1973. No. 146 **[C]**

NATIONAL INSURANCE

Married Women

REGULATIONS, DATED 9TH MAY 1973, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES, IN CONJUNCTION WITH THE MINISTRY OF FINANCE, UNDER THE NATIONAL INSURANCE ACT (NORTHERN IRELAND) 1966.

The Ministry of Health and Social Services on behalf of the Secretary of State, in conjunction with the Ministry of Finance on behalf of the Secretary of State, so far as relates to matters with regard to which the Ministry of Finance has so directed, in exercise of powers conferred by sections 21(5), 96 and 105 of the National Insurance Act (Northern Ireland) 1966(a), and of all other powers enabling it in that behalf, hereby makes the following regulations being regulations subject to negative resolution in accordance with section 101(3) of that Act:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Insurance (Married Women) Regulations (Northern Ireland) 1973 and shall come into operation on 14th May 1973.

(2) In these regulations—

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

"the Insurance Act" means the National Health Insurance Act 1936(b);

"the Contributory Pensions Act" means the Widows', Orphans' and Old Age Contributory Pensions Act (Northern Ireland) 1936(c);

"the Contributions Regulations" means the National Insurance (Contributions) Regulations (Northern Ireland) 1962(d);

"the Existing Beneficiaries Regulations" means the National Insurance (Pensions, Existing Beneficiaries and Other Persons) (Transitional) Regulations (Northern Ireland) 1948(e);

"the Overlapping Benefits Regulations" means the National Insurance (Overlapping Benefits) Regulations (Northern Ireland) 1973(f);

"appropriate weekly rate" means, in relation to any benefit, the weekly rate of personal benefit by way of benefit of that description which is appropriate in the case of the person in relation to whom the provision containing that expression is to be applied;

"contribution year" and "benefit year" have the same meanings as in the National Insurance (General Benefit) Regulations (Northern Ireland) 1971(g);

"contributions" has the same meaning as in the Act save that it does not include graduated contributions under the Act;

"determining authority" means, as the case may require, an insurance officer appointed under section 67(1) of the Act, a local tribunal constituted under section 76 of the Act, or the Commissioner;

"marriage" includes any remarriage, and the word "married", wherever it occurs, shall be construed accordingly;

(a) 1966. c. 6 (N.I.).
(b) 26 Geo. 5 & 1 Edw. 8. c. 32.
(c) 26 Geo. 5 & 1 Edw. 8. c. 32 (N.I.).
(d) S.R. & O. (N.I.) 1962, No. 65.
(e) S.R. & O. (N.I.) 1948, No. 39.
(f) S.R. & O. (N.I.) 1973, No. 10.
(g) See reg. 2 of S.R. & O. (N.I.) 1971, No. 190.

"personal benefit", "Personal Injuries Scheme", "Service Pensions Instrument" and "1914-1918 War Injuries Scheme" have the same meanings as in the Overlapping Benefits Regulations;

"week" means a contribution week(**h**);

"widow's basic pension" has the same meaning as in the Existing Beneficiaries Regulations.

Married women who are employed persons

2.—(1)(*a*) A woman may elect not to be, and thereafter (subject to the provisions of paragraph (2)) shall not be, liable to pay contributions under the Act in respect of any employment as an employed person for any period during which she is married.

(*b*) Nothing in this regulation shall relieve an employer of any liability imposed on him by the Act in relation to employer's contributions.

(2)(*a*) Any such election by a married woman not to pay contributions as an employed person may be made by her at any time by giving notice in writing to the Ministry to that effect, and the election shall be operative from the beginning of the week next but one following the week in which the notice was given or from such earlier date as the Ministry may allow.

(*b*) Any such election by a married woman may be cancelled by her at any time by giving notice to the Ministry to that effect, and such cancellation shall be operative from the beginning of the week next but one following the week in which the notice was given or from such earlier date as the Ministry may allow:

Provided that such cancellation shall be without prejudice to the right of the person concerned again to make any such election from time to time.

(3)(*a*) A married woman who has elected not to pay contributions in accordance with the provisions of this regulation, and who is at the time of the election in an employed contributor's employment or thereafter enters such employment, shall, at that time or at the commencement of the subsequent employment, as the case may be, make application to the Ministry for a certificate of such election, which shall be issued to her by the Ministry on any such application, and the married woman shall produce such certificate to her employer forthwith.

