1979 No. 98

SOCIAL SECURITY

The Social Security (Benefit) (Transitional) Regulations (Northern Ireland) 1979

Made . . . . . 30*th March* 1979
Coming into operation—
regulation 7 . . . . . 30*th March* 1979
remainder . . . . . 6*th April* 1979

The Department of Health and Social Services for Northern Ireland, in exercise of powers conferred on it by Article 72 of the Social Security Pensions (Northern Ireland) Order 1975(a), 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) (Transitional) Regulations (Northern Ireland) 1979. Regulation 7 shall come into operation on 30th March 1979 and the remainder of the regulations shall come into operation on 6th April 1979.

Miscellaneous amendments of the Social Security (Widow's Benefit, Retirement Pension and Other Benefits) (Transitional) (Northern Ireland) Regulations 1975

2.—(1) The Social Security (Widow's Benefit, Retirement Pension and Other Benefits) (Transitional) (Northern Ireland) Regulations 1975(b) (hereinafter called "the principal regulations") shall be further amended in accordance with the following provisions of this regulation.

(2) In regulation 2(1)—

(*a*) for the definition of "the Act" there shall be substituted " 'the Act' means the Social Security (Northern Ireland) Act 1975(c);";

(*b*) for " 'the appointed day' means 6th April 1975" there shall be substituted " 'the Pensions Order' means the Social Security Pensions (Northern Ireland) Order 1975;";

(*c*) for the words "existing contributor" and "an existing contributor", wherever they appear, there shall be substituted "a pre-1948 contributor";

(*d*) in the definition of "former beneficiary" for "the appointed day" there shall be substituted "6th April 1975";

(*e*) in the definition of "former contribution" for "section 25(5) of the Act" there shall be substituted "section 29(5) of the Act";

(*f*) in the definition of "reckonable year" after "income tax year" there shall be inserted "before 6th April 1978";

(*g*) for "the former principal Act" where that expression last appears, there shall be substituted "the Act and the Pensions Order".

(a) S.I. 1975/1503 (N.I. 15)
(b) S.R. 1975 No. 14 (I, p. 58), as amended by S.R. 1975 No. 105 (I, p. 670), S.R. 1975 No. 95 (I, p. 570), and S.R. 1976 No. 124 (I, p. 513)
(c) 1975 c. 15

(3) In regulation 2 after paragraph (2) there shall be added the following—

"(2A) 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 Act (Northern Ireland) 1939(**d**) 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) In regulations 2(2), 4, 5(1) and (2), 6(2), 7(2) and (4), 8, 10, 12(2) and (3), 13(1) and 14(1) and (2) for the expression "the appointed day" wherever it appears there shall be substituted "6th April 1975".

(5) In regulation 4, for "Schedule 28 to the Act" there shall be substituted "Schedule 1 to the Social Security (Consequential Provisions) Act 1975(**e**)";

(6) In regulations 7(3), 7(6) and 7(6A) for "an existing contributor" there shall be substituted "a pre-1948 contributor".

(7) In regulation 7, paragraph (8), for the words from the beginning of that paragraph to the end of sub-paragraph (*b*) there shall be substituted—

"(8) In the case of a person (hereinafter called "the beneficiary") whose former spouse was a pre-1975 contributor and who has the contributions of his said spouse treated, by virtue of regulation 5B of, and the Schedule to, the Social Security (Widow's Benefit and Retirement Pensions) (Northern Ireland) Regulations 1975(**f**) as if they were contributions of his own so as to entitle him to a Category A retirement pension—

(*a*) the number of any qualifying years before 6th April 1975 which, by virtue of regulations 7(2) and 12C, were or could have been obtained by his former spouse and which may be taken into account towards the beneficiary's said entitlement, shall be ascertained by reference to the number of contributions of any class paid by or credited to his former spouse during the period of the former spouse's working life between (inclusive) the first year of his working life and (exclusive) the year in which the marriage terminated or the year 1975/1976, whichever is the earlier, and shall not exceed the number of years in that period; and

(*b*) the number of any qualifying years before 6th April 1975 which, by virtue of regulations 7(2) and 12C, are obtained by the beneficiary by virtue of paragraph 2(*b*) or, as the case may be, paragraph 3(*b*) of the said Schedule and which may be taken into account towards his said entitlement shall be ascertained by reference to the number of contributions of any class paid by or credited to him during the period or periods specified in the said paragraphs which fell before 6th April 1975 and shall not exceed the number of years in that period or in each of those periods, as the case may be;".

(8) In regulation 7(8)(*c*) before the words "if her husband died" there shall be inserted the words "where the beneficiary is a woman,".

(d) 1939 c. 13 (N.I.)
(e) 1975 c. 18
(f) S.R. 1975 No. 12 (I, p. 47). The relevant amending regulations are S.R. 1978 No. 101 (I, p. 282)

(9) Regulations 7(9) and 11 are revoked.

(10) In regulation 14(2), for "section 26(1) of the Act" there shall be substituted "section 30(1) of the Act";

(11) In the Schedule—

(*a*) for "Category B retirement pension at lower rate" and "Category B retirement pension at higher rate" there shall be substituted "Category B retirement pension at the rate specified in paragraph 9 of Part I of Schedule 4 to the Act" and "Category B retirement pension at the rate specified in Article 8(1)(*a*) of the Pensions Order for the basic component of a Category A retirement pension", respectively;

(*b*) for "section 27(2) of the Act", "section 27(4) of the Act" and "the said section 27(4)" there shall be substituted "section 39(2) of the Act", "section 39(4) of the Act" and "the said section 39(4)" respectively.

(12) For "former contribution", "former contributor" and "former beneficiary", wherever those expressions appear, there shall be substituted "pre-1975 contribution", "pre-1975 contributor" and "pre-1975 beneficiary", respectively.

Amendments of regulation 12 *of the principal regulations*

3.—(1) Regulation 12 of the principal regulations (modifications relating to increases of retirement pension) shall be amended in accordance with the following provisions of this regulation.

(2) For the words "pre-appointed day" and "post-appointed day" wherever they appear, there shall be substituted "pre-1975" and "post-1975" respectively.

(3) For paragraph (1) there shall be substituted the following—

"(1) In this regulation and in regulations 12A and 12B—'a pre-1975 increment' means an increase of retirement pension under section 30(1) or 33(1) of the former principal Act; 'a post-1975 increment' means an increase of a Category A or B retirement pension which accrued under section 28(4), 28(5) or 29(10) of the Act between 6th April 1975 and 5th April 1979 (both dates inclusive); and the pre-1975 beneficiaries to whom these regulations relate are those who, immediately before 6th April 1975, were, or but for any disqualification or forfeiture would be, entitled to, or who have prospective rights to, or expectation of, a pre-1975 increment.".

(4) In paragraph (2) for the words following "right or expectation" there shall be substituted "together with increases (if any) of the said amount calculated in accordance with the provisions of section 120 of the Act and Article 25 of the Pensions Order.".

(5) For paragraph (4) there shall be substituted the following—

"(4) Where a pre-1975 beneficiary to whom this regulation relates has, immediately before 6th April 1979, entitlement to, or a prospective right to, at least one pre-1975 increment, paragraph 1 of Schedule 1 to the Pensions Order shall apply to his case as if—

(*a*) the words 'but only if that amount is enough to increase the rate of the pension by at least 1 per cent' were omitted from that paragraph, and