
STATUTORY INSTRUMENTS

1979 No. 345

SOCIAL SECURITY

The Social Security (Benefit) (Transitional) Regulations 1979

<i>Made</i>	- - - - -	<i>22nd March 1979</i>
<i>Laid before Parliament</i>		<i>23rd March 1979</i>
<i>Coming into Operation</i>		
<i>regulation 7</i>		<i>24th March 1979</i>
<i>remainder</i>		<i>6th April 1979</i>

The Secretary of State for Social Services, in exercise of the powers conferred upon him by section 63 of the Social Security Pensions Act 1975 and of all other powers enabling him in that behalf, hereby makes the following regulations which only make provision for transitional matters connected with the coming into force of the Social Security Pensions Act 1975 and which accordingly, by virtue of section 61(1)(f) of that Act, are not subject to the requirement of section 139(1) of the Social Security Act 1975 for prior reference to the National Insurance Advisory Committee:—

Citation and commencement

1. These regulations may be cited as the Social Security (Benefit) (Transitional) Regulations 1979. Regulation 7 shall come into operation on 24th March 1979 and the remainder of the regulations shall come into operation on 6th April 1979.

Miscellaneous amendments of the Widow's Benefit, Retirement Pension and Other Benefits (Transitional) Regulations 1974

2.—(1) The Widow's Benefit, Retirement Pension and Other Benefits (Transitional) Regulations 1974(1) (hereinafter called “the principal regulations”) shall be further amended in accordance with the following provisions of this regulation.

(2) In regulation 2(1)—

- (a) for the definition of “the Act” there shall be substituted “‘the Act’ means the Social Security Act 1975”;
- (b) for the words “‘the appointed day’ means 6th April 1975” there shall be substituted “‘the Pensions Act’ means the Social Security Pensions Act 1975”;

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- (c) for the words “existing contributor” and “an existing contributor”, wherever they appear, there shall be substituted “a pre-1948 contributor”;
 - (d) in the definition of “former beneficiary” for the words “the appointed day” there shall be substituted “6th April 1975”;
 - (e) in the definition of “former contribution” for the words “section 25(5) of the Act” there shall be substituted “section 29(5) of the Act”;
 - (f) in the definition of “reckonable year” after the words “income tax year” there shall be inserted the words “before 6th April 1978”;
 - (g) for the words “the former principal Act” where that expression last appears, there shall be substituted “the Act and the Pensions Act”.
- (3) In regulation 2 there shall be added the following paragraph:—
- “(2A) For the purposes of these regulations a person who has obtained a decree absolute of presumption of death and dissolution of marriage under the Matrimonial Causes Act 1973 shall, notwithstanding that the spouse whose death has been presumed is dead, be treated as a person whose marriage has been terminated otherwise than by the death of his spouse unless the date of his death is established to the satisfaction of the Secretary of State, a Commissioner, a local tribunal or an insurance officer, whichever is appropriate; and, in relation to a person who is so treated, the marriage in question shall be treated as having been terminated on the date of the decree absolute”.
- (4) In regulations 2(2), 4, 5(1) and (2), 6(2), 7(2) and (4), 8, 10, 12(2) and (3), 13(1) and 14(1) and (2) for the words “the appointed day” wherever they appear there shall be substituted “6th April 1975”.
- (5) In regulations 7(3)(a) and (b), 7(6)(a) and (b) and 7(6A) for the words “an existing contributor” there shall be substituted “a pre-1948 contributor”.
- (6) For the first seven lines of, and sub-paragraphs (a) and (b) of, regulation 7(8) there shall be substituted the following:—
- “(8) In the case of a person (hereinafter called “the beneficiary”) whose former spouse was a pre-1975 contributor and who has the contributions of his said spouse treated, by virtue of regulation 5B of, and the Schedule to, the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1974(2) as if they were contributions of his own so as to entitle him to a Category A retirement pension—
- (a) the number of any qualifying years before 6th April 1975 which, by virtue of regulations 7(2) and 12C, were or could have been obtained by his former spouse and which may be taken into account towards the beneficiary's said entitlement, shall be ascertained by reference to the number of contributions of any class paid by or credited to his former spouse during the period of the former spouse's working life between (inclusive) the first year of his working life and (exclusive) the year in which the marriage terminated or the year 1975/76, whichever is the earlier, and shall not exceed the number of years in that period; and
 - (b) the number of any qualifying years before 6th April 1975 which, by virtue of regulations 7(2) and 12C, are obtained by the beneficiary by virtue of paragraph 2(b) or, as the case may be, paragraph 3(b) of the said Schedule and which may be taken into account towards his said entitlement shall be ascertained by reference to the number of contributions of any class paid by or credited to him during the period or periods specified in the said paragraphs which fell before 6th April 1975 and shall not exceed the number of years in that period or in each of those periods, as the case may be;”

(2) The relevant amending instrument is S.I. 1978/392.