(*b*) If a married woman cancels any such election in accordance with the provisions of this regulation, she shall surrender the certificate to the Ministry at the time of the cancellation, and forthwith notify her employer of the cancellation.

(4) Where a married woman has cancelled her election not to pay contributions as an employed person, any contributions paid by or credited to her as an employed person (or, if she becomes self-employed, as a self-employed person) on or after the date on which the cancellation became operative shall not be taken into account for the purpose of determining her right to unemployment benefit or sickness benefit under the Act unless, before the day for which benefit is claimed, in the case of unemployment benefit, Condition I of Schedule 1 has been satisfied, and, in the case of sickness benefit, Condition II of that Schedule has been satisfied, and unless in either case the contributions so paid or credited are in respect of weeks commencing on or after the operative date of the said cancellation.

(h) See s.106(1) of National Insurance Act (Northern Ireland) 1966.

Married women who are self-employed persons

3.—(1)(*a*) A woman shall be excepted from liability to pay contributions in respect of any period during which she is married and is a self-employed person unless, during that period, she elects otherwise in accordance with the following provisions of this regulation.

(*b*) Every such election by a married woman shall be either an election to be liable to pay contributions as a self-employed person or an election to be liable to pay contributions as if she were a non-employed person notwithstanding that she is a self-employed person, and a woman who makes any such election shall, during the operation of the election but subject to the provisions of the Act and of regulations 5 and 6, be liable to pay the contributions which she has elected to be liable to pay:

Provided that, in relation to a married woman who has attained pensionable age but has not attained the age of 65, any such election made by her to be liable to pay contributions as if she were a non-employed person shall be treated as if it were an election to be liable to pay contributions as if she were a non-employed person and had not attained pensionable age.

(*c*) Where a married woman has elected under the foregoing provisions of this regulation to be liable to pay contributions as if she were a non-employed person, every such contribution paid by her in respect of a week commencing on or after 1st March 1954 and occurring during the operation of any such election shall be treated as if it were a contribution as a self-employed person for the purposes of regulation 4(1) and Condition II of Schedule 1 and, if it is paid in respect of a week commencing on or after the date on which she attained pensionable age, for the purposes of section 30(1) of the Act (increase in the weekly rate of a retirement pension where contributions as an employed or self-employed person have been paid by the beneficiary in respect of the period after his attaining pensionable age).

(2)(*a*) Every election by a married woman under the foregoing provisions of this regulation shall be made by her by giving notice in writing to the Ministry, and if such notice is given before the expiration of 13 weeks (or such longer period as the Ministry, having regard to all the circumstances of the case, may allow) beginning with the week next following the date on which she became or again became a married woman who was a self-employed person, the election shall be operative from that date, but if such notice is given thereafter, the election shall be operative from the beginning of the week in which the said notice was given.

(*b*) Any such election by a married woman may be cancelled by her at any time by giving notice in writing to the Ministry to that effect, and such notice shall be operative from the beginning of the week in which the notice was given.

(3) Where a married woman did not elect to pay contributions as a self-employed person under the Act, or elected to pay contributions as if she were a non-employed person, and subsequently elects to pay contributions as a self-employed person, any contributions paid by or credited to her as a self-employed person (or, if she becomes employed, as an employed person) on or after the date on which such latter election became operative shall not be taken into account for the purpose of determining her right to sickness

benefit under the Act unless, before the day for which benefit is claimed, Condition II of Schedule 1 has been satisfied, and unless the contributions so paid or credited are in respect of weeks commencing on or after the operative date of such election.

Married women who are non-employed persons

4.—(1) A woman shall be excepted from insurance under the Act during any period during which she is married and is a non-employed person unless she elects (in accordance with paragraph (2), but subject to the provisions of regulations 5 and 6) either to be liable to pay contributions as a non-employed person or to remain in insurance under the Act without paying contributions:

Provided that no such person shall be entitled to elect to remain in insurance without paying contributions unless immediately before the date on which the election would otherwise be effective she satisfies one of the following conditions, namely:

(*a*) that not less than 156 contributions, whether as an employed person or self-employed person, have been paid in respect of her since her entry into insurance under the Act; or

