1970. No. 295 **[C]**

NATIONAL INSURANCE

Widows' Pensions and Miscellaneous Provisions

REGULATIONS, DATED 20TH NOVEMBER 1970, MADE BY THE NATIONAL INSURANCE JOINT AUTHORITY AND THE MINISTRY OF HEALTH AND SOCIAL SERVICES, IN CONJUNCTION WITH THE MINISTRY OF FINANCE, UNDER THE NATIONAL INSURANCE ACTS (NORTHERN IRELAND) 1966 TO 1970.

The National Insurance Joint Authority, in exercise of powers conferred by sections 33(3), 44, 49(1)(*a*) and 50 of the National Insurance Act (Northern Ireland) 1966(**a**) and the Ministry of Health and Social Services, in exercise of powers conferred by sections 10(1), 11(1), 13(1), 30(2), 47(2), 48(1), 51(1) and 96(1) of that Act, section 2(6) of the National Insurance (No. 2) Act (Northern Ireland) 1966(**b**) and sections 1(1), 8(5) and 9(2)(*a*) of the National Insurance (Old Persons' and Widows' Pensions and Attendance Allowance) Act (Northern Ireland) 1970(**c**), in each case 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 in exercise of all other powers enabling them in that behalf, hereby make the following regulations, being regulations subject to negative resolution in accordance with section 101(3) as extended by section 101(4) of the National Insurance Act (Northern Ireland) 1966:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Insurance (Widows' Pensions and Miscellaneous Provisions) Regulations (Northern Ireland) 1970 and shall come into operation on 23rd November 1970.

(2) In these regulations—

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

"the Act of 1970" means the National Insurance (Old Persons' and Widows' Pensions and Attendance Allowance) Act (Northern Ireland) 1970;

"the Married Women Regulations" means the National Insurance (Married Women) Regulations (Northern Ireland) 1962(**d**);

"the Old Persons Regulations" means the National Insurance (Old Persons' Pensions) Regulations (Northern Ireland) 1970(**e**);

"the Widow's Benefit and Retirement Pensions Regulations" means the National Insurance (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland) 1948(**f**);

"contributory old age pension" and "widow's basic pension" have the same meanings respectively as in the National Insurance (Pensions, Existing Beneficiaries and Other Persons) (Transitional) Regulations (Northern Ireland) 1948(**g**).

(a) 1966. c. 6 (N.I.).
(b) 1966. c. 16 (N.I.).
(c) 1970. c. 28 (N.I.).
(d) S.R. & O. (N.I.) 1962, No. 64.
(e) S.R. & O. (N.I.) 1970, No. 281.
(f) S.R. & O. (N.I.) 1948, No. 246.
(g) S.R. & O. (N.I.) 1948, No. 39.

Relaxation of conditions of entitlement to widow's pension

2.—(1) As from 5th April 1971, Schedule 9 to the Act (transitory provisions) shall be amended in accordance with the provisions of paragraphs (2) to (4).

(2) In paragraph 2(1) for the words "neither the conditions", "those", "are" and "referring to the conditions", there shall respectively be substituted the words "neither the condition", "that", "is" and "referring to the condition"; paragraphs 2(2)(*b*)(ii) and 2(3)(*b*)(iii) (under which it is a condition of entitlement to widow's benefit for certain widows that three years have elapsed since the relevant marriage) shall cease to have effect; in paragraph 2(3)(*b*)(i) the words "subject to paragraph 3" shall cease to have effect and for the word "fifty" there shall be substituted the word "forty"; in paragraph 2(4)(*b*) for the words "(3)(*b*)(i), (ii) and (iii)" there shall be substituted the words "(3)(*b*)(i) and (ii)"; and paragraph 2(5) shall cease to have effect.

(3) For paragraph 3 there shall be substituted the following paragraph:

"3. Section 27(3A) shall not apply to a widow who satisfies the conditions specified in either section 27(3), or paragraph 2(2), (3) or (4) of this Schedule, and whose husband or, if she has been married more than once, whose last husband died before 4th February 1957."

