**1975 No. 93**

**SOCIAL SECURITY**

# The Social Security (Benefit) (Married Women and Widows) (Amendments and Transitional Provisions) Regulations (Northern Ireland) 1975

*Made* . . . . . *4th April* 1975

*Coming into operation* . . . . . *6th April* 1975

The Department of Health and Social Services for Northern Ireland, in exercise of powers conferred by paragraphs 3 and 9 of Schedule 3 to the Social Security (Consequential Provisions) Act 1975(a), and by sections 13(4) and 125 of the Social Security (Northern Ireland) Act 1975(b), and of all other powers enabling it in that behalf, hereby makes the following regulations:

*Citation and commencement*

**1.** These regulations may be cited as the Social Security (Benefit) (Married Women and Widows) (Amendments and Transitional Provisions) Regulations (Northern Ireland) 1975 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 (Northern Ireland) Act 1975;

"the former Contributions Regulations" means the National Insurance (Contributions) Regulations (Northern Ireland) 1962(c), as amended;

"the former Married Women Regulations" means the National Insurance (Married Women) Regulations (Northern Ireland) 1973(d);

"the former principal Act" means the National Insurance Act (Northern Ireland) 1966(e);

"the Maternity Allowance Transitional Regulations" means the Social Security (Maternity Allowance) (Transitional) (Northern Ireland) Regulations 1974(f);

"the Overlapping Benefits Regulations" means the National Insurance (Overlapping Benefits) Regulations (Northern Ireland) 1973(g);

"personal benefit", "Personal Injuries Scheme", "Service Pensions Instrument" and "1914-1918 War Injuries Scheme" have the same meanings as in the Overlapping Benefits Regulations;

"the Short-Term Benefits Transitional Regulations" means the Social Security (Short-Term Benefits) (Transitional) (Northern Ireland) Regulations 1975(h);

"the Special Provisions Regulations" means the Social Security (Benefit) (Married Women and Widows Special Provisions) (Northern Ireland) Regulations 1975(i);

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(a) 1975 c. 18
(b) 1975 c. 15
(c) S.R. & O. (N.I.) 1962 No. 65 (p. 247)
(d) S.R. & O. (N.I.) 1973 No. 146 (I, p. 823)
(e) 1966 c. 6 (N.I.)
(f) S.R. 1974 No. 34
(g) S.R. & O. (N.I.) 1973 No. 10 (I, p. 27)
(h) S.R. 1975 No. 44
(i) S.R. 1975 No. 19

"transitional period" means—

(*a*) in the case of a maternity allowance the period beginning with 23rd June 1975 and ending with 19th March 1977;

(*b*) in the case of a period of interruption of employment commencing on or before 1st January 1977 the period beginning with 6th April 1975 and ending with 28th May 1977; and

(*c*) in any other case the period beginning with 6th April 1975 and ending with 1st January 1977;

"week" in relation to a period before 6th April 1975 means a contribution week within the meaning of the former principal Act as extended by regulation 93 of the Social Security (Contributions) (Northern Ireland) Regulations 1974(j),

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

(2) Any reference in these regulations to any provision made by or contained in any enactment or instrument shall, except in so far as the context otherwise requires, be construed as a reference to that provision as amended or extended by any enactment or instrument and as including a reference to any provision which it re-enacts or replaces or which may re-enact or replace it with or without modification.

(3) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(k) shall apply for the purposes of the interpretation of this statutory rule as they apply for the purposes of the interpretation of an Act of Parliament.

*Transitional provisions for women whose marriages have been terminated*

**3.**—(1) This regulation applies, for the purposes of a claim for unemployment benefit, sickness benefit or a maternity allowance in respect of a period of interruption of employment beginning during or, in the case of a maternity allowance, where the expected week of confinement falls within, the transitional period, to a woman who was insured under the former principal Act and whose marriage has been terminated by the death of her husband or otherwise.

