

1970 No. 1280

## SOCIAL SECURITY

**The National Insurance (Old Persons' Pensions) Regulations  
1970**

*Made - - - - 27th August 1970*  
*Laid before Parliament 7th September 1970*  
*Coming into Operation 2nd November 1970*

The National Insurance Joint Authority in exercise of powers conferred by section 50 of the National Insurance Act 1965(a), and the Secretary of State for Social Services in exercise of his powers under sections 52, 102 and 113(2) of that Act and sections 1 and 8(7) of the National Insurance (Old persons' and widows' pensions and attendance allowance) Act 1970(b), and in each case of all other powers enabling them in that behalf and in conjunction with the Treasury so far as relates to matters with regard to which the Treasury have so directed, and in each case in consequence of the passing of the said Act of 1970, hereby make the following regulations which, by virtue of section 8(5) of that Act, are exempt from the requirements of section 108 of the said Act of 1965 (reference to the National Insurance Advisory Committee):—

*Citation, commencement and interpretation*

1.—(1) These regulations may be cited as the National Insurance (Old Persons' Pensions) Regulations 1970 and shall come into operation on 2nd November 1970.

(2) In these regulations, unless the context otherwise requires—

“the Act of 1970” means the National Insurance (Old persons' and widows' pensions and attendance allowance) Act 1970;

“husband” in relation to any woman who has been married more than once means her last husband;

“a period of 10 years” means a period of, or periods amounting in the aggregate to, 3652 days;

“the principal Act” means the National Insurance Act 1965;

and other expressions have the same meanings as in the principal Act.

(3) References in these regulations to any enactment or regulation shall, except in so far as the context otherwise requires, be construed as references to that enactment or regulation as amended or extended by or under any other enactment, order or regulation.

(4) For the purposes of regulations 3(1)(c)(ii), 3(1)(d), 4(1)(a)(ii), 6(3) and 13 of these regulations a person shall be deemed to be entitled to a pension if he would have been so entitled had he made a claim for it.

(5) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(c) shall apply for the purpose of the interpretation of these regulations as they apply for the purposes of the interpretation of an Act of Parliament.

(a) 1965 c. 51.

(b) 1970 c. 51.

(c) 1889 c. 63.

*Conditions for entitlement to retirement pension for persons over pensionable age on 5th July 1948*

2.—(1) The conditions specified in the following paragraph of this regulation shall be conditions for entitlement to a retirement pension by virtue of section 1(1)(a) of the Act of 1970 (which relates to retirement pensions for persons over pensionable age on 5th July 1948).

(2) The conditions referred to in the preceding paragraph of this regulation are that the person concerned—

- (a) has been resident in Great Britain for a period of 10 years between 5th July 1948 and 1st November 1970, inclusive of both dates ; and
- (b) was ordinarily so resident on 2nd November 1970 or the date of his claim for a pension by virtue of the said section 1(1)(a).

*Retirement pension for widows of persons over pensionable age on 5th July 1948*

3.—(1) Subject to the provisions of these regulations, a widow whose husband was over pensionable age on 5th July 1948 shall be entitled to a retirement pension at the appropriate weekly rate ascertained in accordance with the provisions of regulation 7 of these regulations if she—

- (a) is over pensionable age ; and
- (b) has retired from regular employment ; and
- (c) was over 50 years of age either—
  - (i) when her husband died ; or
  - (ii) if she was entitled to a widowed mother's allowance by virtue of regulation 5 of these regulations, when she ceased to be so entitled ; andeither—
- (d) her husband was at any time entitled to a pension by virtue of section 1(1)(a) of the Act of 1970 ; or
- (e) he died before 2nd November 1970 and—
  - (i) she has been resident in Great Britain for a period of 10 years between 5th July 1948 and 1st November 1970, inclusive of both dates ; and
  - (ii) she was ordinarily so resident on 2nd November 1970 or the date of her claim for benefit under section 1(1) of the Act of 1970 ; and
  - (iii) her husband was ordinarily so resident on the date of his death.

(2) A retirement pension payable by virtue of paragraph (1) of this regulation shall commence on 2nd November 1970 or the date on which the requirements of sub-paragraphs (a) to (c) and either (d) or (e) of that paragraph are satisfied in relation to the beneficiary, whichever is the later, and shall be payable for life.

