1975 No. 202

SOCIAL SECURITY

The Social Security (Non-Contributory Invalidity Pension) Regulations (Northern Ireland) 1975

Made . . . . . 17*th July* 1975

Coming into operation . . . . . 20*th July* 1975

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 36(3) to (7) and (9), 40(2), 49, 79(3), 80, 81, 82, 83(1), 84, 85, 119(3), 124(1) and 126 of the Social Security (Northern Ireland) Act 1975(a), and of all other powers enabling it in that behalf, hereby makes the following regulations:

PART I

GENERAL

Citation and commencement

1. These regulations may be cited as the Social Security (Non-Contributory Invalidity Pension) Regulations (Northern Ireland) 1975 and shall come into operation on 20th July 1975.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires, "the Act" means the Social Security (Northern Ireland) Act 1975 and other expressions have the same meanings as in the Act.

(2) Reference in these regulations—

(*a*) to a person's father, mother, son or daughter shall include reference to his step-father, step-mother, step-son or step-daughter, as the case may be, and a person shall be treated as such a relative if he would be such a relative if some person born illegitimate had been born legitimate;

(*b*) 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 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(b) 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.

(a) 1975 c. 15 (b) 1889 c. 63

PART II

MISCELLANEOUS PROVISIONS RELATING TO NON-CONTRIBUTORY INVALIDITY PENSION

Conditions relating to residence and presence

3.—(1) Subject to the following provisions of this regulation, the prescribed conditions for the purposes of section 36(3) of the Act as to residence and presence in Northern Ireland in relation to any person in respect of any day shall be—

(*a*) that he is present in Northern Ireland;

(*b*) that he has been present in Northern Ireland for a period of, or periods amounting in the aggregate to, not less than 26 weeks in the 12 months immediately preceding that day; and

(*c*) that he has been resident in Northern Ireland for a period of or periods amounting in the aggregate to—

(i) 10 years in the 20 years immediately preceding that day; or

(ii) 10 years since his birth if he is under 20 years of age on that day.

(2) For the purposes of paragraph (1)(*a*) or (*b*) of this regulation, a person who is absent from Northern Ireland on any day shall be treated as being present in Northern Ireland if on that day he is—

(*a*) a merchant seaman within the meaning of the Family Allowances (Qualifications) Regulations (Northern Ireland) 1970(**c**); or

(*b*) a member of the forces within the meaning of those regulations; or

(*c*) living with such a member of the forces and is that member's spouse, son, daughter, father, father-in-law, mother or mother-in-law.

(3) Where a person has been entitled to non-contributory invalidity pension for any day, the conditions set out in paragraph (1) of this regulation shall not apply to that person in respect of any subsequent day of incapacity for work falling within the same period of interruption of employment; and in determining whether any such subsequent day falls within the same period of interruption of employment the provisions of section 17(1) of the Act (days for which unemployment, sickness or invalidity benefit is payable) and of any regulations made under section 17(1) or (2) shall have effect for the purposes of non-contributory invalidity pension as they have effect for the purposes of invalidity benefit.

Days for which persons are to be regarded as incapable of work for the purposes of non-contributory invalidity pension

4.—(1) For all the purposes of non-contributory invalidity pension a person shall not be treated as incapable of work for any day unless that day would be a day of incapacity for work under the provisions of section 17(1)(*a*) of the Act or regulation 3, 5 or 7(1)(*f*) or (*g*) of the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations (Northern Ireland) 1975(**d**) (provisions for determining whether a day is one of incapacity for work for the purposes of sickness or invalidity benefit); and in the case of a person who has not attained retiring age, Sunday or the day which would be substituted for Sunday under the provisions of regulation 4 of the said regulations of 1975 shall (except for the purposes of the requirements of section 36(1) of the Act as to the period for which a person must have been incapable of work as those apply in the case of a person who has not previously been entitled to non-

(c) S.R. & O. (N.I.) 1970 No. 23 (p. 167) (d) S.R. 1975 No. 86

contributory invalidity pension) not be treated as a day on which that person is incapable of work.

(2) In determining for the purposes of section 36(1) of the Act whether a person has been incapable of work for 196 consecutive days, a day shall not be treated as a day on which that person was incapable of work if on that day he was absent from Northern Ireland or undergoing imprisonment or detention in legal custody.

Circumstances in which persons are to be regarded as receiving full-time education

5.—(1) A person shall not be treated as receiving full-time education for the purposes of non-contributory invalidity pension—

(*a*) if he is not less than 16 or more than 19 years of age, for any period unless it is one in respect of which the Department certifies that he is receiving full-time education by attendance at an establishment recognised by the Department as being, or as comparable to, a university, college or school; or

(*b*) if he is over the age of 19, for any period.

(2) In determining the duration of a period of full-time education under paragraph (1)(*a*) of this regulation any temporary interruption of that education may be disregarded.

Modification of section 36(1) *of the Act in the case of a person who has previously been entitled to non-contributory invalidity pension*

6. In the case of a person who has previously been entitled to non-contributory invalidity pension, the requirements of section 36(1) of the Act as to the period for which a person must have been incapable of work shall be deemed to be satisfied on any day in a period of interruption of employment if they have been satisfied on any earlier day in that period of interruption of employment; and in determining whether that day and the earlier day fall within the same period of interruption of employment the provisions of section 17(1) of the Act (days for which unemployment, sickness or invalidity benefit is payable) and of any regulations made under section 17(1) or (2) of the Act shall have effect for the purposes of non-contributory invalidity pension as they have effect for the purposes of invalidity benefit.

