2) where, immediately before the appointed day, a former beneficiary is entitled to benefit under the former principal Act of a description specified in Column (1) of the Schedule to these regulations or to any increase of such benefit for a child or adult dependant, he shall as from that day, be entitled, without any claim being made therefor, or award being made thereof, to benefit under the Act of a description set out in Column (2) of that Schedule opposite the said benefit under the former principal Act specified in Column (1) as if such benefit had been claimed and awarded under the Act, and to any increase of such benefit for a child or adult dependant to which he may be entitled under or by virtue of the Act.

(2) Where, immediately before the appointed day, a person is entitled to a widow's pension under the former principal Act by virtue of regulation 13 of the National Insurance (Widow's Benefit and Retirement Pensions) Regulations 1972**(a)** as being incapable of self-support by reason of infirmity, she shall, subject to regulation 2(2), be entitled as from the appointed day to a widow's pension under the Act for any period for which she would have been entitled to such a pension under the former principal Act if the said regulation 13 and the provisions referred to in that regulation had continued in force.

Modifications relating to the first contribution condition for widowed mother's allowance, widow's pension and Category A and B retirement pension

6.—(1) The first contribution condition for a widowed mother's allowance, a widow's pension or a Category A or Category B retirement pension specified in paragraph 5(2) of Schedule 3 to the Act shall be deemed to be satisfied in any case where the contributor concerned is, or was, a former contributor who had paid not less than 50 former contributions and, in the case of widowed mother's allowance or widow's pension, dies on or after the appointed day or, in the case of Category A or Category B retirement pension, attains pensionable age on or after that day.

(2) The said contribution condition for a Category A retirement pension shall be deemed to be satisfied in the case of a woman who attains pensionable age on or after the appointed day if—

(a) S.I. 1972/606 (1972 I, p. 2011).

(*a*) she was a widow entitled to widow's allowance or widowed mother's allowance under the former principal Act at any time before the appointed day and has not re-married before attaining pensionable age; or

(*b*) her marriage was terminated before the appointed day otherwise than by the death of her husband and she has not re-married before attaining pensionable age and before the termination of the marriage her husband had paid not less than 50 former contributions.

Modifications relating to the second contribution condition for widowed mother's allowance, widow's pension and Category A and B retirement pension

7.—(1) The following provisions of this regulation shall, except where expressly provided otherwise, have effect only for the purposes of the second contribution condition for a widowed mother's allowance, a widow's pension or a Category A or Category B retirement pension specified in paragraph 5(3) of Schedule 3 to the Act.

(2) Where the contributor concerned is, or was, a former contributor he shall, in respect of that part of his working life falling before the appointed day, have the number of reckonable years obtained by taking the number of contributions of any class paid by or credited to him in accordance with the provisions of the former principal Act or regulations made thereunder for each week in the said part of his working life or credited to him by any provision of this regulation and dividing it by 50 and, if the resultant quotient is not a whole number, by rounding it up to the nearest whole number:

Provided that the number of reckonable years so obtained shall not exceed the number of years of a person's working life falling before the appointed day.

(3) A contribution as payable by a non-employed person under the former principal Act shall be credited to the contributor concerned who is, or was, a former contributor—

(*a*) if he was an existing contributor, for each contribution week during the period from 6th April 1936, or if later 6th April of the year in which he last entered into insurance under the Contributory Pensions Acts, to 4th July 1948; or

(*b*) if he was not an existing contributor but was insured under the former principal Act and—

(i) he was over the age of 16 on 5th July 1948, for each contribution week in the period from 6th April 1948 to 4th July 1948;

(ii) he attained the age of 16 on or after 5th July 1948, for each contribution week in the period from 6th April of the year in which he attained the age of 16 up to the contribution week immediately before that in which he reached the upper limit of compulsory school age or, if later, the contribution week immediately before that in which he attained the age of 16:

Provided that a contribution credited to a former contributor under this paragraph for any contribution week specified therein shall be treated as credited in place of any contribution under the Contributory Pensions Acts or a contribution of any class under the former principal Act that may have been paid by, or otherwise credited to, that contributor in respect of such week.