(4) For paragraph 4 there shall be substituted the following paragraph:

"4. Section 17(3) of the Act of 1946 (by virtue of which a widow who would otherwise have ceased to be entitled to widow's benefit at a time when incapable of self-support by reason of infirmity may be granted a widow's pension), so far as it applies to a widow so ceasing before 7th January 1957, shall be specially saved; and where a widow entitled to a widow's pension by virtue of the said section 17(3) ceases to be so entitled at a time when she is over the age of forty, she shall for any subsequent period have the same right, if any, to a widow's pension in respect of that marriage as if the condition specified in section 27(2) were satisfied, so however that section 27(3A) shall apply to that pension as if in that section for the words 'her husband died or, as the case may be, when she ceased to be entitled to a widowed mother's allowance' there were substituted the words 'she ceased to be entitled to a widow's pension which was payable by virtue of section 17(3) of the Act of 1946'."

Amendments to the Old Persons' Regulations

3.—(1) As from 5th April 1971, the Old Persons Regulations shall be amended in accordance with the provisions of paragraphs (2) to (4).

(2) In regulations 3(1)(*c*) and 4(1)(*a*) (provision of pensions for certain widows of persons over pensionable age on 5th July 1948), for the word "50" there shall be substituted the word "40".

(3) In paragraph (2) of regulation 3, after the words "paragraph (1)" there shall be inserted the words "(not being a pension to which paragraph (3) applies)"; and after the said paragraph (2) there shall be inserted the following paragraph:

"(3) A retirement pension payable by virtue of paragraph (1) to a widow who was under the age of 50 either at the time when her husband died or, if she was entitled to a widowed mother's allowance by virtue of regulation 5, at the time when she ceased to be so entitled, shall commence on 5th April 1971 or the date on which the requirements of sub paragraphs (*a*) to (*c*) and either (*d*) or (*e*) of that paragraph are satisfied in relation to the beneficiary, whichever is the later, and shall be payable for life."

(4) At the beginning of paragraph (1) of regulation 7, before the words "The weekly rate", there shall be added the words "Subject to paragraph (3),"; and after paragraph (2) of the said regulation there shall be inserted the following paragraph:

"(3) In the case of a widow who is entitled to a pension by virtue of regulation 3 or 4, and who was under the age of 50 either at the time when her husband died or, if she was entitled to a widowed mother's allowance by virtue of regulation 5, at the time when she ceased to be so entitled, paragraph (1) shall be construed as if section 27(3A) of the principal Act applied to that pension, and as if for the amount first and last mentioned in paragraph (1) there were substituted that amount reduced in accordance with the provisions of the said section 27(3A)."

Amendments to the Widow's Benefit and Retirement Pensions Regulations

4.—(1) As from 5th April 1971, the Widow's Benefit and Retirement Pensions Regulations shall be amended in accordance with the provisions of paragraphs (2) to (10).

(2) Regulation 3(**h**) shall cease to have effect.

(3) For regulation 4(**i**) there shall be substituted the following regulation, so however that any contributions already paid which fall to be taken into account by virtue of paragraph (3) or (4) of the said regulation 4 shall be taken into account, for the purpose and to the extent mentioned in the said paragraphs (3) and (4), notwithstanding the revocation of those paragraphs:

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

4. In the application of section 33(1) of, and paragraph 8(2) of Schedule 9 to, the National Insurance Act (Northern Ireland) 1966(**j**) (increase in rate of retirement pension for contributions paid after pensionable age) to a retirement pension payable to a woman by virtue of the insurance of a husband whom she married after attaining pensionable age, contributions paid by the husband for any contribution weeks terminating before the date of the marriage, and contributions paid by him for any contribution weeks terminating both before 5th April 1971 and also before the earliest date on which she would have been entitled to a retirement pension, if she and the husband had both then retired from regular employment, shall not be taken into account except for the purposes of section 33(1)(*b*) of the said Act of 1966."

(4) In regulation 7(1)(**k**), for the words "the next succeeding paragraph" there shall be substituted the words "paragraph (2) or (3) of this regulation".

(5) In regulation 7(2)(**k**), after the words "widow's benefit" there shall be inserted the words "(in a case to which paragraph (3) of this regulation does not apply)".

