1977 No. 280

SOCIAL SECURITY

The Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 1977

Made . . . . . 19*th September* 1977

Coming into operation . . . 3*rd October* 1977

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 3(2), 28(4)(*b*), 30(3), 33, 49, 79(2)(*a*), 85 and 126 of, and Schedule 17, as amended by paragraph 37 of Schedule 4 to the Child Benefit (Northern Ireland) Order 1975(**a**), to the Social Security (Northern Ireland) Act 1975(**b**), and by Articles 4(2) and 6(1) of the Child Benefit (Northern Ireland) Order 1975, and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 1977 and shall come into operation on 3rd October 1977.

(2) Each provision of these regulations which amends other regulations shall be construed as one with the regulations which it amends.

Amendment of the Social Security (Widow's Benefit and Retirement Pensions) Regulations

2.—(1) The Social Security (Widow's Benefit and Retirement Pensions) (Northern Ireland) Regulations 1975(**c**), as amended(**d**), shall be further amended in accordance with the following provisions of this regulation.

(2) In regulation 2 (election to be treated as not having retired)—

(*a*) in paragraph (4) for "paragraph (5)" there shall be substituted "paragraphs (5) and (6)";

(*b*) after paragraph (5) there shall be added the following paragraph:—

"(6) In a case to which section 29(12) of the Social Security (Northern Ireland) Act 1975(**e**) (days of increment in relation to a woman entitled to Category B retirement pension who has made an election in accordance with this regulation and has not revoked it) applies, for the purposes only of the said section 29(12), where the woman is entitled to such a retirement pension under section 29(4) of that Act and makes such an election on or after 3rd October 1977, the said section 29(12) shall be modified so that her election shall be

(a) S.I. 1975/1504 (N.I. 16)
(b) 1975 c. 15
(c) S.R. 1975 No. 12 (I, p. 47)
(d) The relevant amending regulations are S.R. 1975 No. 95 (I, p. 570) and S.R. 1975 No. 202 (II, p. 1036)
(e) 1975 c. 15

treated as if it had effect from 6th April 1975 or, if later, the date of the death of her husband by virtue of whose contributions she is so entitled.".

(3) In regulation 4 (days to be treated as days of increment)—

(*a*) in paragraph (1)(*b*)(i) after "non-contributory invalidity pension," there shall be inserted "invalid care allowance,";

(*b*) in paragraph (2) from and including '"received any of the following benefits"' to the end shall be deleted;

(*c*) after paragraph (2) there shall be added the following paragraphs:—

"(3) Subject to the following paragraph, for the purposes of this regulation, where in respect of any day—

(*a*) a person has received one or more of the benefits mentioned in paragraph (1)(*b*); and

(*b*) either—

(i) the determining authority or, as the case may be, the Department, has determined that in respect of that day he was not entitled to that benefit; or

(ii) by virtue of the provisions of the Industrial Relations (Recoupment of Unemployment Benefit and Supplementary Benefit) Regulations (Northern Ireland) 1977(f) the Department has recovered from that person's employer sums on account of unemployment benefit received by that person in respect of that day; and

(*c*) the whole of the benefit or sum on account of benefit in respect of that day has been repaid or, as the case may be, recovered before the relevant date,

that day shall be treated as a day in respect of which he did not receive that benefit; and in this paragraph "relevant date" means—

(i) in the case of Category A retirement pension, the date of retirement of the person entitled to it,

(ii) in the case of Category B retirement pension payable to a wife by virtue of her husband's contributions, the date of retirement of her husband, or

(iii) in the case of Category B retirement pension payable to a widow by virtue of her late husband's contributions, the date of his death.

(4) Where the benefit or sum on account of benefit in respect of a day to which paragraph (3)(*a*) and (*b*) applies is repaid or, as the case may be, recovered on or after the said relevant date that day shall not be treated as a day in respect of which that person did not receive that benefit until benefit has been repaid or, as the case may be, sums on account of benefit have been recovered in respect of all the days to which those sub-paragraphs relate falling within the period to which this regulation applies.".

(4) In paragraph (1) of regulation 12 (restriction on benefit in certain cases), for "widow's benefit shall not be payable by virtue of these regulations" there shall be substituted "benefit under regulation 10 or 11 corresponding to a widow's pension or a widowed mother's allowance shall not be payable".

(f) S.R. 1977 No. 123

Amendment of the Social Security (Maternity Benefit) Regulations and the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations

3.—(1) In regulation 11 of the Social Security (Maternity Benefit) Regulations (Northern Ireland) 1975(**g**) (special provision for certain persons who have been employed abroad) in paragraph (1) for from "Subject to the following paragraphs" to "absent from Northern Ireland and" there shall be substituted "The following provisions of this regulation shall apply for the purposes of maternity benefit (but not for the purposes of earnings-related supplement of maternity allowance) where a person".

