Widow's Benefit and Retirement Pensions Amendment Regulations (Northern Ireland), 1957

REGULATIONS, DATED 29TH JULY, 1957, MADE BY THE MINISTRY OF LABOUR AND NATIONAL INSURANCE UNDER THE NATIONAL INSURANCE ACTS (NORTHERN IRELAND), 1946 TO 1957.

1957. No. 160 [C]

The Ministry of Labour and National Insurance in exercise of the powers conferred by sections 1, 9(1)(*b*) and 10(2) of the National Insurance Act (Northern Ireland), 1957(**a**), section 62 of the National Insurance Act (Northern Ireland), 1946(**b**), and section 4(1)(*a*) of the National Insurance Act (Northern Ireland), 1955(**c**), in conjunction with the Ministry of Finance so far as relates to matters with regard to which the Ministry of Finance has so directed, and of all other powers enabling it in that behalf, hereby makes the following regulations:—

Citation, interpretation and commencement

1. These regulations, which may be cited as the National Insurance (Widow's Benefit and Retirement Pensions) Amendment Regulations (Northern Ireland), 1957, shall be read as one with the National Insurance (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland), 1948(**d**), (hereinafter referred to as "the principal regulations") and shall come into operation on the 5th August, 1957.

Provisions to be added to the principal regulations

2. The following provisions shall be added after regulation 7 of the principal regulations:—

"PART II

RE-ENTRY INTO REGULAR EMPLOYMENT AFTER RETIREMENT

Election to re-enter employment

8.—(1) Subject to the provisions of this Part of these regulations, in the case of a person of any description specified in the next following paragraph who—

(*a*) has retired for the purposes of the Act from regular employment or has otherwise become entitled to a retirement pension but is, in the case of a woman, under the age of sixty-five or, in the case of a man, under the age of seventy; and

(*b*) elects in the manner and in accordance with the conditions contained in this Part that this Part shall apply in his case;

the Act shall have effect as if that person had not retired or become entitled as aforesaid.

(**a**) 1957. c. 7. (**b**) 1946. c. 23. (**c**) 1955. c. 1.
(**d**) S.R. & O. (N.I.) 1948. No. 246 as amended by S.R. & O. (N.I.) 1951. No. 154; S.R. & O. (N.I.) 1952. No. 137; S.R. & O. (N.I.) 1953. No. 108; S.R. & O. (N.I.) 1955. No. 7; S.R. & O. (N.I.) 1956. No. 138.

(2) The persons who may so elect are persons of any description who are entitled to retirement pensions, not being—

(*a*) married women who are entitled to retirement pensions by virtue of their husband's insurance for any period which includes the date upon which their election would take effect in accordance with paragraph (4) of this regulation;

(*b*) persons who are not resident in Northern Ireland;

(*c*) persons (other than widows who are entitled to retirement pensions by virtue of their husband's insurance) to whom there apply the provisions either of sub-paragraph (*a*) of paragraph (1) of regulation 4 of the National Insurance (New Entrants Transitional) Regulations (Northern Ireland), 1948(**a**), or of sub-paragraph (*a*) of paragraph (1) of regulation 10 of the National Insurance (Pensions, Existing Contributors) (Transitional) Regulations (Northern Ireland), 1948(**b**), (which provisions relate to the retirement pensions of, respectively, certain new entrants and certain existing contributors who entered into insurance while less than ten years under pensionable age):

Provided that, where a husband and wife have both become entitled to retirement pensions by virtue of the husband's insurance, the husband shall not be entitled to elect as aforesaid without the consent of the wife, unless that consent is unreasonably withheld.

(3) Notice of election for the purpose of this Part of these regulations shall be given to the Ministry in writing on the form approved by the Ministry for the purpose, or in such other manner, being in writing, as the Ministry may accept as sufficient in the circumstances of any particular case or class of cases.

