1979 No. 244

SOCIAL SECURITY

The Social Security (Widow's Benefit, Retirement Pensions and Other Benefits) (Transitional) Regulations (Northern Ireland) 1979

Made . . . . . *3rd July* 1979

Coming into operation . . . *5th September* 1979

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The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 2 of, and paragraphs 3, 4, 5, 7 and 9 of Schedule 3 to, the Social Security (Consequential Provisions) Act 1975(**a**) and Article 72 of the Social Security Pensions (Northern Ireland) Order 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 (Widow's Benefit, Retirement Pensions and Other Benefits) (Transitional) Regulations (Northern Ireland) 1979 and shall come into operation on 5th September 1979.

Interpretation

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

"the Act" means the Social Security (Northern Ireland) Act 1975(**c**);

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

"the Pensions Order" means the Social Security Pensions (Northern Ireland) Order 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 (Northern Ireland) 1936 to 1946;

"pre-1975 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 9 to that Act) is, or but for a disqualification or forfeiture would be, payable immediately before 6th April 1975; and

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

"pre-1975 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 means—

(*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 29(5) of the Act, a contribution paid under the Contributory Pensions Acts by a pre-1948 contributor in respect of a period between the date of 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

(a) 1975 c. 18
(b) S.I. 1975/1503 (N.I. 15)
(c) 1975 c. 15
(d) 1966 c. 6 (N.I.)

(*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 sub-paragraph (*a*) of this paragraph, a contribution paid under the Contributory Pensions Acts by a pre-1948 contributor in respect of a period between the date of his last entry into insurance under those Acts and 5th July 1948 and paid for purposes which included old age pensions purposes;

"pre-1975 contributor" means a person who was insured under the former principal Act;

"pre-1948 contributor" means a person who, within the prescribed time referred to in paragraph 17(1)(*a*) of Schedule 9 to the former principal Act, was, or was deemed to be, or was treated as, insured under the Contributory Pensions Acts;

"reckonable year" for the purposes of the contribution conditions for any benefit means a year before 6th April 1978 in which the contributor concerned paid or was credited with contributions of a relevant class and the earnings factor derived from those contributions amounted to not less than that year's lower earnings limit multiplied by 50;

"year" means tax year.

(2) Any reference in these regulations to a pre-1975 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 6th April 1975, a person is, by virtue of these regulations, entitled to benefit under the Act or the Pensions Order, 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 under the former principal Act would have been subject if that Act had continued on or after 6th April 1975.

(3) For the purposes of these regulations a person who has obtained a decree absolute of presumption of death and dissolution of marriage under the Matrimonial Causes (Northern Ireland) Order 1978(e) shall, notwithstanding that the spouse whose death has been presumed is dead, be treated as a person whose marriage has been terminated otherwise than by the death of his spouse unless the date of his death is established to the satisfaction of the Department, a Commissioner, a local tribunal or an insurance officer, whichever is appropriate; and, in relation to a person who is so treated, the marriage in question shall be treated as having been terminated on the date of the decree absolute.

(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 Interpretation Act 1978(f) shall apply to these regulations.

Modifications of the Act and the Pensions Order in their application to pre-1975 beneficiaries and pre-1975 contributors

3. In relation to pre-1975 beneficiaries and pre-1975 contributors the provisions of the Act and the Pensions Order and the orders and regulations for the time being in force thereunder shall have effect subject to the modifications made by these regulations.

(e) S.I. 1978/1045 (N.I. 15) (f) 1978 c. 30

Benefit in respect of events or for periods commencing before 6th April 1975

4. Where, on or after 6th April 1975, a person claims, in respect of an event falling or for a period commencing before 6th April 1975, benefit under the former principal Act of a description specified in Column (1) of Schedule 1 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 the enactments specified in the third column of Schedule 1 to the Social Security (Consequential Provisions) Act 1975 covering entitlement to such benefit had continued in force in place of the provisions of the Act and the Pensions Order covering entitlement to benefit of a corresponding description.

Provision of alternative rights to benefit

5.—(1) Subject to regulation 2(2) where, immediately before 6th April 1975, a pre-1975 beneficiary was entitled to benefit under the former principal Act of a description specified in Column (1) of Schedule 1 to these regulations or to any increase of such benefit for a child or adult dependant, he shall as from that date be entitled, without any claim being made therefor, or award being made thereof, to benefit under the Act or the Pensions Order 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 or the Pensions Order, and to any increase of such benefit for a child or adult dependant to which he may be entitled under or by virtue of those enactments.

(2) Where, immediately before 6th April 1975, a woman was 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 (Northern Ireland) 1972(**g**) as being incapable of self-support by reason of an infirmity, she shall, subject to regulation 2(2), be entitled as from 6th April 1975 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 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 pre-1975 contributor who had paid not less than 50 pre-1975 contributions.

(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 6th April 1975 if—

(*a*) she was a widow who was entitled to a widow's allowance or a widowed mother's allowance under the former principal Act at any time before 6th April 1975 and has not re-married before attaining pensionable age; or

(*b*) her marriage was terminated before 6th April 1975 otherwise than by the death of her husband and she has not re-married before attaining pensionable age and her husband had paid not less than 50 pre-1975 contributions before the termination of her marriage.

(**g**) S.R. & O. (N.I.) 1972 No. 182 (p. 1015)

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 B retirement pension specified in paragraph 5(3) of Schedule 3 to the Act.

(2) Subject to paragraph (3), where the contributor concerned is, or was, a pre-1975 contributor he shall, in respect of that part of his working life falling before 6th April 1975, have the number of reckonable years obtained by taking the total 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 these regulations and dividing it by 50, and, if the resultant quotient is not a whole number, by rounding it up to the nearest whole number; so however that the number of reckonable years so obtained shall not exceed the number of years of a person's working life falling before 6th April 1975.

(3) For the purposes of a Category B retirement pension under section 29(2) or (3) of the Act where the contributor concerned was a pre-1975 contributor who attained pensionable age before 6th April 1975, the second contribution condition shall be deemed to be satisfied to the same extent as it was satisfied in relation to that contributor for the purposes of his Category A retirement pension; so however that this paragraph shall not apply where that contributor died on or after that date.

(4) A contribution as payable by a non-employed person under the former principal Act shall be credited to a pre-1975 contributor—

(*a*) if he was a pre-1948 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 a pre-1948 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; or

(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;

so however that a contribution credited to a pre-1975 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 a week.

(5) In any case where the contributor concerned attained the age of 16 before 6th April 1975 and is not a pre-1975 contributor, a contribution as payable by a non-employed person under the former principal Act shall be credited to him—