

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) or 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—

- (a) is liable for primary Class 1 contributions in respect of any payment of earnings made to her in any year beginning after the year in which she attains the age of 59 shall be liable to pay such contributions at the reduced rate under section 2(7) of the Act; or
- (b) is a self-employed earner in any year beginning after the year in which she attains the age of 59 shall not be liable to pay Class 2 contributions under section 3(2) of the Act in any such year.

Certificates of election

9.—(1) The Department shall issue without charge to any married woman or widow who has made an election, and who the Department is satisfied is a married woman or a qualifying widow, a certificate of election (hereinafter referred to as “a certificate”), and the certificate shall remain when issued the property of the Department.

(2) Every certificate shall state the year in respect of which the election in respect of which it is issued is made.

(3) A woman to whom a certificate has been issued shall be responsible for its custody unless and until it is delivered to a secondary contributor, or returned to the Department.

(4) A woman to whom a certificate has been issued shall, if she is or becomes an employed earner, deliver the certificate forthwith to the secondary contributor, and he shall thereupon become responsible for its custody unless and until it is redelivered to the woman to whom it was issued or to the Department.

(5) When a woman who has made an election has more than one employed earner's employment the Department shall issue to her without charge a number of certificates equal to the number of such employments, and the previous provisions of this regulation shall apply in relation to each certificate, save that for the purposes of paragraph (4) above she shall be liable to deliver only one certificate to each secondary contributor.

(6) Where a certificate has been lost or destroyed the person responsible for its custody shall inform the Department of that loss or destruction, and apply to it for a further certificate, and the Department shall, on it being satisfied that the certificate has been lost or destroyed, issue to the person a further certificate in the same terms as the former certificate.

(7) When a woman gives notice in writing to the Department that she revokes an election she shall—

- (a) if the certificate is with a secondary contributor, recover it from him;
- (b) redeliver the certificate to the Department.

(8) Where a secondary contributor holds a certificate and—

- (a) is informed by the woman to whom it was issued that she has revoked or intends to revoke her election and requested to return the certificate to her so that she may return it to the Department, or
- (b) the employment by him of the woman to whom the certificate was issued has terminated,

he shall return the certificate to her forthwith.

(9) When a certificate has been redelivered to the Department in accordance with paragraph (7) above the Department shall return it, after taking any action which the Department thinks necessary to give effect to her revocation, to the woman to whom it was issued.

Notice of marriage and giving of information by married women and widows

10.—(1) It shall be the duty of every woman who marries, and who is or has been an employed earner or is a self-employed earner, to give notice to the Department in writing of her marriage not later than 5 weeks thereafter, or, if she claims benefit before the expiration of that period, at the time of making such a claim, and to furnish such evidence of her marriage as may be required by the Department.

(2) Where under the foregoing provisions of these regulations an election has been made by a woman to pay primary Class 1 contributions at the reduced rate and that election ceases to have effect, it shall be the duty of that woman to inform the secondary contributor accordingly.

Deemed election of married women and widows excepted from contribution liability under former principal Act

11. Where as respects a woman immediately before the appointed day there is, or is deemed to be, in issue a current certificate of exception under regulation 10(3) or (4A) of the National Insurance (Contributions) Regulations (Northern Ireland) 1962(j), as amended(k) (exception for certain widows) or there is current an election under regulation 2(1)(a) of the National Insurance (Married Women) Regulations (Northern Ireland) 1973(l) (married women who are employed persons), or a woman then is, or but for any exception under or by virtue of another provision of the former principal Act(m) would be, excepted under regulation 3(1)(a) of those regulations (married women who are self-employed persons) from liability for contributions as a self-employed person under that Act and in any of those cases on that day the woman is a widow or, as the case may be, a married woman, that woman shall be deemed to have made an election under regulation 2.

Newly widowed women on the appointed day

12. Where on the appointed day a woman is a widow, and either—

(a) her husband had died on or after 7th October 1974; or

(b) she had within 182 days (including Sundays) of her husband's death claimed or applied for a benefit specified in regulation 2(5) and the claim or application has not been determined by that day;

the provisions of regulation 5 shall apply to that woman as if her husband had died on the appointed day.

Special transitional provisions regarding deemed elections

13.—(1) Where by virtue of regulation 11 a woman is deemed to have made an election under regulation 2, the following provisions of this regulation shall apply.

(2) Before the woman first becomes liable to pay a primary Class 1 contribution she may revoke any such election in accordance with the provisions of regulation 4 by notice in writing given to the Department and, if she so specifies in the said notice, the revocation shall have effect from and including the beginning of the year in which the notice is given.

(j) S.R. & O. (N.I.) 1962 No. 65 (p. 247)

(k) The relevant amending regulations are S.R. & O. (N.I.) 1963 No. 59 (p. 193) and 1970 No. 295 (p. 1379).

(l) S.R. & O. (N.I.) 1973 No. 146 (p. 823)

(m) See, e.g. National Insurance Act (Northern Ireland) 1966 section 10(1) and S.R. & O. (N.I.) 1962 No. 65 regulations 3, 6, 6A, 7(1), 12 and 13.