(2) In regulation 18 of the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations (Northern Ireland) 1975(**h**) (special provision for certain persons who have been employed abroad) in paragraph (1) for from "Subject to the following paragraphs" to "absent from Northern Ireland and" there shall be substituted "The following provisions of this regulation shall apply for the purposes of unemployment benefit and sickness benefit (but not for the purposes of earnings-related supplement of either of those benefits) where a person".

(3) In the said regulation 11 and the said regulation 18, for that part of paragraph (1) of each regulation from the beginning of sub-paragraph (*a*) to the end of the paragraph there shall be substituted the following provisions:

"(*a*) has been absent from Northern Ireland;

(*b*) has returned to Northern Ireland; and

(*c*) throughout the whole period of his absence was ordinarily resident in Northern Ireland,

and in this regulation "a person" shall mean such a person.".

(4) In the said regulation 11 and the said regulation 18, for paragraphs (2) to (6) of each regulation there shall be substituted the following provisions:

"(2) Where a person has paid Class 1 contributions at the standard rate under the Act either—

(*a*) to the full extent of his liability under regulation 106 of the Social Security (Contributions) Regulations (Northern Ireland) 1975(**i**); or

(*b*) in respect of the first 52 weeks of his employment abroad by virtue of either—

(i) an Order in Council made under section 134 (reciprocity with countries outside the United Kingdom) or an order made by the Secretary of State under that section, or

(ii) Council Regulation No. 1408/71/EEC(**j**) (application of social security schemes to employed persons and their families moving within the Community),

and the employment by reference to which his liability mentioned in sub-paragraph (*a*) or (*b*), as the case may be, arose continued throughout the first 52 weeks after the commencement of that liability, he shall be treated as having paid Class 1 contributions on earnings at the lower earnings limit for the relevant tax year for any weeks between the end of that liability and the date of his return to Northern Ireland which are relevant to his claim.

(**g**) S.R. 1975 No. 107 (I, p. 679)
(**h**) S.R. 1975 No. 86 (I, p. 504)
(**i**) S.R. 1975 No. 319 (II, p. 1492)
(**j**) O.J. No. L149, 5.7.71, p. 2 (O.J. S.E. 1971 (II) p. 416)

(3) Where—

(*a*) a person would have been liable to pay Class 1 contributions at the standard rate under the said regulation 106 but for the provisions of an Order in Council made under section 134 or an order made under that section;

(*b*) in relation to his case that Order in Council or order does not provide for periods of insurance, employment or residence in the other country to which that Order in Council or order relates to be taken into account in determining title to benefit; and

(*c*) the employment by reference to which he would have been liable under the said regulation 106 continued throughout the first 52 weeks,

he shall be treated as having paid Class 1 contributions on earnings at the lower earnings limit for the relevant tax year for each week of his absence.

(4) Where—

(*a*) a person would have been liable to pay Class 1 contributions at the standard rate under the said regulation 106 but for the provisions of an Order in Council made under section 134 or an order made under that section or Council Regulation No. 1408/71/EEC;

(*b*) the employment by reference to which he would have been liable under the said regulation 106 continued throughout the first 52 weeks from the time that that liability would have commenced; and

(*c*) that Order in Council, order or Council Regulation, as the case may be, provides for aggregation of periods of insurance, employment or residence only if an insurance period has been completed since his return to Northern Ireland, and an insurance period has not been so completed,

any period of insurance, employment or, as the case may be, residence in the other country to which that Order in Council, order or Council Regulation, as the case may be, relates which falls in the relevant tax year and which could be taken into account in determining entitlement to benefit if an insurance period had been completed since his return to Northern Ireland shall be treated as a period in respect of which Class 1 contributions on earnings at the lower earnings limit for that tax year had been paid.

(5) Paragraphs (2) (except in a case to which paragraph (2)(*a*) applies), (3) and (4) shall not apply in relation to benefit to which this regulation applies for any day in respect of which the person concerned is entitled to a corresponding benefit under the social security scheme of the country in which he was employed.

(6) Where a person satisfies the requirements of paragraph (3)(*a*) or (4)(*a*) but the relevant employment did not continue for 52 weeks, he shall be treated as having paid Class 1 contributions on earnings at the lower earnings limit for the relevant tax year for each week for which it did continue.

(7) Where a person to whom regulation 3 of the National Insurance (Residence and Persons Abroad) Regulations (Northern Ireland) 1973(**k**) applies—

(**k**) S.R. & O. (N.I.) 1973 No. 175 (I, p. 923)