(*b*) in the case of a person who became insured under the Insurance Act or the Contributory Pensions Act before 30th September 1946, and who continued to be insured or treated as insured under either of those Acts up to immediately before 5th July 1948, that not less than 104 contributions have been paid in respect of her before 5th July 1948, under those Acts since her last entry into insurance under either of those Acts; or

(*c*) in the case of a person who became so insured on or after 30th September 1946, or, having become so insured before that day, had had less than 104 such contributions so paid in respect of her before 5th July 1948, and who in either case continued to be insured or treated as insured under either the Insurance Act or the Contributory Pensions Act up to immediately before 5th July 1948, that not less than 156 contributions, whether under those Acts or the Act, have been paid in respect of her since her last entry into insurance under the Insurance Act or the Contributory Pensions Act;

and, for the purpose of this proviso, if more than one contribution has been paid under the said Acts for any one week, any such contributions shall be treated as if they were one contribution.

(2)(*a*) Every election by a married woman under the foregoing provisions of this regulation shall be made by her by giving notice in writing to the Ministry, and if such notice is given before the expiration of 13 weeks (or such longer period as the Ministry, having regard to all the circumstances of the case, may allow) beginning with the week next following the date on which she became or again became a married woman who was a non-employed person, the election shall be operative from that date, but if such notice is given thereafter, the election shall be operative from the beginning of the week in which the said notice was given.

(*b*) Any such election by a married woman may be cancelled by her at any time by giving notice in writing to the Ministry to that effect, and such notice shall be operative from the beginning of the week in which the notice was given.

(3) Where a married woman, being a person who as a non-employed person did not elect to pay contributions under the Act or elected to be insured only, subsequently pays, or has credited to her, contributions either as an employed person or self-employed person, any such contributions shall not be taken into account for the purpose of determining her right to unemployment or sickness benefit, unless before the day for which benefit is claimed, in the case of unemployment benefit, Condition I of Schedule 1 has been satisfied, and, in the case of sickness benefit, Condition II of that Schedule has been satisfied, in either case in respect of weeks to which the said subsequent payment or crediting of contributions relates.

(4) Where a married woman by reason of any provision of this regulation ceases to be an insured person under the Act, but thereafter becomes insured thereunder, the date of her entry into insurance shall (subject to any regulations(i) made under the transitory provisions of paragraph 17 of Schedule 9 to the Act) be the date on which she first became an insured person under the Act, notwithstanding that she may have ceased to be an insured person on more than one occasion.

Special condition relating to payment of contributions by married women as non-employed persons in certain cases

5. A married woman who—

(*a*) being an employed person, has, in respect of any period, elected not to be liable to pay contributions; or

(*b*) being a self-employed person, has, in respect of any period, not elected to be liable to pay contributions as a self-employed person, or has cancelled any election as a self-employed person to be liable to pay contributions as if she were a non-employed person (not being for the purpose of paying contributions as a self-employed person); or

(*c*) being a non-employed person, has, in respect of any period, not elected to be liable to pay contributions;

shall, after any such election, failure to elect or cancellation of an election, not be entitled to pay contributions as, or as if she were, a non-employed person unless and until (after making any necessary election or cancellation of an election in accordance with these regulations) she has in respect of weeks commencing after the election, failure or cancellation, as the case may be, satisfied Condition II of Schedule 1.

Contribution test for married women

6. Where, in respect of a contribution year beginning after 5th July 1948 during the whole of which a person is a married woman, less than 45 contributions of any class under the Act have been paid by or credited to her she shall not be entitled in respect of any period after the end of that contribution year to pay contributions as, or as if she were, a non-employed person unless and until Condition II of Schedule 1 has been satisfied in respect of weeks commencing after the end of that contribution year.

Limitation of the operation of regulations 5 and 6

7. The provisions of regulations 5 and 6 shall not operate to prevent the payment by a married woman of any contribution in respect of any week commencing on or after 1st March 1954 except in the case of a married woman who, immediately before that date, by virtue of the operation of those provisions, either—

(i) See reg. 3 of S.R. & O. (N.I.) 1948, No. 129; S.R. & O. (N.I.) 1948, No. 228 as amended by S.R. & O. (N.I.) 1949, No. 141; reg. 2 of S.R. & O. (N.I.) 1948, No. 239.