

Government Circular No. 44/71.

G.O. Reference No. 2304/71.

ISLE OF MAN

SOCIAL SECURITY

THE NATIONAL INSURANCE (ISLE OF MAN)
(WIDOW'S PENSIONS AND MISCELLANEOUS PROVISIONS)
REGULATIONS 1970.

Approved by resolution of Tynwald on 19th January, 1971.

BSS7

The Isle of Man Board of Social Security, with the approval of the Governor, in exercise of the powers conferred by sections 20(3), 24, 27(4), 28(1), 29(1)(a), 30(1) and 41(1) of the National Insurance (Isle of Man) Act 1948, section 9(1)(b) of the National Insurance Order 1957, section 4(5) of the Family Allowances and National Insurance Order 1962 and sections 1(1), 8(3) and 9(2)(a) of the National Insurance (Old persons' and widows' pensions and attendance allowance) (Isle of Man) Order 1970 and of all other powers enabling the said Board in that behalf, hereby makes the following regulations:—

CITATION, COMMENCEMENT AND INTERPRETATION.

1.—(1) These regulations may be cited as the National Insurance (Isle of Man) (Widows' Pensions and Miscellaneous Provisions) Regulations 1970 and shall come into operation on 25th January 1971.

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

“the Act” means the National Insurance (Isle of Man) Act 1948;

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

“the Old Persons Regulations” means the National Insurance (Isle of Man) (Old Persons' Pensions) Regulations 1970;

“The Widow's Benefit and Retirement Pensions Regulations” means the National Insurance (Widow's Benefit and Retirement Pensions) Regulations 1949;

“contributory old age pension” and “widow's basic pension” have the same meanings respectively as in the National Insurance (Pensions, Existing Beneficiaries and Other Persons) (Transitional) Regulations 1949;

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

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

(4) The rules for the construction of Acts of Tynwald contained in the Interpretation Act 1970 shall apply for the purposes of the interpretation of these regulations as they apply for the purposes of the interpretation of an Act of Tynwald.

AMENDMENTS TO THE NATIONAL INSURANCE (ISLE OF MAN) (OLD PERSONS' PENSIONS) REGULATIONS 1970.

2.—(1) As from 5th April 1971, the Old Persons Regulations shall be amended in accordance with the provisions of this regulation.

(2) In regulations 3(1)(c) and 4(1)(a) of the said Regulations (provision of pensions for certain widows or persons over pensionable age on 5th July 1948), for the word "50" there shall be substituted the word "40".

(3) In paragraph (2) of regulation 3 of the said Regulations, after the word "regulation" there shall be inserted the words "(not being a pension to which paragraph (3) of this regulation applies)"; and after the said paragraph (2) there shall be inserted the following paragraph:—

"(3) A retirement pension payable by virtue of paragraph (1) of this regulation to a widow who was under the age of 50 either at the time when her husband died or, if she was entitled to a widowed mother's allowance by virtue of regulation 5 of these regulations, at the time when she ceased to be so entitled, shall commence on 5th April 1971 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."

(4) In paragraph (1) of regulation 7 of the said Regulations (rates of benefit for or in respect of persons over pensionable age on 5th July 1948), for the words "paragraph (3)" there shall be substituted the words "paragraphs (3) and (4)"; and after paragraph (3) of the said regulation 7, there shall be inserted the following paragraph:—

"(4) In the case of a widow who is entitled to a pension by virtue of regulation 3 or 4 of these regulations, and who was under the age of 50 either at the time when her husband died or, if she was entitled to a widowed mother's allowance by virtue of regulation 5 of these regulations, at the time when she ceased to be so entitled, paragraph(1) of this regulation shall be construed as if section 16(2A) or 17(1A), as the case may be, of the principal Act applied to that pension, and as if for the amount first and last mentioned in the said paragraph (1) there were substituted that amount reduced in accordance with the provisions of the said section 16 (2A) or 17(1A)."

AMENDMENTS TO THE NATIONAL INSURANCE (WIDOW'S BENEFIT AND RETIREMENT PENSIONS) REGULATIONS 1948.

3.—(1) As from 5th April 1971, the Widow's Benefit and Retirement Pensions Regulations shall be amended in accordance with the provisions of this regulation.

(2) Regulation 3 of the said Regulation shall cease to have effect.

(3) For regulation 4 of the said Regulations there shall be substituted the following regulation, so however that any contributions already paid which fall to be taken into account by virtue of paragraph

(3) or (4) of the said regulation 4 shall be taken into account, for the purpose and to the extent mentioned in the said paragraphs (3) and (4), notwithstanding the revocation of those paragraphs:—

“SPECIAL CONDITIONS IN RELATION TO RETIREMENT PENSIONS BY VIRTUE OF THE HUSBAND’S INSURANCE IN THE CASE OF WOMEN MARRYING AFTER PENSIONABLE AGE.