(2) A woman to whom this regulation applies shall be credited with contributions for the weeks specified in paragraph (6) below if she satisfies the conditions specified in paragraph (3) or, as the case may be, paragraph (4) below.

(3) The condition for the crediting of contributions for the purposes of a claim for unemployment benefit is that the woman shall—

(*a*) in any one tax year (not being a year before that in which the marriage took place and being either the last year before that in which the marriage terminated or any subsequent year), have paid Class 1 contributions under the Act and the earnings factor derived from those contributions is not less than that year's lower earnings limit multiplied by 25; or

(*b*) (if the marriage terminated before 6th October 1975) at any time in respect of weeks beginning not earlier than the 26th week next before that in which the marriage terminated, have paid 26 contributions as an employed person under the former principal Act.

(4) The condition for the crediting of contributions for the purposes of a claim for sickness benefit or a maternity allowance is that the woman shall—

(j) S.R. 1974 No. 234 (k) 1889 c. 63

(*a*) in any one tax year (not being a year before that in which the marriage took place and being either the last year before that in which the marriage terminated or any subsequent year), have paid contributions under the Act of Class 1 or Class 2 or both of those classes and the earnings factor derived from those contributions is not less than that year's lower earnings limit multiplied by 25; or

(*b*) (if the marriage terminated before 6th October 1975) at any time in respect of weeks beginning not earlier than the 26th week next before that in which the marriage terminated, have paid 26 contributions under the former principal Act each of which was either a contribution as an employed person or a contribution as a self-employed person.

(5) References in paragraphs (3)(*b*) and (4)(*b*) above to contributions under the former principal Act include references to contributions which by virtue of regulations 5 and 14(4)(*a*) of the Short-Term Benefits Transitional Regulations a person is, for the purposes specified in the latter regulations, deemed to have paid.

(6) The weeks for which contributions shall be credited by virtue of this regulation are the weeks during the whole of which the marriage subsisted in the contribution year (as specified in regulation 4 of, and Schedule 1 to, the Short-Term Benefits Transitional Regulations) or, in the case of a maternity allowance, in the relevant 52 or 53 week period (as specified in column 2 of regulation 2 of the Maternity Allowance Transitional Regulations).

*Transitional provisions for widows*

**4.**—(1) Subject to the following provisions of this regulation, for the purposes of a claim for unemployment benefit, sickness benefit or a maternity allowance in respect of a period of interruption of employment beginning during or, in the case of a maternity allowance, where the expected week of confinement falls within, the transitional period, where, otherwise than by reason of remarriage or cohabitation with a man as his wife, a woman who was insured under the former principal Act ceases to be entitled either to a widow's allowance or to a widowed mother's allowance—

(*a*) she shall be deemed to have satisfied, as respects the 26 contributions under the former principal Act required to have been paid, the contribution conditions for unemployment benefit, sickness benefit and a maternity allowance;

(*b*) there shall, for the purpose of her satisfying, as respects the 50 contributions under the former principal Act required to have been paid or credited in a contribution year, the contribution conditions for unemployment and sickness benefit, be credited to her a contribution under the former principal Act as an employed person for each week which began in the period commencing with the beginning of the last complete contribution year before the beginning of the benefit year which includes the day on which she ceases to be entitled as aforesaid and ending with that day;

(*c*) there shall, for the purpose of her satisfying the contribution conditions for a maternity allowance, be credited to her a contribution under the former principal Act as an employed person for each week of the relevant 52 or 53 weeks (as specified in column 2 of regulation 2 of the Maternity Allowance Transitional Regulations) which falls before the week in which she ceases to be entitled as aforesaid;

(*d*) for the purposes of the provisions of section 18(1) of the Act (exhaustion of, and requalification for, unemployment benefit) if the day on which she ceases to be entitled as aforesaid falls during a period of interruption of employment, any part of that period before that day shall be left out of account and, if on that day her right to unemployment benefit is exhausted, she shall be deemed to have requalified therefor on that day.