*Widow's pension for widows of persons over pensionable age on 5th July 1948*

4.—(1) Subject to the provisions of these regulations, a widow whose husband was over pensionable age on 5th July 1948 shall be entitled to a

widow's pension at the appropriate weekly rate ascertained in accordance with the provisions of regulation 7 of these regulations if—

- (a) she was over 50 years of age either—
  - (i) when her husband died ; or
  - (ii) if she was entitled to a widowed mother's allowance by virtue of regulation 5 of these regulations, when she ceased to be so entitled ;
 and
- (b) the requirements of sub-paragraph (d) or (e) of regulation 3(1) of these regulations are satisfied in her case.

(2) The period for which widow's pension is payable by virtue of paragraph (1) of this regulation shall be any period during which the widow is under 65 years of age, and during which she is not entitled to a widowed mother's allowance by virtue of regulation 5 of these regulations, so however that the pension shall not be payable for any period after the widow's remarriage or during which she is cohabiting with a man as his wife.

*Widowed mother's allowance for widows of persons over pensionable age on 5th July 1948*

5.—(1) Subject to the provisions of these regulations, a widow whose husband was over pensionable age on 5th July 1948 shall be entitled to a widowed mother's allowance, at the appropriate weekly rate ascertained in accordance with the provisions of regulation 7 of these regulations, for any period commencing on the date on which the requirements of sub-paragraph (d) or (e) of regulation 3(1) of these regulations are first satisfied in her case (but not earlier than 2nd November 1970) and during which she would have been entitled to such an allowance under section 27 of the principal Act (which relates to widowed mother's allowance) had her husband satisfied the contribution conditions set out in paragraph 4(1) of Schedule 2 to that Act.

(2) The provisions of section 40(3) of the principal Act (which relates to increases in widowed mother's allowance in respect of children) shall apply to widowed mother's allowance payable by virtue of this regulation as they apply to such an allowance payable by virtue of section 27(1)(a) of that Act.

*Retirement pension for women whose marriage has been terminated otherwise than by death*

6.—(1) Subject to the provisions of these regulations, a woman whose marriage to a husband who was over pensionable age on 5th July 1948 was terminated otherwise than by his death shall be entitled to a retirement pension at the appropriate weekly rate ascertained in accordance with the provisions of regulation 7 of these regulations if—

- (a) she had attained pensionable age before the date of the termination of the marriage ; and
- (b) she has retired from regular employment ; and
- (c) the conditions set out in paragraph (2) or (3) of this regulation, as the case may be, are satisfied.

(2) The conditions applicable to the case of a woman whose marriage was terminated before 2nd November 1970 shall be—

- (a) that she has been resident in Great Britain for a period of 10 years between 5th July 1948 and 1st November 1970, inclusive of both dates ; and
- (b) that she was ordinarily so resident on 2nd November 1970 or the date of her claim for a pension by virtue of this regulation ; and
- (c) that her husband was ordinarily so resident on the date of the termination of the marriage ; and
- (d) that she has not remarried since that termination.

(3) The condition applicable in the case of a woman whose marriage was terminated on or after 2nd November 1970 shall be that her husband was entitled to a pension by virtue of section 1(1)(a) of the Act of 1970.

(4) For the purposes of this regulation a voidable marriage which has been annulled, whether before or after the date when these regulations come into operation, shall be treated as if it had been a valid marriage which was terminated at the date of the annulment otherwise than by the death of the husband.

(5) A retirement pension payable by virtue of paragraph (1) of this regulation shall commence on 2nd November 1970 or the date on which the requirements of sub-paragraphs (a) to (c) of that paragraph are satisfied in relation to the beneficiary, whichever is the later, and shall be payable for life.

*Rates of benefit under section 1(1) of the Act of 1970 and increases for adult dependants*

7.—(1) Subject to paragraph (3) of this regulation, the weekly rate of benefit to which a person shall be entitled by virtue of section 1(1) of the Act of 1970 shall if that person is not a married woman be £3 and if she is a married woman be £1 17s. 0d. (and, as from 14th February 1971, £1·85), so however that a woman entitled to a retirement pension at the weekly rate of £3 shall if she marries continue to be so entitled at that rate.

