1975 No. 14

SOCIAL SECURITY

The Social Security (Widow's Benefit, Retirement Pension and other Benefits) (Transitional) (Northern Ireland) Regulations 1975

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

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

The Department of Health and Social Services for Northern Ireland, in exercise of powers conferred by section 100(1) of, and paragraphs 2, 4 and 6 of Schedule 26 to, the Social Security Act 1973(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 (Widow's Benefit, Retirement Pension and Other Benefits) (Transitional) (Northern Ireland) Regulations 1975 and shall come into operation on 6th April 1975.

Interpretation

2.—(1) 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(b);

"the Contributory Pensions Acts" means the Widows', Orphans' and Old Age Contributory Pensions Acts (Northern Ireland) 1936 to 1946;

"the appointed day" means 6th April 1975;

"contribution week" means a period of 7 days beginning with midnight between Sunday and Monday;

"existing 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 treated as, insured under the Contributory Pensions Acts;

"former 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 (which relates to pre-1948 beneficiaries)) is or but for a disqualification or forfeiture would be payable immediately before the appointed day; and

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

"former 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—

(*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 25(5) of the Act,

(a) 1973 c. 38 (b) 1966 c. 6 (N.I.)

means a contribution paid under the Contributory Pensions Acts, by an existing contributor in respect of a period between 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

(*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 the preceding sub-paragraph, means a contribution paid under the Contributory Pensions Acts by an existing contributor in respect of a period between the contributor's last entry into insurance under those Acts and 5th July 1948 and paid for purposes which included old age pensions purposes;

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

"reckonable year" for the purposes of the contribution conditions for any benefit means an income tax year in which the contributor concerned has paid or been credited with contributions of a relevant class and in which the earnings factor derived from those contributions amounts to not less than that year's lower earnings limit multiplied by 50;

"year" means an income tax year;

and any other expression to which a meaning is assigned by the former principal Act has that meaning in these regulations.

(2) Any reference in these regulations to a former 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 the appointed day, a person is, by virtue of these regulations, given entitlement to benefit under the Act, 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 to benefit under the former principal Act would have been subject if it had continued on or after the appointed day.

(3) References in these regulations to any enactment or regulations shall include references to such enactment or regulations as amended by any subsequent enactment, order or regulations.

(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 rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(c) 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.

Modifications of the Act in its application to former beneficiaries and former contributors

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

(c) 1889 c. 63

Benefit in respect of events or for periods commencing before the appointed day

4. Where, on or after the appointed day, a person claims, in respect of an event falling, or for a period commencing, before the appointed day, benefit under the former principal Act of a description specified in Column (1) of the Schedule 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 enactments specified in the third column of Schedule 28 to the Act covering entitlement to such benefit continued in force in place of the provisions of the Act covering entitlement to benefit of a corresponding description.

Provision of alternative rights to benefit

5.—(1) Subject to regulation 2(2) where, immediately before the appointed day, a former beneficiary is entitled to benefit under the former principal Act of a description specified in Column (1) of the Schedule to these regulations or to any increase of such benefit for a child or adult dependant, he shall as from that day, be entitled, without any claim being made therefor, or award being made thereof, to benefit under the Act 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, and to any increase of such benefit for a child or adult dependant to which he may be entitled under or by virtue of the Act.

(2) Where, immediately before the appointed day, a person is 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(**d**) as being incapable of self-support by reason of infirmity, she shall, subject to regulation 2(2), be entitled as from the appointed day 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 Category 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 former contributor who had paid not less than 50 former contributions and, in the case of widowed mother's allowance or widow's pension, dies on or after the appointed day or, in the case of Category A or Category B retirement pension, attains pensionable age on or after that day.

(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 the appointed day if—

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

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

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

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

(2) Where the contributor concerned is, or was, a former contributor he shall, in respect of that part of his working life falling before the appointed day, have the number of reckonable years obtained by taking the 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 this regulation and dividing it by 50 and, if the resultant quotient is not a whole number, by rounding it up to the nearest whole number:

Provided that the number of reckonable years so obtained shall not exceed the number of years of a person's working life falling before the appointed day.

(3) A contribution as payable by a non-employed person under the former principal Act shall be credited to the contributor concerned who is, or was, a former contributor—

(*a*) if he was an existing 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 an existing 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;

(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 on which he attained the age of 16:

Provided that a contribution credited to a former 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 week.

(4) In any case where the contributor concerned attained the age of 16 before the appointed day and is, or was, not a former contributor, a contribution as payable by a non-employed person under the former principal Act shall be credited to him—

(*a*) if he had attained the age of 16 before 5th July 1948, for each contribution week in the period from 6th April 1948 to 4th July 1948;

(*b*) if he attained the age of 16 on or after 5th July 1948, for each contribution week 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 attained that age:

Provided that the maximum number of weeks for which a contribution may be credited to any person by virtue of the provisions of this paragraph shall be 50.

(5) For the purposes of paragraphs (3) and (4) and of regulation 11(1)(*b*) if the period for which contributions are to be credited does not commence with midnight between Sunday and Monday the days from the beginning of such period up to the first such midnight shall be treated as constituting a contribution week and if the period for which contributions are to be credited does not cease with midnight between Sunday and Monday the days from the last such midnight to the end of such period shall be disregarded.

(6) The working life of a person who had attained the age of 16 before 5th July 1948 shall—

(*a*) if he was an existing contributor, be the period between 6th April 1936 or, if later, 6th April of the year in which he last entered into insurance under the Contributory Pensions Acts, and the end of the year immediately before that in which he attained pensionable age or died under that age; or

(*b*) if he was not an existing contributor, be the period between 6th April 1948 and the end of the year immediately before that in which he attained pensionable age or died under that age.

(7) If a person's last dates of entry into insurance under the Contributory Pensions Acts were different dates for widows' and orphans' pensions purposes and old age pensions purposes, his date of entry into insurance under those Acts for the purposes of the second contribution condition for widowed mother's allowance, widow's pension or a Category B retirement pension for a widow by virtue of the contributions of her husband shall be his last date of entry into insurance for widows' and orphans' pensions purposes, and for the purpose of the said contribution condition for a Category A retirement pension shall be his last date of entry into insurance for old age pensions purposes.

(8) In the case of a widow, whose husband was a former contributor and who has the contributions of her said husband treated, by virtue of section 24(3) of, and of Schedule 8 to, the Act, as if they were contributions of her own so as to entitle her to a Category A retirement pension, paragraph 2(*a*) of the said Schedule 8 shall apply with the substitution for the words "the year in which the woman attained the age of 16" of the words "the first year of the woman's working life" and paragraph 3(*a*) of that Schedule shall apply with the addition after the words "married the husband" of the words "or, if later, the first year of her working life" and—

(*a*) if her husband died before the appointed day, she shall be credited, for the purposes of satisfying the conditions for such entitlement, with a contribution as payable by a non-employed person under the former principal Act for each contribution week in the year in which her husband died except that no contribution shall be credited to her under this sub-paragraph for any contribution week for which a contribution of any class has been paid by or credited to her in accord-