(2) Where a woman ceases to be entitled to a widowed mother's allowance as is mentioned in paragraph (1) of this regulation at a time when she is entitled to personal benefit by way of a widow's pension under section 67 of the Act or any Personal Injuries Scheme or any Service Pensions Instrument or any 1914-1918 War Injuries Scheme at a weekly rate which is equal to or exceeds the weekly rate of widow's pension under the Act which is specified in the second column of Part I of Schedule 4 thereto, and thereafter that personal benefit, while continuing to be payable, falls to be reduced to a weekly rate which is less than the said weekly rate of widow's pension under the Act, paragraph (1) of this regulation shall apply to her both when she so ceases and when that personal benefit so falls to be reduced.

(3) Where a woman is entitled to personal benefit by way of a widow's pension under section 67 of the Act or any Personal Injuries Scheme or any Service Pensions Instrument or any 1914-1918 War Injuries Scheme—

(*a*) if the weekly rate of that personal benefit is equal to or exceeds the appropriate weekly rate of unemployment benefit or sickness benefit or a maternity allowance, the provisions of sub-paragraphs (*a*) to (*d*) of paragraph (1) of this regulation shall not operate to entitle her to unemployment benefit or sickness benefit or a maternity allowance for any period before she has paid 26 contributions under the former principal Act of the appropriate class in respect of weeks beginning after she ceased to be entitled as is mentioned in the said paragraph (1);

(*b*) if the weekly rate of that personal benefit is less than the said appropriate weekly rate, the said provisions shall not operate to entitle her to unemployment benefit, sickness benefit or a maternity allowance for any period such as is mentioned in the last foregoing sub-paragraph, at a weekly rate which exceeds the difference between the said appropriate weekly rate and the weekly rate of that personal benefit; and

(*c*) the reference in sub-paragraph (*a*) above to contributions under the former principal Act includes a reference to contributions which by virtue of regulations 5 and 14(4)(*a*) of the Short-Term Benefits Transitional Regulations a person is, for the purposes specified in the latter regulations, deemed to have paid.

(4) In determining for the purpose of paragraph (1) of this regulation whether a woman ceases to be entitled as is mentioned in that paragraph, a woman in whose case the Department is satisfied that she would be or would have been entitled to widow's benefit for any period but for any one or more of the following factors, namely—

(*a*) her failure to make, or delay in making, a claim to the benefit;

(*b*) her disqualification for the receipt of benefit for any other reason than her cohabitation with a man as his wife;

(*c*) the operation of the provisions of the Overlapping Benefits Regulations;

shall be treated as if she is or (as the case may be) was entitled thereto throughout that period.

(5) A woman who ceases to be entitled as is mentioned in paragraph (1) of this regulation on more than one occasion shall be entitled to the benefit of the provisions of that paragraph, subject as therein mentioned, on each such occasion:

Provided that, in relation to such a woman, the reference in paragraph (4) of this regulation to her ceasing to be entitled as aforesaid shall be construed as a reference to the later or last of such occasions, so, however, that a woman who, after any occasion (hereafter in this paragraph called "the occasion in question") and before the next subsequent occasion, has satisfied, in relation to the occasion in question, the requirement of paying the 26 contributions referred to in the said paragraph (4) shall, in relation to any right to benefit arising by reason of the application of the provisions of the said paragraph (1) on the occasion in question, be relieved from any restriction on that right imposed by that paragraph as if the provisions of the said paragraph (1) had not applied on any subsequent occasion.

(6) Where in accordance with the provisions of sub-paragraph (*b*) or (*c*) of paragraph (1) of this regulation a contribution is credited for any week, any contribution under the former principal Act otherwise credited, paid or treated as paid for that week shall be disregarded for the purpose specified in the said sub-paragraph (*b*) or (*c*), but for all other purposes shall be taken into account to the exclusion of any contribution credited in accordance with the provisions of those sub-paragraphs.