(6) After regulation 7(2) there shall be inserted the following paragraphs:

"(3) In any case in which paragraph (1) of this regulation applies to the widow's pension of such a widow as is mentioned in section 27(3A) of the National Insurance Act (Northern Ireland) 1966, the pension shall

(**h**) See Sch. to S.R. & O. (N.I.) 1953, No. 108.
(**i**) See Sch. 4 to S.R. & O. (N.I.) 1962, No. 27.
(**j**) 1966. c. 6 (N.I.).
(**k**) See Sch. to S.R. & O. (N.I.) 1957, No. 241.

be payable, subject to the provisions of the following paragraph and of regulation 2(1) of the Family Allowances, National Insurance, Industrial Injuries and Miscellaneous Provisions (Decimalisation of the Currency) Regulations (Northern Ireland) 1970(**l**) at the rate specified in column (3) 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 subject to a further reduction in accordance with the provisions of the said section 27(3A).

(4) In the case of a woman to whom the foregoing paragraph applies and who would have been entitled to a widow's basic pension or contributory old age pension (these expressions having the same respective meanings in this paragraph as in the National Insurance (Pensions, Existing Beneficiaries and Other Persons) (Transitional) Regulations (Northern Ireland) 1948(**m**)) had she not become entitled to a widow's pension or a retirement pension payable at a reduced rate by virtue either of section 27(3A) or of the combined effect of sections 27(3A) and 31(3A)(**n**) of the National Insurance Act (Northern Ireland) 1966, the weekly rate of the widow's pension or retirement pension (as the case may be) shall be the rate ascertained in accordance with the foregoing paragraph, or the rate of the widow's basic pension or contributory old age pension (as the case may be) to which she would have been entitled, whichever is the greater."

(7) In regulation 10(1)(**o**), for the words "sub-section (4) of section 19 of the Act or sub-section (1) of section 5 of the Family Allowances and National Insurance and Assistance Act (Northern Ireland) 1962 (which sub-sections relate to increases" there shall be substituted the words "sections 30(1) and 33(1) of, and paragraph 8(2) of Schedule 9 to, the National Insurance Act (Northern Ireland) 1966 (increases".

(8) Regulation 10(2)(**p**) shall cease to have effect.

(9) In regulation 11(**p**), references to retirement pension by virtue of a husband's insurance shall not be construed as including references to a retirement pension payable by virtue of section 31(3A) of the Act.

(10) In regulation 12(1)(**q**), for the words "sub-section (4) of section 19 of the Act and sub-section (2) of section 5 of the Family Allowances and National Insurance and Assistance Act (Northern Ireland) 1962" there shall be substituted the words "sections 30(1) and 33(2) of, and paragraph 8(2) of Schedule 9 to, the National Insurance Act (Northern Ireland) 1966".

Retirement pensions for certain widows by virtue of husband's insurance.

5.—(1) As from 5th April 1971, the Act shall be amended in accordance with the provisions of paragraphs (2) to (5).

(2) In section 30(1), for the words "section 29" there shall be substituted the words "section 29 or 31(3A)".

(3) In section 31, after subsection (3) there shall be inserted the following subsection:

"(3A) Subject to the provisions of this Act, a woman who satisfies the requirements of regulation 5(6) of the National Insurance (Widows' Pensions

(**l**) S.R. & O. (N.I.) 1970, No. 15.
(**m**) S.R. & O. (N.I.) 1948, No. 39.
(**n**) See reg. 5(3) of S.R. & O. (N.I.) 1970, No. 295.
(**o**) See Sch. 5 to S.R. & O. (N.I.) 1962, No. 27.
(**p**) See reg. 2 of S.R. & O. (N.I.) 1957, No. 160.
(**q**) See Sch. 6 to S.R. & O. (N.I.) 1962, No. 27.

and Miscellaneous Provisions) Regulations (Northern Ireland) 1970 shall be entitled to a retirement pension as provided in the said regulation 5(6)."

(4) In section 31(4), after the word "(1)" there shall be inserted the words "or (3A)".