(4) In any case where the contributor concerned attained the age of 16 before the appointed day and is, or was, not a former contributor, a contribution as payable by a non-employed person under the former principal Act shall be credited to him—

(*a*) if he had attained the age of 16 before 5th July 1948, for each contribution week in the period from 6th April 1948 to 4th July 1948;

(*b*) if he attained the age of 16 on or after 5th July 1948, for each contribution week from 6th April of the year in which he attained the age of 16 up to the contribution week immediately before that in which he attained that age:

Provided that the maximum number of weeks for which a contribution may be credited to any person by virtue of the provisions of this paragraph shall be 50.

(5) For the purposes of paragraphs (3) and (4) and of regulation 11(1)(*b*) if the period for which contributions are to be credited does not commence with midnight between Sunday and Monday the days from the beginning of such period up to the first such midnight shall be treated as constituting a contribution week and if the period for which contributions are to be credited does not cease with midnight between Sunday and Monday the days from the last such midnight to the end of such period shall be disregarded.

(6) The working life of a person who had attained the age of 16 before 5th July 1948 shall—

(*a*) if he was an existing contributor, be the period between 6th April 1936 or, if later, 6th April of the year in which he last entered into insurance under the Contributory Pensions Acts, and the end of the year immediately before that in which he attained pensionable age or died under that age; or

(*b*) if he was not an existing contributor, be the period between 6th April 1948 and the end of the year immediately before that in which he attained pensionable age or died under that age.

(7) If a person's last dates of entry into insurance under the Contributory Pensions Acts were different dates for widows' and orphans' pensions purposes and old age pensions purposes, his date of entry into insurance under those Acts for the purposes of the second contribution condition for widowed mother's allowance, widow's pension or a Category B retirement pension for a widow by virtue of the contributions of her husband shall be his last date of entry into insurance for widows' and orphans' pensions purposes, and for the purpose of the said contribution condition for a Category A retirement pension shall be his last date of entry into insurance for old age pensions purposes.

(8) In the case of a widow, whose husband was a former contributor and who has the contributions of her said husband treated, by virtue of section 24(3) of, and of Schedule 8 to, the Act, as if they were contributions of her own so as to entitle her to a Category A retirement pension, paragraph 2(*a*) of the said Schedule 8 shall apply with the substitution for the words "the year in which the woman attained the age of 16" of the words "the first year of the woman's working life" and—

(*a*) if her husband died before the appointed day, she shall be credited, for the purposes of satisfying the conditions for such entitlement, with a contribution as payable by a non-employed person under the former principal Act for each contribution week in the year in which her husband died except that no contribution shall be credited to her under this sub-paragraph for any contribution week for which a contribution of any class has been paid by or credited to her in accordance with any provision of the former principal Act or of any regulations made thereunder but, if, after taking into account contributions credited by virtue of these regulations, she does not have a contribution paid or credited for every week in the contribution year under the former principal Act prescribed in her case which included any contribution week for which a contribution would, but for this paragraph, have been credited by this regulation, such contribution shall instead be credited for a week in that contribution year for which no contribution under the Contributory Pensions Acts or the former principal Act has been paid by, or otherwise credited to, her;

(*b*) the number of any reckonable years which were or could have been obtained by her husband by virtue of paragraph (2) and which may be taken into account towards her said entitlement shall, in any case where that entitlement is based on paragraph 2 or, as the case may be, paragraph 3 of Schedule 8 to the Act, not exceed such number of years, in the period specified in paragraph 2(*a*) or, as the case may be, paragraph 3(*a*) of the said Schedule, as fall before the appointed day, and the number of any such reckonable years so obtained by her which may be taken into account towards her said entitlement in any such case shall not exceed such number of years, in the period specified in paragraph 2(*c*) or, as the case may be, in paragraph 3(*c*)(i) and (ii) of the said Schedule, as fall before the appointed day;

(*c*) if her husband died after 5th July 1948 and immediately before that date was insured under the Contributory Pensions Acts for purposes which included widows' and orphans' pensions purposes, the working life of her said husband may, if it would be more favourable to her, be treated as the period between 6th April 1936 or, if later, 6th April of the year in which he last entered into insurance for widows' and orphans' pensions purposes and the end of the year immediately before that in which he attained pensionable age or died under that age.