(2) Where a retirement pension to which a person is entitled by virtue of section 1(1)(a) of the Act of 1970 falls to be increased in pursuance of section 43 of the principal Act (which relates to adult dependants), the amount of any such increase shall be reduced to an amount equal to the amount prescribed by paragraph (1) of this regulation as the weekly rate of pension to which a married woman is entitled.

(3) The provisions of section 30(7) of the principal Act (which provides for reduction of retirement pension on account of earnings) shall apply to a retirement pension payable by virtue of section 1(1) of the Act of 1970 as they apply to retirement pension payable by virtue of section 30(1) of the principal Act.

*Adjustment of rates of benefit in cases of overlapping benefits*

8.—(1) Notwithstanding the provisions of the National Insurance (Overlapping Benefits) Regulations 1948(a), as amended(b), and subject to the following paragraph of this regulation, where, for any period, a person is

(a) S.I. 1948/2711 (Rev. XVI, p. 196: 1948 I, p. 2657).

(b) There is no amendment which relates expressly to the subject matter of this regulation.

entitled to benefit by virtue of section 1(1) of the Act of 1970 and to some other benefit under the principal Act, whether of the same or a different description, the benefit by virtue of the said section 1(1) shall be adjusted by deducting therefrom the amount of that other benefit.

(2) The preceding paragraph shall not apply to a retirement pension payable to any woman who but for section 33(1) of the principal Act (which provides that a woman shall not be entitled to two retirement pensions) would also be entitled to a retirement pension under that Act at a weekly rate of less than that of the pension to which she would be entitled by virtue of section 1(1) of the Act of 1970.

(3) For the purposes of the National Insurance (Overlapping Benefits) Regulations 1948, as amended(a), a retirement pension payable to a widow by virtue of section 1(1) of the Act of 1970 shall be treated as a retirement pension payable by virtue of her husband's insurance.

*Restriction on benefit in certain cases*

9.—(1) In the case of a widow of a member of a police force or of a special constable who, as such a widow, is in receipt of a pension under regulations from time to time in force made under—

- (a) the Police Pensions Act 1948(b),
- (b) section 34 of the Police Act 1964(c), or
- (c) section 26 of the Police (Scotland) Act 1967(d),

widow's benefit shall not be payable by virtue of these regulations in respect of any week during which she is receiving an increase in the said pension under either—

- (i) the provisions of regulation 12 or 15 of the Police Pensions Regulations 1966(e), as amended(f), or of any corresponding regulations from time to time in force and made as mentioned in sub-paragraph (a), or
- (ii) such provisions as aforesaid as applied by regulations from time to time in force and made as mentioned in sub-paragraph (b) or (c).

(2) In respect of any period before 5th April 1971—

- (a) a woman who married after attaining pensionable age shall not be entitled to a retirement pension by virtue of regulation 3 or 6 of these regulations unless she would be so entitled had the provisions of regulation 4(1) of the National Insurance (Widow's Benefit and Retirement Pension) Regulations 1948(g), as amended(h), applied to her case as they apply to such a woman in relation to a retirement pension by virtue of her husband's insurance ;
- (b) a widow shall not be entitled to a pension by virtue of regulation 4 of these regulations unless either—
  - (i) she had been married to her husband for not less than 3 years or, by virtue of regulation 3(1) of the National Insurance (Widow's

(a) S.I. 1951/1232, 1952/422, 526, 1953/756, 1954/189, 1957/1889, 2077, 1961/557, 1962/12, 1964/297, 2000, 1966/970, 1967/562 (1951 I, p. 1457; 1952 II, pp. 2194, 2196; 1953 I, p. 1367; 1954 I, p. 1387; 1957 I, pp. 1603, 1556; 1961 I, p. 1228; 1962 I, p. 10; 1964 I, p. 508; III, p. 5057; 1966 II, p. 2340; 1967 I, p. 1776); National Insurance &c. Act 1964 (1964 c. 96).

(b) 1948 c. 24.

(c) 1964 c. 48.

(d) 1967 c. 77.

(e) S.I. 1966/1582 (1966 III, p. 4894).

(f) The relevant amending instrument is S.I. 1969/1484 (1969 III, p. 4745).

(g) S.I. 1948/1261 (Rev. XVI, p. 207; 1948 I, p. 2704).

(h) The relevant amending instruments are S.I. 1956/1199, 1964/297 (1956 I, p. 1625; 1964 I, p. 508).