(7) Where, but for this paragraph, the provisions of regulation 3 of these regulations and the provisions of this regulation would be applicable for the purpose of determining a woman's right to unemployment benefit or sickness benefit for any day or to a maternity allowance, her right thereto shall, if its determination by reference to the provisions of one of those two regulations is more favourable to her than its determination by reference to the provisions of the other, be determined by reference to the provisions of that one to the exclusion of the provisions of the other.

(8) For the purposes of paragraph (4) above any Class 1 or Class 2 contributions paid under the Act shall be deemed to be contributions under the former principal Act as an employed person or a self-employed person respectively on the basis prescribed in regulations 5 and 14(4)(*a*) of the Short-Term Benefits Transitional Regulations.

(9) In this regulation "benefit year" and "contribution year" have the meanings which were assigned to them by regulation 2 of the National Insurance (General Benefit) Regulations (Northern Ireland) 1971(I).

*Credits under regulation* 13 *of the former Married Women Regulations*

**5.** Where a woman is in receipt of any death benefit by way of pension or allowance payable to her as the widow of the person in respect of whose death that benefit is payable under section 67 of the Act, any Personal Injuries Scheme, any Service Pensions Instrument or any 1914-1918 War Injuries Scheme any retirement pension which is payable to her wholly or in part by taking into account contributions credited to her by virtue of the provisions of regulation 13 of the former Married Women Regulations shall, for the purposes of regulations for adjusting benefit payable to or in respect of any person, or the conditions for receipt thereof, made under section 85 of the Act, be treated as payable, wholly or in part, by virtue of her husband's contributions or insurance:

(I) S.R. & O. (N.I.) 1971 No. 190 (p. 956)

Provided that, in the case of a woman who has been a widow more than once, the provisions of this paragraph shall apply in relation only to contributions credited to her as the widow of her last husband.

*Amendment of the Special Provisions Regulations*

**6.**—(1) The Special Provisions Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 6(2)(*d*) and (*e*) of the Special Provisions Regulations after "corresponding to a widow's pension or a widowed mother's allowance" there shall in each case be inserted "(other than benefit which is reduced in accordance with the provisions of regulation 10(3) of the Social Security (Widow's Benefit and Retirement Pensions) (Northern Ireland) Regulations 1975)".

(3) At the end of regulation 6(2) of the Special Provisions Regulations there shall be inserted:

"Provided that sub-paragraphs (*a*) to (*c*) above shall not apply to any year throughout the whole of which the woman is absent from Northern Ireland unless she was an insured person under the former principal Act or before that year she has paid a contribution under the Act.".

(4) For regulation 9(2) of the Special Provisions Regulations there shall be substituted:

"(2) Where a woman who would be entitled to an increase of benefit under section 41 or 46 of the Social Security (Northern Ireland) Act 1975 but for the fact that the second contribution condition specified in paragraph 5 of Schedule 3 to that Act is not satisfied, is entitled to benefit under paragraph (1) of this regulation, the latter benefit shall be increased—

(*a*) in the case of a child dependant, by the amount specified in Part IV of Schedule 4 to that Act as the amount of an increase of the benefit in question for an only, elder, eldest or additional qualifying child, as the case may be; and

(*b*) in the case of an adult dependant, by a percentage of the amount specified in Part IV of Schedule 4 to that Act as the amount of an increase of the benefit in question for an adult dependant, the percentage being ascertained in accordance with paragraph (3) or (4) of this regulation.".

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 4th April 1975.

(L.S.)

*C. G. Oakes*
Assistant Secretary

## EXPLANATORY NOTE

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

These regulations contain provisions relating to the crediting of contributions to women who are, or have been, married. In particular regulations 3 to 5 contain, for transitional purposes, provisions corresponding to certain provisions of regulations 9, 10 and 13 of the National Insurance (Married Women) Regulations (Northern Ireland) 1973 subject, in some cases, to modifications.

Regulation 6 amends regulations 6(2) and 9(2) of the Social Security (Benefit) (Married Women and Widows Special Provisions) (Northern Ireland) Regulations 1975.