(5) In section 33(2), for the words "section 31" there shall be substituted the words "section 31(1)".

(6) As from 5th April 1971, and subject to the provisions of the Act, a woman who—

(*a*) has retired from regular employment;

(*b*) has attained the age of 60;

(*c*) was a widow immediately before attaining that age; and

(*d*) is entitled to a widow's pension,

shall be entitled to a retirement pension by virtue of her husband's insurance; and the weekly rate of that pension to which she is at any time entitled shall be the weekly rate of widow's pension to which at that time she is entitled.

(7) In paragraph (6), the expression "her husband's insurance" shall be construed, in the case of a woman who has been married more than once, as meaning the insurance of the husband to whom she was last married before she attained the age of 60, and the expression "widow's pension", in such a case, shall be construed as meaning widow's pension by virtue of the insurance of that husband.

(8) For the purposes of paragraph (6), a woman shall be deemed to be entitled to a widow's pension if she would have been so entitled but for any one or more of the circumstances specified in paragraph (9), and the expression "the weekly rate of widow's pension to which at that time she is entitled" shall be construed as including the weekly rate of widow's pension to which at that time she would have been entitled but for any one or more of the circumstances specified in paragraph (9).

(9) The circumstances referred to in paragraph (8) are:

(*a*) the woman's failure to make a claim therefor;

(*b*) her entitlement to widow's allowance or widowed mother's allowance;

(*c*) the operation of section 48 or 49 of the Act or any regulations made under either of those sections, excluding any provisions for absence from Northern Ireland;

(*d*) the operation of any provision of the Act or of any regulations made thereunder, disqualifying her for the receipt of that widow's pension for any period, excluding any provisions for absence from Northern Ireland;

(*e*) her having attained the age of 65; and

(*f*) her having remarried after 4th April 1971.

Amendments to the Married Women Regulations

6.—(1) As from 5th April 1971, the Married Women Regulations shall be amended in accordance with the provisions of paragraphs (2) to (5).

(2) In regulation 10(1) (modifications, in relation to widows, of provisions with respect to unemployment and sickness benefit and retirement pensions), the words "but in the latter case without becoming entitled under the Act to a widow's pension or a retirement pension" shall cease to have effect.

(3) In regulation 10(2), the words "For the purposes of this regulation" shall cease to have effect; for the words "she shall be deemed not to have ceased to be entitled as aforesaid unless and until" there shall be substituted the words "and thereafter"; and at the end there shall be added the words "paragraph (1) shall apply to her both when she so ceases and when that personal benefit so falls to be reduced".

(4) In regulation 11(1)(*b*) (transitory provisions), the words "but without becoming entitled under any other provision of the Act to a widow's pension or a retirement pension" shall cease to have effect.

(5) In regulation 14(1) and (2) (credits for widows), for the words "(not being a widow's basic pension)" there shall be substituted the words "(not being a widow's basic pension or a widow's pension payable at a reduced weekly rate by virtue of section 27(3A) of the National Insurance Act (Northern Ireland) 1966(**r**))".

Amendments to the National Insurance (Contributions) Regulations

7.—(1) As from 5th April 1971, the National Insurance (Contributions) Regulations (Northern Ireland) 1962(**s**) shall be amended in accordance with the provisions of paragraphs (2) and (3).

(2) In regulation 10(2) (widows' entitlement and liability to pay contributions), after the word "1948" there shall be inserted the words "or a widow's pension payable at a reduced rate by virtue of section 27(3A) of the National Insurance Act (Northern Ireland) 1966(**r**)".

(3) After regulation 10(4) there shall be inserted the following paragraphs:

"(4A) A woman shall not be liable to pay a contribution as an insured person for any week for the whole or any part of which a widow's pension is payable to her as the widow of her husband at a reduced rate by virtue of section 27(3A) of the National Insurance Act (Northern Ireland) 1966(**r**), if it is a week to which a certificate of exception (not being a certificate which has been issued to the same woman in order to satisfy the requirements of paragraph (3), and not being a certificate to which paragraph (5)(*c*)(ii) applies) issued by the Ministry pursuant to this regulation relates.