(9) In the case of a woman whose marriage has been terminated otherwise than by the death of her husband and who, by virtue of regulations made under section 42 of the Act, has the contributions of her said husband treated as if they were contributions of her own so as to entitle her to a Category A retirement pension, if her said husband is, or was, a former contributor, any reckonable years, which were or could have been obtained by him by virtue of paragraph (2) in respect of that part of his working life falling before the end of the year in which the marriage was terminated, shall be taken into account towards her said entitlement and the contributions of her said husband which may be so taken into account shall include any contributions which were or could have been credited to him, for contribution weeks falling before that date, by virtue of any provision of this regulation.

Modifications relating to the contribution condition for child's special allowance

8. The contribution condition for a child's special allowance specified in paragraph 6(1) of Schedule 3 to the Act shall be deemed to be satisfied in any

case where the contributor concerned is, or was, a former contributor who attained pensionable age or died under that age on or after the appointed day and had paid not less than 50 former contributions.

Modifications relating to the contribution condition for death grant

9. In respect of the death of any person occurring on or after the appointed day, where the qualifying contributor is, or was, a former contributor, the contribution condition for a death grant specified in paragraph 7(1) of Schedule 3 to the Act shall be deemed to be satisfied if such contributor has paid or been credited with not less than 25 contributions of any class under the former principal Act between his entry into insurance under that Act and the appointed day or, if he attained pensionable age before the appointed day, between his entry into insurance under the former principal Act and the date upon which he attained that age.

Modifications relating to persons reaching pensionable age before the appointed day but retiring thereafter

10. Where a person who, having attained pensionable age before the appointed day, retires on or after that day or, having retired and re-entered regular employment before the appointed day, again retires on or after that day—

(*a*) any question under the former principal Act relating to that person's entitlement to retirement pension determined in advance of a claim before the appointed day shall be treated, for the purpose of facilitating the determination of a subsequent claim to a Category A or Category B retirement pension, as a question determined under the Act in relation to that person's entitlement to such a pension; and

(*b*) subject to regulation 4, any claim for, or question relating to that person's entitlement to, retirement pension that has not been determined before the appointed day shall be for determination as a claim for, or a question under the Act relating to that person's entitlement to, a Category A or, as the case may be, Category B retirement pension.

Modifications relating to Category A retirement pension for married women

11.—(1) In the case of a woman who, on attaining pensionable age, is the wife of a man to whom she was married before 5th July 1948—

(*a*) if she was an existing contributor and last entered into insurance under the Contributory Pensions Acts after the date of the marriage or she was not an existing contributor but entered into insurance under the former principal Act, the provisions of section 24(2)(*b*) of the Act shall apply only in respect of the period between 6th April next following the said date of her entry into insurance and the end of the year immediately before that in which she attains pensionable age;

(*b*) subject to regulation 7(5), a contribution as payable by a non-employed person under the former principal Act shall be credited to her for each contribution week in that part of the period, in respect of which the said section 24(2)(*b*) applies in her case, falling before 5th July 1948 in place of any contribution under the Contributory Pensions Acts or a contribution of any class under the former principal Act that may have been paid by, or otherwise credited to, her in respect of such week;

(*c*) if she was not a former contributor the provisions of the said section 24(2)(*b*) shall apply only in respect of the period between the appointed day and the end of the year immediately before that in which she attains pensionable age.

(2) For the purposes of section 24(2)(*b*) of the Act, a woman who is a former contributor shall have the number of reckonable years, in such part of the period, in respect of which the said section applies in her case, as falls before the appointed day, obtained by taking the number of contributions of any class, paid by or credited to her in accordance with the provisions of the former principal Act or regulations made thereunder for each week in the said part of the period, or credited to her by paragraph (1), and dividing it by 50 and, if the resultant quotient is not a whole number, by rounding it up to the nearest whole number:

Provided that the number of reckonable years so obtained shall not exceed the number of years in that part of the period, in respect of which the said section applies in her case, falling before the appointed day.