4. In the application of section 4(1) of the Family Allowances and National Insurance Order 1962 (as amended by section 2(1) (e) of the National Insurance Order 1967) (increase in rate of retirement pension for contributions paid after pensionable age) to a retirement pension payable to a woman by virtue of the insurance of a husband whom she married after attaining pensionable age, contributions paid by the husband for any contribution weeks terminating before the date of the marriage, and contributions paid by him for any contribution weeks terminating both before 5th April 1971 and also before the earliest date on which she would have been entitled to a retirement pension, if she and the husband had both then retired from regular employment, shall not be taken into account except for the purposes of section 4(1)(b) of the said Order of 1962.”

(4) In paragraph (1) of regulation 7 of the said Regulations, for the words “the next succeeding paragraph” there shall be substituted the words “paragraph (2) or (3) of this regulation”.

(5) In paragraph (2) of the said regulation 7, after the words “widow’s benefit” there shall be inserted the words “(in a case to which paragraph (3) of this regulation does not apply)”.

(6) In the said regulation 7, after paragraph (2) there shall be inserted the following paragraphs :—

“(3) In any case in which paragraph (1) of this regulation applies to the widows pension of such a widow as is mentioned in either section 16(2A) or section 17(1A) of the National Insurance (Isle of Man) Act 1948, the pension shall be payable, subject to the provisions of the following paragraph and of regulation 1(1) of the Family Allowances, National Insurance, Industrial Injuries and National Health Service Contributions (Dec.malisation of the Currency) Order 1970 at the rate specified in column (3) of the Schedule to these regulations which corresponds with the yearly average of contributions paid or credited as shown in column (1) of that Schedule subject to a further reduction in accordance with the provisions of either the said section 16(2A) or section 17(1A).

(4) In the case of a woman to whom the foregoing paragraph applies and who would have been entitled to a widow’s basic pension or contributory old age pension (these expressions having the same respective meanings in this paragraph as in the National Insurance Pensions, Existing Beneficiaries and Other Persons) (Transitory) Regulations, 1949) had she not become entitled to a widow’s pension or a retirement pension payable at a reduced rate by virtue of section 16(2A) or section 17(1A) or of the combined effect of sections 16(2A) or 17(1A) and section 20(1A) of the National Insurance (Isle of Man) Act 1948, the weekly rate of the widow’s pension or retirement pension (as the case may be) shall be the rate ascertained in accordance with the

foregoing paragraph, or the rate of the widow's basic pension or contributory old age pension (as the case may be) to which she would have been entitled, whichever is the greater."

RETIREMENT PENSIONS FOR CERTAIN WIDOWS BY VIRTUE OF HUSBAND'S INSURANCE

4. —(1) As from 5th April 1971, the Act shall be amended in accordance with the provisions of paragraph 2 of this regulation.

(2) In section 20 of the Act, after subsection (1) there shall be inserted the following subsection:—

"(1A) Subject to the provisions of this Act, a woman who satisfies the requirements of regulation 4(3) of the National Insurance (Isle of Man) (Widows' Pensions and Miscellaneous Provisions) Regulations 1970 shall be entitled to a retirement pension as provided in the said regulation 4(3)."

(3) As from 5th April 1971, and subject to the provisions of the Act, a woman who—

- (a) has retired from regular employment ;
- (b) has attained the age of 60 ;
- (c) was a widow immediately before attaining that age ; and
- (d) is entitled to a widow's pension,

shall be entitled to a retirement pension by virtue of her husband's insurance ; and the weekly rate of that pension to which she is at any time entitled shall be the weekly rate of widow's pension to which at that time she is entitled.

(4) in paragraph (3) of this regulation, the expression "her husband's insurance" shall be construed, in the case of a woman who has been married more than once, as meaning the insurance of the husband to whom she was last married before she attained the age of 60, and the expression "widow's pension", in such a case, shall be construed as meaning widow's pension by virtue of the insurance of that husband.

(5) For the purposes of paragraph (3) of this regulation, a woman shall be deemed to be entitled to a widow's pension if she would have been so entitled but for any one or more of the circumstances specified in paragraph (6) of this regulation, and the expression "the weekly rate of widow's pension to which at that time she is entitled" shall be construed as including the weekly rate of widow's pension to which at that time she would have been entitled but for any one or more of the circumstances specified in paragraph (6) of this regulation.