(4B) Where a certificate has been issued pursuant to paragraph (4A) to a woman to whom both a widow's pension and any of the specified benefits referred to in paragraph (3) was payable as a widow, and the said widow's pension has ceased to be payable to her as a result of any subsequent increase in the weekly rate of any of the said specified benefits, the fact that the said widow's pension has ceased to be payable to her for that reason shall be disregarded for the purpose of the application to her of the provisions of paragraph (4A)."

Amendments to the National Insurance (Earnings-related Benefit) Regulations

8. As from 5th April 1971, in regulation 6 of the National Insurance (Earnings-related Benefit) Regulations (Northern Ireland) 1966(**t**), for the words "paragraph (3) of that regulation" there shall be substituted the words "paragraph (3) or (4A)(**u**) of that regulation"; and for the words "paragraph (2) or paragraph (3)" there shall be substituted the words "paragraph (2), (3) or (4A)(**u**)".

(**r**) 1966. c. 6 (N.I.).
(**s**) S.R. & O. (N.I.) 1962, No. 65.
(**t**) S.R. & O. (N.I.) 1966, No. 184.
(**u**) See reg. 7(3) of S.R. & O. (N.I.) 1970, No. 295.

Persons resident abroad

9.—(1) Subject to the provisions of this regulation, the weekly rate of a widow's pension to which a woman who is not ordinarily resident in Northern Ireland becomes entitled on or after 5th April 1971 by virtue of these regulations or section 2 or 3 of the Act of 1970 shall be the rate referred to in section 27(1) of the Act, or the reduced rate referred to in regulation 7(2) of the Widow's Benefit and Retirement Pensions Regulations, as the case may be, as it applied to persons ordinarily resident in Northern Ireland at whichever is the latest of the following dates:

(*a*) the date when she was last ordinarily resident in Northern Ireland;

(*b*) in a case where the husband had retired from regular employment and was not ordinarily resident in Northern Ireland at the time of his death—

(i) the date when he so retired; and

(ii) the date when he was last so resident; and

(*c*) in any other case, the date when he died,

reduced, in the case of such a widow as is mentioned in section 27(3A) of the Act, in accordance with that section.

(2) Subject to the provisions of this regulation, the weekly rate of a retirement pension payable under section 31 of the Act to which a woman who is not ordinarily resident in Northern Ireland becomes entitled on 5th April 1971 by virtue of regulation 4(3) of these regulations (whereby regulation 4(1) of the Widow's Benefit and Retirement Pensions Regulations ceases to have effect) shall be the appropriate rate referred to in the said section 31 as it applied at whichever is the latest of the following dates:

(*a*) the date when she was last ordinarily resident in Northern Ireland;

(*b*) in a case where the husband was not ordinarily resident in Northern Ireland on, and had retired from regular employment before, the earliest date on which she would have been entitled to a retirement pension under the said section 31 had the said regulation 4(1) never been effective—

(i) the date when he so retired; and

(ii) the date when he was last so resident; and

(*c*) in any other case, the earliest date on which she would have been entitled to a retirement pension under the said section 31 had the said regulation 4(1) never been effective,

and, in a case to which section 44 of the Act (partial satisfaction of contribution conditions) applies, this paragraph shall have effect as if for the references to section 31 of the Act there were substituted references to regulation 7(2) of the Widow's Benefit and Retirement Pensions Regulations.

(3) Paragraphs (1) and (2) shall not apply to a woman for any period during which she is in Northern Ireland, and shall cease to apply to her if and when she becomes ordinarily resident in Northern Ireland.

(4) In the case of a widow to whom this regulation applies and who was entitled to a widow's basic pension immediately before she became entitled to a widow's pension or to a retirement pension, the weekly rate of the widow's pension or retirement pension, as the case may be, shall be the rate ascertained in accordance with the appropriate provision of this regulation, or the rate of the widow's basic pension to which she was then entitled, whichever is the greater.

(5) Where a woman has been married more than once, references in this regulation to her husband shall refer only to her present husband if she is still married, and to her last husband if she is no longer married.