Modifications relating to increases of retirement pension

12.—(1) In this regulation—

"pre-appointed day increment" means an increase of retirement pension under section 31(1) or 34(1) of the former principal Act;

"post-appointed day increment" means an increase of Category A or B retirement pension under section 24(4), 24(5) or 25(10) of the Act;

and the former beneficiaries to whom this regulation relates are those who, immediately before the appointed day, are, or but for any disqualification or forfeiture would be, entitled to, or who have prospective rights to, or expectation of, a pre-appointed day increment.

(2) The weekly rate of a Category A or B retirement pension payable to a former beneficiary to whom this regulation relates shall, in addition to any post-appointed day increments that fall to be made, be increased by the amount of any pre-appointed day increments to which, immediately before the appointed day, he was, or but for any disqualification or forfeiture would have been, entitled, or to which he had a prospective right or expectation, together with increases (if any) of the said amount as nearly as may be proportional to any increases of the weekly rate of a Category A retirement pension specified in paragraph 10 of Part I of Schedule 4 to the Act which result from an order under section 39 of the Act or from any enactment coming into operation on or after the appointed day.

(3) The weekly rate of a Category B retirement pension payable to the widow of a former beneficiary to whom this regulation applies, whom she married after the appointed day, shall, in addition to any post-appointed day increments that fall to be made, be increased by one half the amount of any pre-appointed day increments by which the Category A retirement pension of her husband would, if he was still alive, be increased for him by the provisions of paragraph (2).

(4) Where a former beneficiary to whom this regulation relates has, immediately before the appointed day, entitlement to, or a prospective right to, at least one pre-appointed day increment, section 24(4) of the Act shall apply in his case as if the words "but only if the number of such days is at least 48" were omitted

from that section and any contribution paid by that beneficiary under the former principal Act in respect of any period after he attained pensionable age and not taken into account for a pre-appointed day increment, shall count as 6 days of increment for the purposes of calculating any post-appointed day increments for such beneficiary or for his wife.

(5) Where a former beneficiary to whom this regulation relates is a woman who, immediately before the appointed day,—

(*a*) has attained the age of 60 but has not yet attained the age of 65;

(*b*) has not retired or, having retired, has again re-entered regular employment; and

(*c*) is paying contributions under the former principal Act that, by virtue of regulation 2(2)(*b*) of the National Insurance (Widow's Benefit and Retirement Pensions) Regulations 1972, are taken into account for the purposes of section 32(1) or 34(2) of, or paragraph 8(2) of Schedule 11 to, that Act notwithstanding that she is receiving widowed mother's allowance at the rate specified in that regulation or a contributory old age pension;

any widowed mother's allowance at the said rate (together with any increases thereof) or Category B retirement pension payable by virtue of regulation 14 which she receives for any day on or after the appointed day until she attains the age of 65 or retires before attaining that age shall be disregarded for the purpose of any regulations made under section 24(4)(*b*) of the Act providing for days to be treated as days of increment under that section.

Alternative benefit rights in place of widow's basic pension

13.—(1) Subject to regulation 2(2) where, immediately before the appointed day, a former beneficiary is entitled to a widow's basic pension under the former principal Act, she shall be entitled, as from that day and until she either attains pensionable age and retires or attains the age of 65, to a widow's pension under the Act as though she had been 40 years of age at her husband's death.

(2) A person entitled to a widow's pension by virtue of this regulation shall be treated as having not been so entitled immediately before attaining pensionable age for the purposes of any regulations under the Act disqualifying a widow, not ordinarily resident in Great Britain, for receiving retirement pension at a rate higher than the rate of widow's pension to which she was entitled immediately before attaining pensionable age.