Circumstances in which a person over pensionable age is to be treated as having been entitled to non-contributory invalidity pension immediately before attaining that age

7. A person who has attained pensionable age shall for the purposes of section 36(4) of the Act be treated as having been entitled to non-contributory invalidity pension immediately before attaining that age if immediately before attaining it he would have satisfied the conditions for entitlement to that pension but for the provisions of the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1975(e).

Non-contributory invalidity pension for persons over retiring age

8. Where a person is entitled to non-contributory invalidity pension immediately before he attains retiring age he shall not be disentitled to that pension after he attains that age by reason only of the fact that he is not incapable of work or no longer satisfies the requirements of section 36(1) of the Act as to the period for which a person must have been incapable of work.

(e) S.R. 1975 No. 94

Increase of non-contributory invalidity pension for dependants

9. The provisions of Chapter III of Part II of the Act (increases for dependants) shall apply in relation to increases of non-contributory invalidity pension for child or adult dependants under section 49 of the Act as they apply to increases of invalidity pension for child or adult dependants.

Application of the Social Security (General Benefit) (Northern Ireland) Regulations 1975 to non-contributory invalidity pension

10.—(1) Subject to paragraph (2) of this regulation, the provisions of the Social Security (General Benefit) (Northern Ireland) Regulations 1975(f) specified in column (1) of Schedule 1 to these regulations shall apply to non-contributory invalidity pension as they apply to invalidity pension.

(2) Any reference in those regulations to—

(*a*) the standard rate of increase shall have effect as a reference to the rate of increase of non-contributory invalidity pension; and

(*b*) the amount of increase of benefit shall have effect as a reference to the amount of increase of non-contributory invalidity pension.

Application of the Social Security Benefit (Computation of Earnings) (Northern Ireland) Regulations 1975 to non-contributory invalidity pension

11. The provisions of regulations 2 to 7 of the Social Security Benefit (Computation of Earnings) (Northern Ireland) Regulations 1975(g) (calculation or estimation of the earnings of a person) shall apply to non-contributory invalidity pension as they apply to invalidity pension.

Disqualification for non-contributory invalidity pension

12. A person shall be disqualified for receiving non-contributory invalidity pension for such period not exceeding 6 weeks as may be determined in accordance with sections 97 to 104 of the Act if—

(*a*) he has become incapable of work through his own misconduct, except that this disqualification shall not apply where the incapacity is due to venereal disease or, in the case of a woman who is not a wife, or being a wife, is separated from her husband, to pregnancy; or

(*b*) he fails without good cause to comply with a notice in writing given by or on behalf of the Department requiring him to attend for and to submit himself to medical or other examination on a date not earlier than the third day after the day on which the notice was sent and at a time and place specified in that notice; or

(*c*) he fails without good cause to attend for, or to submit himself to, medical or other treatment; provided that this disqualification shall not apply to any failure to attend for or to submit to vaccination or inoculation of any kind or to a surgical operation, unless the failure is a failure to attend for or to submit to a surgical operation of a minor character, and is unreasonable; or

(*d*) he fails without good cause to observe any of the following rules of behaviour, namely—

(i) to refrain from behaviour calculated to retard his recovery, and to answer any reasonable enquiries (not being enquiries relating to medical examination, treatment or advice) by the Department or its officers directed to ascertaining whether he is doing so;

(f) S.R. 1975 No. 26 (g) S.R. 1975 No. 15

(ii) not to be absent from his place of residence without leaving word where he may be found;

(iii) to do no work for which remuneration is, or would ordinarily be, payable unless it is—

(*aa*) work which is undertaken under medical supervision as part of his treatment while he is a patient in or of a hospital or similar institution, or

(*bb*) work which is not so undertaken and which he has good cause for doing,

and from which, in the case of work of either description his earnings, if any, are ordinarily not more than £7·00 a week.

Transitional provision relating to claims for non-contributory invalidity pension in respect of certain hospital in-patients

13. A person who on 20th November 1975 is an in-patient in a hospital or similar institution and unable to act and who but for this provision would be disqualified for the receipt of non-contributory invalidity pension on any day in the period 20th November 1975 to 18th February 1976 (both dates included) on which he is such an in-patient on account of failure to make a claim within the prescribed time, shall not be so disqualified if a claim for that pension is made on a day not later than 19th February 1976.

PART III

CONSEQUENTIAL AMENDMENTS OF REGULATIONS

Amendment of the Social Security (Widow's Benefit and Retirement Pensions) (Northern Ireland) Regulations 1975

14.—(1) The Social Security (Widow's Benefit and Retirement Pensions) (Northern Ireland) Regulations 1975(**h**) shall be amended in accordance with paragraphs (2) and (3) of this regulation.

(2) In regulation 4(1)(*b*)(i) (days to be treated as days of increment) after the words "an invalidity pension," there shall be inserted the words "non-contributory invalidity pension,".

(3) In regulation 15(1) (age addition for persons not in receipt of a retirement pension) after sub-paragraph (*d*) there shall be added the following sub-paragraph—

"(*e*) section 36 of the Social Security (Northern Ireland) Act 1975 (non-contributory invalidity pension).".

Amendment of the Social Security (Airmen's Benefits) Regulations (Northern Ireland) 1975

15. In regulation 2 of the Social Security (Airmen's Benefits) Regulations (Northern Ireland) 1975(**i**) (removal of disqualification in the case of airmen for receiving benefit while absent from Northern Ireland) for the words "or invalidity benefit" where they occur in paragraphs (1) and (2) there shall be substituted the words ", invalidity benefit or non-contributory invalidity pension".

(**h**) S.R. 1975 No. 12 (**i**) S.R. 1975 No. 101