(4) Notice under the last foregoing paragraph shall take effect—

(*a*) where the notice does not specify a date as the date of the person's election, on the date on which the notice is given; and

(*b*) where the notice specifies a date, being a date not earlier than the date on which the notice is given and not later than the expiration of twenty-eight days after that date, as the date of the person's election, on the date so specified:

(**a**) S.R. & O. (N.I.) 1948. No. 221 as amended by S.R. & O. (N.I.) 1951. No. 154; S.R. & O. (N.I.) 1952. No. 137; S.R. & O. (N.I.) 1955. No. 7; S.R. & O. (N.I.) 1957. No. 44.

(**b**) S.R. & O. (N.I.) 1948. No. 129 as amended by S.R. & O. (N.I.) 1949. No. 130; S.R. & O. (N.I.) 1949. No. 159; S.R. & O. (N.I.) 1951. No. 110; S.R. & O. (N.I.) 1951. No. 154; S.R. & O. (N.I.) 1952. No. 133; S.R. & O. (N.I.) 1952. No. 137; S.R. & O. (N.I.) 1953. No. 108; S.R. & O. (N.I.) 1955. No. 8; S.R. & O. (N.I.) 1956. No. 138.

Provided that in the case of a man whose wife is entitled to a retirement pension by virtue of his insurance—

(i) if she consents in writing to the election, notice shall not take effect earlier than the date of her consent; and

(ii) if she does not so consent, notice shall not take effect unless the determining authority decides that her consent has been unreasonably withheld, and in that event shall take effect in accordance with the provisions of this paragraph, unless that authority, having regard to all the circumstances of the case, determines that it shall take effect on some later date.

(5) Any such notice, if sent by post, shall be deemed to be given on the date on which it was posted.

Conditions of election

9. The following conditions shall apply to a person making an election for the purpose of the foregoing regulations:—

(*a*) Subject to the provisions of paragraphs (5) and (6) of regulation 10 of the National Insurance (Claims and Payments) Regulations (Northern Ireland), 1948(a), (which relate to the adjustment of the commencement and termination of benefit), no retirement pension shall be payable to him, or by virtue of his insurance to his wife, in respect of any period on or after the date of his election and before he subsequently retires for the purposes of the Act from regular employment or dies;

(*b*) If after making his election he subsequently so retires, he shall not thereafter be entitled to make another such election;

(*c*) After making such election, no person who was a widow at the date such election took effect shall be entitled by virtue of her former husband's insurance to widow's benefit for any subsequent period:

Provided that for the purposes of this paragraph of this regulation widow's benefit shall not include widowed mother's allowance, so far as it is, or is deemed to consist of, dependency benefit within the meaning of paragraph (4) of regulation 1 of the National Insurance (Overlapping Benefits) Regulations (Northern Ireland), 1949(b), or any portion of her widow's benefit which is protected from reduction on account of earnings by virtue of regulation 11 of the National Insurance (Pensions, Existing Beneficiaries and Other Persons) (Transi-

(a) S.R. & O. (N.I.) 1948. No. 196 as amended by S.R. & O. (N.I.) 1949. No. 142; S.R. & O. (N.I.) 1951. No. 154; S.R. & O. (N.I.) 1952. No. 46; S.R. & O. (N.I.) 1952. No. 141; S.R. & O. (N.I.) 1953. No. 123; S.R. & O. (N.I.) 1954. No. 45; S.R. & O. (N.I.) 1957. No. 72.

(b) S.R. & O. (N.I.) 1949. No. 154 as amended by S.R. & O. (N.I.) 1951. No. 154; S. R. & O. (N.I.) 1951. No. 181; S.R. & O. (N.I.) 1952. No. 65; S.R. & O. (N.I.) 1952. No. 137; S.R. & O. (N.I.) 1953. No. 80; S.R. & O. (N.I.) 1953. No. 123; S.R. & O. (N.I.) 1955. No. 7; S.R. & O. (N.I.) 1956. No. 138.