Alternative benefit rights in place of contributory old age pension

14.—(1) Subject to regulation 2(2) where, immediately before the appointed day a former beneficiary is entitled to a contributory old age pension under the former principal Act, such beneficiary shall, as from that day, be entitled—

(*a*) if entitled to a contributory old age pension by virtue of his or her own insurance, to a Category A retirement pension;

(*b*) if a woman who was entitled to a contributory old age pension by virtue of her husband's insurance, to a Category B retirement pension;

and, in either case, the rate of retirement pension to which any such person becomes entitled on the appointed day shall, subject to the provisions of regulation 5, be at the same rate as the contributory old age pension to which that person was entitled immediately before that day.

(2) The weekly rate of a Category A or Category B retirement pension to which a person, who has attained pensionable age before the appointed day but is less than five years over that age on that day, is entitled by virtue of this regulation shall not be liable to be reduced by virtue of section 26(1) of the Act.

Preservation of rights to graduated retirement benefit

15.—(1) For the purposes of preserving any entitlement to, prospective right to, or expectation of, graduated retirement benefit which a former beneficiary has immediately before the appointed day, sections 36 and 37 of the former principal Act shall continue in force after the appointed day with the modifications that—

(*a*) for the words "Subject to the provisions of this Act" in sub-section (1) of the said section 36 there shall be substituted the words "Subject to the provisions of Schedule 10 to the Social Security Act 1973; and

(*b*) to sub-section (4) of the said section 36 there shall be added the following proviso:—

"Provided that, if a person to whom this sub-section applies has retired from regular employment after attaining pensionable age and has subsequently elected to re-enter employment, in computing the addition to be made in accordance with this sub-section to the amount of graduated contributions paid by him, no account shall be taken of such part (if any) of the period between the date of his first retirement and the date of his re-entry into regular employment as falls on or after 6th April 1975.".

(2) The provisions of Schedule 10 to the Act shall apply to graduated retirement benefit payable on or after the appointed day, and to any prospective right to, or expectation of, such benefit which a former beneficiary has on or after that day, as if such benefit is a benefit under Part I of the Act.

(3) Any graduated retirement benefit payable on or after the appointed day by virtue of provisions kept in force by this regulation shall be treated as benefit under Chapter II of Part I of the Act for the purposes of section 46(1)(*a*) of the Act and for the purposes of the Supplementary Benefit Act 1966**(a)**.

Barbara Castle,
Secretary of State for Social Services.

28th October 1974.

(a) 1966 c. 20—*See* section 99(18) of the Social Security Act 1973.

Regulations 4 and 5

SCHEDULE

ALTERNATIVE RIGHTS TO BENEFIT

Column (1) *Benefits under the former principal Act*	Column (2) *Benefits under the Act*
widowed mother's allowance	widowed mother's allowance
widow's pension	widow's pension
retirement pension by virtue of own insurance	Category A retirement pension
retirement pension by virtue of husband's insurance whilst husband alive	Category B retirement pension at lower rate
retirement pension by virtue of husband's insurance and husband no longer alive	Category B retirement pension at higher rate
retirement pension for, or in respect of, person over pensionable age on 5th July 1948	Category C retirement pension at rate determined in accordance with section 27(2) of the Act.
retirement pension for person over 80 years of age	Category D retirement pension
age addition	age addition
invalidity increase of retirement pension	invalidity increase of Category A retirement pension
widow's basic pension	widow's pension as provided for by regulation 13
contributory old age pension	Category A or B retirement pension as provided for by regulation 14
child's special allowance	child's special allowance
death grant	death grant

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These Regulations contain modifications of certain provisions of the Social Security Act 1973 in their application to persons who, immediately before 6th April 1975, were insured under the National Insurance Act 1965 or were entitled to, or had a prospective right to, or expectation of, benefit under that Act and contain savings in respect of certain enactments repealed by the Act of 1973. The modifications principally relate to entitlement to widowed mother's allowance, widow's pension, retirement pension, child's special allowance and death grant and the savings principally relate to the preservation of entitlement to graduated retirement benefit.

The Regulations, being made under Schedule 26 to the Social Security Act 1973 before the day appointed for the coming into force of section 2 of that Act, by virtue of section 48(2) of, and paragraph 16 of Schedule 12 to, that Act are not required to be referred to the National Insurance Advisory Committee and no such reference has been made.

SI 1974/1757
ISBN 0-11-041757-7

