1975 No. 16

SOCIAL SECURITY

The Social Security (Contributions) (Married Women and Widows Special Provisions) (Northern Ireland) Regulations 1975

Made . . . . . *23rd January* 1975

Coming into operation . . . *6th April* 1975

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 42 of the Social Security Act 1973(a), as amended by sections 1(4) and 2(2) and (3) of the Social Security Amendment Act 1974(b), paragraphs 2(1) and 6(1) of Schedule 26 to the first-mentioned Act and section 1(3) of the Social Security Amendment Act 1974 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 (Contributions) (Married Women and Widows Special Provisions) (Northern Ireland) Regulations 1975, and shall come into operation on 6th April 1975.

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

"the Act" means the Social Security Act 1973;

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

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

"the appointed day" means 6th April 1975;

"the Department" means the Department of Health and Social Services for Northern Ireland;

"personal death benefit" means any death benefit which, apart from any regulations made under paragraph 3 of Schedule 10 to the Act, is payable to a person otherwise than in respect of another person who is a child or an adult dependant;

"Personal Injuries Scheme" means any scheme made under the Personal Injuries (Emergency Provisions) Act 1939(e) or under the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939(f);

"regulation" means a regulation of these regulations;

"Service Pensions Instrument" means those provisions and only those provisions of any Royal Warrant, Order in Council or other instrument (not being a 1914-1918 War Injuries Scheme) under which a death or a disablement pension (not including a pension calculated by reference to length of service) and allowances for dependants payable with either such pension may be paid out of public funds in respect of any death or disablement, wound, injury or disease due to service

(a) 1973 c. 38
(b) 1974 c. 58
(c) 1966 c. 6 (N.I.)
(d) 1966 c. 9 (N.I.)
(e) 1939 c. 82
(f) 1939 c. 83

in the naval, military or air forces of the Crown or in any nursing service or other auxiliary service of any of the said forces or in the Home Guard or in any other organisation established under the control of the Defence Council or formerly established under the control of the Admiralty, the Army Council or the Air Council;

"1914-1918 War Injuries Scheme" means any scheme made under the Injuries in War (Compensation) Act 1914(g) or under the Injuries in War Compensation Act 1914 (Session 2)(h) or under any Government scheme for compensation in respect of persons injured in any merchant ship or fishing vessel as the result of hostilities during the 1914-1918 War;

"year" means the 12 months beginning 6th April in any year;

and other expressions have the same meanings as in the Act.

(3) Where by any provision of these regulations any notice is required to be or may be given to the Department it may be sent to the Department, and if it is sent by post it shall be deemed to have been given on the date of posting.

(4) Where by any provision of these regulations notice is required to be or may be given in writing it shall be given on a form approved by the Department or in such other manner, being in writing, as the Department may accept as sufficient in any case.

(5) References in these regulations to any enactment shall, except in so far as the context otherwise requires, be construed as a reference to that enactment as amended or extended by or under any other enactment, order or regulation.

(6) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(i) shall apply for the purposes of the interpretation of these regulations as they apply for the purposes of the interpretation of an Act of Parliament.

Class 1 and Class 2 contributions

2.—(1)(*a*) A married woman may make an election in accordance with paragraph (2) below that while she is a married woman, and

(*b*) a widow who satisfies the conditions prescribed in paragraph (5) below (hereafter in these regulations called "a qualifying widow") may make an election in accordance with paragraph (2) below that while she is a widow or a married woman,

her liability in respect of primary Class 1 contributions shall be at the reduced rate under section 2(7) of the Act, or she shall not be liable for Class 2 contributions under section 3(2) of the Act.

(2) An election made by virtue of paragraph (1) above shall be made by giving notice of election in writing to the Department and shall specify the year in respect of which it is made.

(3) Every woman who makes such an election shall furnish such certificates, documents, information and other evidence for the purpose of enabling the Department to consider the validity of her election as the Department may require.

(g) 1914 c. 30
(h) 1914 c. 18 (5 & 6 Geo. 5)
(i) 1889 c. 63

(4) Every such election shall be made in respect of a complete year—

(*a*) being a year not earlier than the year next beginning after the date on which the election is made except that, where—

(i) the date on which the election is made is not later than 11th May in the year in which it is made and

(ii) the woman making the election has from the beginning of that year been entitled to make an election under this regulation,

it may be made in respect of the year in which it is made; and

(*b*) in the case of a woman who has been widowed, not being a year falling in any part of the appropriate period within the meaning of regulation 5.

(5) The conditions referred to in paragraph (1)(*b*) of this regulation are that the widow—

(*a*) at the time of the election, is entitled to—

(i) widow's benefit under the Act, or

(ii) widow's benefit under the former principal Act, or

(iii) any personal death benefit which is payable to her as a widow under the Industrial Injuries Act at a weekly rate which at the time of making the election is not less than the weekly rate of widow's pension specified in the second column of Schedule 4, Part I, to the Act, or

(iv) any personal death benefit by way of pension or allowance payable to her as a widow under any Personal Injuries Scheme or Service Pensions Instrument or any 1914-1918 War Injuries Scheme (not being a pension or allowance calculated by reference to the needs of the beneficiary), the rate of which is as set out in sub-paragraph (iii) above, or

(v) benefit under section 27(4) of the Act (Category C and D retirement pensions for old people and related benefits), other than a Category C retirement pension, and

(*b*) is not disentitled to payment of any such benefit by reason of her cohabiting with a man as his wife.