(7) In regulation 7(8)(c) before the words “if her husband died” there shall be inserted the words “where the beneficiary is a woman,”.

(8) Regulations 7(9) and 11 are revoked.

(9) In the Schedule, for the words “Category B retirement pension at lower rate” and “Category B retirement pension at higher rate” there shall be substituted “Category B retirement pension at the rate specified in paragraph 9 of Part I of Schedule 4 to the Act” and “Category B retirement pension at the rate specified in section 6(1)(a) of the Pensions Act for the basic component of a Category A retirement pension”, respectively.

(10) For the words “former contribution”, “former contributor” and “former beneficiary”, wherever they appear, there shall be substituted “pre-1975 contribution”, “pre-1975 contributor” and “pre-1975 beneficiary”, respectively.

Amendments of regulation 12 of the principal regulations

3.—(1) Regulation 12 of the principal regulations (modifications relating to increases of retirement pension) shall be amended in accordance with the following provisions of this regulation.

(2) For the words “pre-appointed day” and “post-appointed day” wherever they appear, there shall be substituted “pre-1975” and “post-1975” respectively.

(3) For paragraph (1) there shall be substituted the following paragraph:—

“(1) In this regulation and in regulations 12A and 12B—

‘a pre-1975 increment’ means an increase of retirement pension under section 31(1) or 34(1) of the former principal Act; ‘a post-1975 increment’ means an increase of a Category A or B retirement pension which accrued under section 28(4), 28(5) or 29(10) of the Act between 6th April 1975 and 5th April 1979 (both dates inclusive); and the pre-1975 beneficiaries to whom these regulations relate are those who, immediately before 6th April 1975, were, or but for any disqualification or forfeiture would be, entitled to, or who have prospective rights to, or expectation of, a pre-1975 increment.”

(4) In paragraph (2) for the words following “right or expectation” there shall be substituted “together with increases (if any) of the said amount calculated in accordance with the provisions of section 124 of the Act and section 23(3) of the Pensions Act”.

(5) For paragraph (4) there shall be substituted the following paragraph:—

“(4) Where a pre-1975 beneficiary to whom this regulation relates has, immediately before 6th April 1979, entitlement to, or a prospective right to, at least one pre-1975 increment, paragraph 1 of Schedule 1 to the Pensions Act shall apply to his case as if—

- (a) the words “but only if that amount is enough to increase the rate of the pension by at least 1 per cent” were omitted from that paragraph, and
- (b) any contribution as an employed or self-employed person paid by him under the former principal Act in respect of any period after he attained pensionable age and not taken into account for a pre-1975 or a post-1975 increment, shall be treated as an incremental period for the purposes of Schedule 1 to the Pensions Act”.

(6) Paragraph (5) is revoked.

(7) In paragraph (6) the words “on or after the appointed day but” shall be deleted and for the words “any regulations made under section 24(4)(b) of the Act providing for days to be treated as days of increment under that section” there shall be substituted the words “regulation 4 of the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1974(3).”

Additions to the principal regulations

4. After regulation 12 of the principal regulations there shall be inserted the following regulations:—

“Modifications relating to persons who reached pensionable age before 6th April 1979 but who retire thereafter

12A.—(1) The following provisions of this regulation relate to a person who, having attained pensionable age before 6th April 1979, retires from regular employment on or after that date or, having made an election before that date under section 30(3) of the Act or section 35 of the former principal Act, retires on or after that date.

(2) Where a person, before 6th April 1979, satisfied the condition in section 28(4) of the Act that the number of days of increment was at least 48, paragraph 1 of Schedule 1 to the Pensions Act shall apply to his case as if the words “but only if that amount is enough to increase the rate of the pension by at least 1 per cent” were omitted from that paragraph.

(3) Where a person, before 6th April 1979, does not satisfy the condition in section 28(4) of the Act that the number of days of increment was at least 48, then, subject to the condition specified in paragraph 1 of Schedule 1 to the Pensions Act (that an increase in the rate of a Category A or Category B retirement pension under that paragraph on account of deferred retirement is payable only if the amount of such an increase is enough to increase the pension by at least 1 per cent),—

- (a) that person's retirement pension shall be increased by 1/8th per cent of its rate for each period of six days of increment which fell before 6th April 1979, and
- (b) any such day of increment which does not form part of a period as aforesaid shall be treated as a day of increment for the purposes of Schedule 1 to the Pensions Act.

(4) For the sole purpose of determining whether the condition specified in paragraph 1 of Schedule 1 to the Pensions Act (referred to in paragraph (3) above) has been satisfied by a married woman whose husband's days of increment before 6th April 1979 amounted to less than 48 days, her entitlement to an increase of a Category B retirement pension in respect of the period before 6th April 1979 shall be calculated on the basis of an increase of 1/8th per cent for each incremental period which fell within the period beginning with the day on which her husband attained pensionable age, she attained pensionable age or they were married, whichever is the latest, and ending on 5th April 1979.