Benefit and Retirement Pensions) Regulations 1948, as amended(a), she would have been deemed to have satisfied the corresponding condition in section 28(2)(a) of the principal Act ; or

- (ii) she was entitled to widowed mother's allowance by virtue of regulation 5 of these regulations and when she ceased to be so entitled 3 years had elapsed since the date of the marriage or, by virtue of the said regulation 3(1), she would have been deemed to have satisfied the corresponding condition in section 28(3)(b) of the principal Act.

(3) For the purposes of paragraph (1) of this regulation any reference in that paragraph to an enactment or regulation shall include a reference to any legislation passed by the Parliament of Northern Ireland or, as the case may be, any order or regulation having effect by virtue of such legislation, being in each case passed or made for purposes similar to the purposes of the enactment or regulation specified in that paragraph.

*Modification of section 41(4)(b) of the principal Act*

**10.** In paragraph (b) of section 41(4) of the principal Act (which relates to increases of retirement pension which are payable in respect of children) after the word "insurance" there shall be inserted the words "or of section 1 of the Act of 1970".

*Provision as to claims for benefit*

**11.** Benefit under section 1 of the Act of 1970 shall not be paid without a claim being made for it unless the beneficiary is—

- (a) in receipt of a retirement pension or widow's benefit under the principal Act and ordinarily resident in Great Britain on 2nd November 1970 ; or  
 (b) in receipt of widow's benefit by virtue of these regulations.

*Provision as to payment of benefit*

**12.** In relation to benefit payable by virtue of section 1 of the Act of 1970, regulation 10 of the National Insurance (Claims and Payments) Regulations 1948(b), as amended(c), (which relates to the time and manner of payment of certain benefits) shall in the case of a person or the wife of a person who is in receipt of a supplementary pension or allowance under the Ministry of Social Security Act 1966(d) have effect as if in paragraph 4(a) of that regulation the reference to Tuesdays and in paragraph 4(b) thereof the reference to Thursdays were references to the days on which his supplementary pension or allowance is paid.

*Application of provisions crediting contributions to certain widows*

**13.** When a husband who is entitled to a pension by virtue of section 1(1) of the Act of 1970 dies, the provisions of paragraph (1) of Regulation 8A of the National Insurance (Married Women) Regulations 1948(e), as amended(f), (which relates to the crediting of contributions in certain cases)

(a) The relevant amending instruments are S.I. 1953/979, 1956/1199 (1953 I, p. 1368; 1956 I, p. 1625).

(b) S.I. 1948/1041 (Rev. XVI, p. 313; 1948 I, p. 2709).

(c) The relevant amending instrument is S.I. 1967/1125 (1967 II, p. 3285).

(d) 1966 c. 20.

(e) S.I. 1948/1470 (Rev. XVI p. 123; 1948 I, p. 2795).

(f) Regulation inserted by S.I. 1956/2108 (1956 I, p. 1681) and amended by S.I. 1957/1322 (1957 I, p. 1681) and the National Insurance Act 1966 (1966 c. 6), s. 3(2)(b).

shall, subject to paragraph (6) of that regulation, apply to his widow as if she had then ceased to be entitled to a widow's allowance.

*Keith Joseph,*  
Secretary of State for Social Services.

19th August 1970.

Given under the official seal of the National Insurance Joint Authority.

(L.S.)

*D. J. Carter,*  
Secretary,  
National Insurance Joint Authority.

19th August 1970.

*Reginald Eyre,*  
*H. S. P. Monro,*  
Two of the Lords Commissioners  
of Her Majesty's Treasury.

27th August 1970.

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#### EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These regulations prescribe the rate of and conditions for entitlement to retirement pension for persons over pensionable age on 5th July 1948 and provide benefit for their widows and former wives.

The weekly rate of benefit is to be £3 except for married women for whom it will be £1 17s.

In order to be entitled to benefit a person must generally satisfy conditions, other than contribution conditions, similar to those which apply to the corresponding benefit under the National Insurance Act 1965 ; in addition there are certain conditions as to residence in Great Britain.

The regulations also make provision as to claims for and payment of the benefits, and for adjustment in cases where the beneficiary is also entitled to certain other benefits, and make other provisions which are of a minor and consequential nature.

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