Continuation of election

3.—(1) Subject to the provisions of paragraph (2) below, every election made in accordance with regulation 2 shall continue as an election made in respect of each complete year after the year in respect of which it was made, until such time as it is revoked in accordance with the provisions of these regulations.

(2) An election made in accordance with regulation 2 shall not be treated as an election made—

(*a*) in the case of a woman whose marriage or remarriage, as the case may be, is terminated otherwise than by the death of her husband and who is not at the end of the year in which her marriage or remarriage is so terminated again a married woman—in respect of any year beginning after that year;

(*b*) in the case of a woman whose marriage or remarriage, as the case may be, is terminated by the death of her husband—in respect of any year beginning after the year in which the marriage or remarriage is so terminated;

(*c*) in the case of a widow who in the course of any year ceases to be entitled to any such benefit as is mentioned in regulation 2(5) or, by reason of her cohabiting with a man as his wife, ceases to be entitled to payment of such benefit and, in either case, at the end of that year is not so entitled, except in a case in which she is no longer so entitled only because of her remarriage—in respect of any year beginning after that year.

Revocation of elections

4.—(1) Every woman who has made an election may revoke such election by giving notice of revocation in writing to the Department.

(2) When an election has been so revoked that election shall—

(*a*) in a case in which the notice of revocation is given before the beginning of the year in respect of which the election was made, be treated as if it had not been made; and

(*b*) in any other case, be treated as made in respect of any year which she may specify beginning after the end of the year in which the revocation is made.

(3) A revocation shall not have effect if the woman who has given notice of it cancels that notice by giving notice in writing of cancellation to the Department, before the beginning of the year specified, in accordance with paragraph (2)(*b*) above, in the notice of revocation.

Newly widowed women—Class 1 liability at reduced rate and exception from Class 2 liability

5.—(1) As respects the liability of a woman who has been widowed to pay any primary Class 1 contribution or, as the case may be, any Class 2 contribution the following provisions of this regulation shall apply.

(2) For the purposes of section 1(3) of the Social Security Amendment Act 1974 (liability of women, who have been widowed and fall within the prescribed class, to pay at the reduced rate primary Class 1 contributions for prescribed earnings)—

(*a*) the prescribed class of women shall be that which comprises those who, but for the provisions of the said section 1(3), would be liable to pay primary Class 1 contributions at the standard rate in respect of earnings paid during the appropriate period;

(*b*) the prescribed earnings shall be those paid during the appropriate period.

(3) A woman who has been widowed and apart from the provisions of this paragraph would, in respect of any week in the appropriate period, be liable to pay a Class 2 contribution shall not be liable to pay that contribution unless she elects to do so.

(4) The appropriate period for the purposes of this regulation shall, subject to the provisions of the next succeeding paragraph, be the period beginning with the week in which the death of the husband occurs and ending—

(*a*) if the death occurs before 1st October in any year, at the end of that year; or

(*b*) if the death occurs after 30th September in any year, at the end of the year next following the year in which the said 30th September occurs.

(5) If at the end of the period specified in paragraph (4)(*a*) or, as the case may be, paragraph (4)(*b*) of this regulation there is pending a claim or application made by the woman as a widow or on her behalf as such within 182 days (including Sundays) of her husband's death for any benefit specified in heads (i) or (ii) or (v) or, irrespective of its rate, in heads (iii) or (iv) of regulation 2(5)(*a*), the appropriate period for the purposes of this regulation shall be the period beginning as aforesaid and ending at the end of the year in which that claim or application is determined.

(6) Any election such as is referred to in the said section 1(3) or in paragraph (3) of this regulation—

(*a*) may relate to the year in which the woman's husband dies or to any subsequent year in the appropriate period; and

(*b*) shall be made by giving notice in writing to the Department before 1st January next following the year to which the election relates.

(7) Any election made by a woman under the said section 1(3) (election to pay primary Class 1 contributions at the standard rate) shall be deemed also to be an election to pay any Class 2 contribution which, apart from this regulation, the woman would be liable to pay and any election by a woman to pay Class 2 contributions shall be deemed also to be an election under the said section 1(3) to pay primary Class 1 contributions at the standard rate.

(8) Where before a woman makes an election in accordance with paragraph (6) above any payment of earnings is made to her in a period to which that election, when made, relates, she shall be liable to the exclusion of any secondary contributor, except in so far as a secondary contributor has deducted contributions from her earnings, to pay to the Department the sum (if any) equal to the difference between the following amounts, that is to say—

(*a*) the amount of any primary Class 1 contributions paid by her or on her behalf at the reduced rate in respect of such earnings; and

(*b*) the amount of the primary Class 1 contributions at the standard rate in respect of those earnings.

(9) The provisions of regulations 4 and 9 shall not apply to an election made in accordance with paragraph (6) above.

Scope of elections

6. Every election made by a married woman or a widow in respect of any year to be liable to pay primary Class 1 contributions at the reduced rate shall be deemed also to be an election not to pay Class 2 contributions, and any election so made not to pay Class 2 contributions shall be deemed also to be an election to pay primary Class 1 contributions at the reduced rate and likewise a revocation made for either one of those purposes shall be deemed to be made also for the other.

Class 3 contributions

7. No married woman or widow who has made an election in accordance with regulation 2 in respect of any year shall, while that election has effect in respect of that year, be entitled to pay any Class 3 contributions.

Exceptions from liability to pay Class 1 contributions at the standard rate and from liability for Class 2 contributions

8. A married woman or a qualifying widow who—