(3) If no notice of revocation is given—

(a) in the first year in which the woman becomes liable to pay primary Class 1 contributions—

(i) she shall be entitled in respect of that year to choose whether to pay such contributions at the standard rate or at the reduced rate; and

(ii) she shall notify any secondary contributor at which rate to pay such contributions on her behalf; and

(iii) such secondary contributor shall pay those contributions at that rate until the woman notifies him to the contrary in accordance with the provisions of regulation 10(2);

(b) if in any year any primary Class 1 contribution at the standard rate is paid by or on behalf of the woman, unless it is shown to the satisfaction of the Department that the woman did not intend thereby to revoke the election—

(i) she shall be deemed to have revoked the election; and

(ii) the revocation shall, subject to the provisions of the next succeeding sub-paragraph, have effect from and including the beginning of the year next following the year in which the payment is made or, if the woman so wishes, from and including the beginning of the last-mentioned year;

(c) notwithstanding the provisions of the last foregoing sub-paragraph, if in the said first year a Class 1 contribution at the standard rate is paid by or on behalf of the woman, she will nevertheless be deemed to have made an election under regulation 2 in respect of the next following year if, having regard to the contributions paid by her or on her behalf in that year and to all other relevant circumstances, the Department is satisfied that her failure to make such an election in accordance with regulation 2 was due solely to an erroneous belief on her part that primary Class 1 contributions in that year were payable by her or on her behalf only at the reduced rate.

(4) Where under the provisions of paragraph (2) or (3)(b)(ii) of this regulation a revocation has effect from the beginning of the year in which the notice of revocation is given or, as the case may be, the payment is made, the woman shall be liable to the exclusion of any secondary contributor to pay the Department the sum (if any) equal to the difference between the following amounts, that is to say—

(a) the amount of the contributions paid by or on behalf of the woman in respect of the earnings paid to her or for her benefit in that year and

(b) the amount of the contributions which would have been payable if they had been paid at the standard rate in respect of those earnings.

Application of regulations 1 to 10 to elections and revocation of elections deemed made under regulations 11 and 13

14.—(1) Subject to the provisions of paragraph (2) below, regulations 1 to 10, save only in so far as inconsistent with regulations 11 and 13 shall apply to any election deemed to have been made under regulation 2 by virtue of regulations 11 and 13(3)(c) as if it had been made under, and in accordance with, the provisions of the said regulation 2 except that the Department shall not be obliged to issue a certificate of election, and as if any revocation which is deemed to be made under the last foregoing regulation were made under, and in accordance with, the provisions of regulation 4.

(2) Where a woman who under regulation 11 is not liable for a primary Class 1 contribution otherwise than at the reduced rate and to whom no certificate of election under the Act has been issued becomes employed in employed earner's employment, she shall make application in writing to the Department for such a certificate and, notwithstanding the provisions of paragraph (1) above, the Department shall issue such a certificate to her.

Special transitional provisions relating to married women and certain widows to whom regulations 11 and 12 do not apply

15.—(1) Any woman to whom this regulation applies may, subject to the provisions of regulation 6, and notwithstanding the provisions of regulation 2(4)—

- (a) during the first year in which she becomes liable to pay a primary Class 1 contribution under the Act, make an election under regulation 2 in respect of that same year;
- (b) if she has never become liable to pay such contribution nor has paid any Class 2 or Class 3 contribution under the Act and makes an election under regulation 2 within the period of 3 years from and including the appointed day, make that election in respect of each year in the period of 3 years until and including the year in which she makes the election.

(2) The woman to whom this regulation applies is any woman who immediately before the appointed day is a married woman to whom regulation 11 does not apply or a widow to whom regulation 10(3) or (4A) of the National Insurance (Contributions) Regulations (Northern Ireland) 1962, as amended, (exception for certain widows) applies but to whom no certificate of exception is or is deemed to be issued, or to whom regulation 10(2) of those regulations applies and who in each case at the time of the election has not ceased to be married or, as the case may be, a widow.

Savings

16. For the purpose of facilitating the introduction of the basic scheme relating to contributions, the following provisions of the National Insurance (Married Women) Regulations (Northern Ireland) 1973 shall be saved, that is to say, regulations 2(2) (married women who are employed persons), 3(2) (married women who are self-employed persons), 4(2) (married women who are non-employed persons) and 16 (notice of marriage).

Modifications of the Act

17. The provisions of the Act shall have effect subject to the modifications contained in these regulations.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 23rd January 1975.

(L.S.)

C. G. Oakes

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the regulations but is intended to indicate their general purport.)

These regulations make provision for the form in which married women and widows are to elect under the Social Security Act 1973 that they shall not be liable for certain contributions or that they shall be liable to pay certain contributions at a reduced rate, and for the effect of elections made in the prescribed form, for the provision of certificates and for consequential matters. In addition regulation 8 provides that certain married women and widows who are of, or approaching, pensionable age shall not be liable for contributions or shall be liable to pay contributions only at a reduced rate.

Regulations 11 to 16 make provision for transitional matters relating to married women and widows.