Transitional provision relating to increase of retirement pension where pensioner's deceased spouse had deferred retirement

12B. For the purpose of calculating entitlement to an increase of retirement pension under paragraph 4 of Schedule 1 to the Pensions Act (increase of Category A or Category B retirement pension by amount to which deceased spouse was entitled) in the case of a person whose spouse dies on or after 6th April 1979, or, in the case of a widow, who attains pensionable age on or after that date, any pre-1975 increment or post-1975 increment to which the deceased spouse was entitled or would have been entitled if he had retired on the date of his death shall be treated as an increase to which he was entitled under the said Schedule.

Transitional provision relating to treatment of reckonable years

12C.—(1) For the purposes of paragraph 5(2)(b) and 5(3)(b) of Schedule 3 to the Act and the Schedule to the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1974(4) any reckonable year or years shall be treated as a qualifying year or years.

(2) In this regulation “qualifying year” means a year in which a person's earnings factor is sufficient for satisfaction of paragraph (b) of the second contribution condition specified in paragraph 5(3) of Schedule 3 to the Act.

Transitional provision relating to Category B retirement pension for a widower

12D. The condition in section 8(1)(c) of the Pensions Act, as amended by the Social Security Act 1979, (that the deceased wife satisfied the contribution conditions in paragraph 5 of Schedule 3 to the Act) shall not be satisfied by virtue of any contributions of a woman's former husband which were treated as her own by virtue of section 28(3) of, and Schedule 7 to, the Act or regulation 4(1) of, and the Schedule to, the Social Security (Benefit) (Married Women and Widows Special Provisions) Regulations 1974 (as in force immediately before 6th April 1979).

Transitional provision relating to widow's election to be treated as not having retired

12E. Where a woman who became entitled to a Category B retirement pension under section 29(4) of the Act before 6th April 1979 has, on or after that date, made an election under section 30(3) of the Act and has not revoked it, then, for the purpose only of determining her right to increments under Schedule 1 to the Pensions Act, her election shall be treated as if it took effect from 6th April 1975 or, if later, the date of the death of her husband by virtue of whose contributions she is so entitled.

Transitional provision relating to increase under Schedule 1 to the Pensions Act of married woman's Category B retirement pension

12F. In relation to a woman who—

- (a) attained the age of 60 before 6th April 1979, and
- (b) is married to a man who reached the age of 65 before 6th April 1979, and
- (c) on or after 6th April 1979 is entitled to a Category B retirement pension under section 29(2) or 29(3) of the Act,

regulation 4(1)(b)(i) of the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1974(5) (days of deferred retirement not to be treated as days of increment when certain benefits have been received) shall not apply by reason only of the fact that the woman has received graduated retirement benefit by virtue of her having paid graduated contributions as an insured person.”

Amendment of the Social Security (Benefit) (Married Women and Widows Special Provisions) Regulations 1974

5. In regulation 10 of the Social Security (Benefit) (Married Women and Widows Special Provisions) Regulations 1974 (voidable marriages and presumption of death) the words “and

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regulation 7(9) of the Widow's Benefit Retirement Pension and Other Benefits (Transitional) Regulations 1974' shall be deleted.

Amendment of the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1974

6. Regulation 14 of the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1974 (special transitional provisions applying to certain women who remarry when over pensionable age) is revoked.

Amendment of the Social Security (Credits) Amendment and (Earnings Factor) Transitional Regulations 1978

7. Regulation 3 of the Social Security (Credits) Amendment and (Earnings Factor) Transitional Regulations 1978 (transitional provision relating to earnings factors) is revoked.

22nd March 1979

David Ennals
Secretary of State for Social Services

EXPLANATORY NOTE

These Regulations make provision for transitional matters connected with the coming into force of the Social Security Pensions Act 1975.

Regulations 2 to 4 contain modifications or amend existing modifications of certain provisions of the Social Security Act 1975 and the Social Security Pensions Act 1975 and certain regulations made under those Acts, in their application to persons who, immediately before 6th April 1979, were contributors under the Social Security Act 1975 or were entitled to, or had a prospective right to, or expectation of, benefit under the latter Act or the National Insurance Act 1965. The modifications relate to entitlement to Category A and Category B retirement pensions, widowed mother's allowance and widow's pension.

Regulation 5 makes a minor amendment to the Social Security (Benefit) (Married Women and Widows Special Provisions) Regulations 1974.

Regulation 6 revokes regulation 14 of the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1974 in consequence of the coming into force of section 12 of, and Schedule 1 to, the Social Security Pensions Act 1975.

Regulation 7 revokes regulation 3 of the Social Security (Credits) Amendment and (Earnings Factor) Transitional Regulations 1978 in consequence of the amendment to paragraph 8(3) of Schedule 3 to the Social Security Act 1975 by paragraph 10 of Schedule 3 to the Social Security Act 1979.