(6) In this regulation the word "entitled" shall be construed as meaning "entitled, whether or not subject to making a claim therefor".

Claims and payments

10.—(1) Benefit attributable to section 2 or 3 of the Act of 1970 or to regulation 5 of these regulations shall not be paid without a claim being made for it unless the beneficiary is entitled to receive widow's allowance, widowed mother's allowance, widow's basic pension or contributory old age pension.

(2) In a case of a widow who is entitled to a widow's pension or a retirement pension under the Act, being a pension which is payable at a reduced rate by virtue either of section 27(3A) or of the combined effect of sections 27(3A) and 31(3A) of the Act, weekly sums on account of the pension under the Act shall, notwithstanding the provisions of regulation 10(4) and (7) of the National Insurance (Claims and Payments) Regulations (Northern Ireland) 1961(v), be payable on such days of the week as the Ministry may decide.

Overlapping benefits (transitory provision)

11. In the case of a woman under 60 who is entitled to a widow's pension payable at a reduced rate by virtue of section 27(3A) of the Act and who, immediately before 5th April 1971, was entitled to a widow's basic pension payable to her by virtue of the insurance of her husband who died before 5th July 1951, paragraph (1) of Column 1 and paragraph (2) of Column 2 of the Schedule to the National Insurance (Overlapping Benefits) Regulations (Northern Ireland) 1961(w) shall both be treated as if they read "Widow's benefit payable under the Act".

Given under the Official Seal of the National Insurance Joint Authority this 20th day of November 1970.

(L.S.) *D. G. Kelly,*
Secretary.

Given under the Official Seal of the Ministry of Health and Social Services for Northern Ireland this 20th day of November 1970.

(L.S.) *C. G. Oakes,*
Assistant Secretary.

Given under the Official Seal of the Ministry of Finance for Northern Ireland this 20th day of November 1970.

(L.S.) *R. R. Butler,*
Assistant Secretary.

(v) S.R. & O. (N.I.) 1961, No. 221.
(w) S.R. & O. (N.I.) 1961, No. 180.

EXPLANATORY NOTE

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

These regulations are made in consequence of the National Insurance (Old Persons' and Widows' Pensions and Attendance Allowance) Act (Northern Ireland) 1970.

Regulations 2 and 3 relax some of the conditions of entitlement to a widow's pension which are contained in the National Insurance Act (Northern Ireland) 1966 and in the National Insurance (Old Persons' Pensions) Regulations (Northern Ireland) 1970 respectively. These relaxations are to the advantage of a woman who was widowed, or ceased to be entitled to widowed mother's allowance, either when she was between the ages of 40 and 50, or when it was less than three years after her marriage and she was over 40.

Regulation 4 sets out the method of calculation which is to be applied when a widow's pension falls to be reduced because of partial satisfaction of contribution conditions and again reduced because of the age at which the widow became entitled to benefit, and makes provisions consequential upon the removal, by section 3 of the Act of 1970, of certain conditions of entitlement to retirement pension, which formerly applied to a woman who married when over 60.

Regulation 5 provides that when a woman who is entitled to a widow's pension reaches the age of 60, she shall thereupon be entitled to a retirement pension by virtue of her husband's insurance payable at the same rate as the widow's pension.

Regulation 6 removes the restrictions on the application to widow beneficiaries of the provisions for deeming certain contribution conditions for benefit to be satisfied. It also provides that a woman who is receiving widow's benefit at a reduced rate because of the age at which she became entitled shall not have contributions credited to her as a widow pensioner.

Regulation 7 provides that such a woman may be excepted from liability to pay contributions, and, by virtue of regulation 8, a woman who is so excepted may in some cases qualify for earnings-related supplement.

Regulation 9 provides for the rate of certain benefits payable to a woman who is not residing in Northern Ireland to be related to the rate current when (depending on the circumstances) she or her husband was last ordinarily resident in Northern Ireland, or her husband retired or died.

Regulation 10 provides that in certain cases benefit shall not be paid without a claim, and contains a provision about payment dates and regulation 11 contains provisions, of a transitory nature only, relating to overlapping benefits.