(6) The circumstances referred to in paragraph (5) of this regulation are :—

- (a) the woman's failure to make a claim therefor ;
- (b) her entitlement to widow's allowance or widowed mother's allowance ;
- (c) the operation of section 28 or 29 of the Act or any regulations made under either of those sections, excluding any provisions for absence from the Isle of Man ;
- (d) the operation of any provision of the Act or of any regulations made thereunder, disqualifying her for the receipt of that widow's pension for any period, excluding any provisions for absence from the Isle of Man ;

- (e) her having attained the age of 65 ; and
- (f) her having remarried after 4th April 1971.

PERSONS RESIDENT ABROAD

5. —(1) Subject to the provisions of this regulation, the weekly rate of a widow's pension to which a woman who is not ordinarily resident in the Isle of Man becomes entitled on or after 5th April 1971 by virtue of these regulations or section 2 or 3 of the 1970 Order shall be the rate referred to in section 16(1)(c) of the Act, or the reduced rate referred to in regulation 7(2) of the Widow's Benefit and Retirement Pensions Regulations, as the case may be, as it applied to persons ordinarily resident in the Isle of Man at whichever is the latest of the following dates :—

- (a) the date when she was last ordinarily resident in the Isle of Man ;
- (b) in a case where the husband had retired from regular employment and was not ordinarily resident in the Isle of Man at the time of his death—
 - (i) the date when he so retired ; and
 - (ii) the date when he was last so resident ; and
- (c) in any other case, the date when he died, reduced, in the case of such a widow as is mentioned in section 16(2A) or 17(1A) of the Act, in accordance with that section.

(2) Subject to the provisions of this regulation, the weekly rate of a retirement pension payable under section 20 of the Act to which a woman who is not ordinarily resident in the Isle of Man becomes entitled on 5th April 1971 by virtue of regulation 3(3) of these regulations (whereby regulation 4(1) of the Widow's Benefit and Retirement Pensions Regulations ceases to have effect) shall be the appropriate rate referred to in the said section 20 as it applied at whichever is the latest of the following dates :—

- (a) the date when she was last ordinarily resident in the Isle of Man ;
- (b) in a case where the husband was not ordinarily resident in the Isle of Man on, and had retired from regular employment before, the earliest date on which she would have been entitled to a retirement pension under the said section 20 had the said regulation 4(1) never been effective —
 - (i) the date when he so retired ; and
 - (ii) the date when he was last so resident ; and
- (c) in any other case, the earliest date on which she would have been entitled to a retirement pension under the said section 20 had the said regulation 4(1) never been effective.

and, in a case to which section 24 of the Act (partial satisfaction of contribution conditions) applies, this paragraph shall have effect as if for the references to section 20 of the Act there were substituted references to regulation 7(2) of the Widow's Benefit and Retirement Pensions Regulations.

(3) The foregoing paragraphs of this regulation shall not apply to a woman for any period during which she is in the Isle of Man, and shall cease to apply to her if and when she becomes ordinarily resident in the Isle of Man.

(4) In the case of a widow to whom this regulation applies and who was entitled to a widow's basic pension immediately before she became entitled to a widow's pension or to a retirement pension, the weekly rate of the widow's pension or retirement pension, as the case may be, shall be the rate ascertained in accordance with the appropriate provision of this regulation, or the rate of the widow's basic pension to which she was then entitled, whichever is the greater.

(5) Where a woman has been married more than once, references in this regulation to her husband shall refer only to her present husband if she is still married, and to her last husband if she is no longer married.

(6) In this regulation the word "entitled" shall be construed as meaning "entitled, whether or not subject to making a claim therefor".

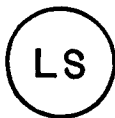
CLAIMS AND PAYMENTS

6.—(1) Benefit attributable to section 2 or 3 of the 1970 Order or to regulation 4 of these regulations shall not be paid without a claim being made for it unless the beneficiary is entitled to receive widow's allowance, widowed mother's allowance, widow's basic pension or contributory old age pension.

(2) In a case of a widow who is entitled to a widow's pension or a retirement pension under the Act, being a pension which is payable at a reduced rate by virtue of section 16(2A) or 17(1A) as the case may be or of the combined effect of section 16(2A) or 17(1A) and section 20(1A) of the Act, weekly sums on account of the pension under the Act shall notwithstanding the provisions of regulation 10(4) and (7) of the National Insurance (Claims and Payments) Regulations 1949 be payable on such days of the week as the Board may decide.

OVERLAPPING BENEFITS (TRANSITORY PROVISIONS)

7.—In the case of a woman under 60 who is entitled to a widow's pension payable at a reduced rate by virtue of section 16(2A) or 17(1A) of the Act and who, immediately before 5th April 1971, was entitled to a widow's basic pension payable to her by virtue of the insurance of her husband who died before 5th July 1951, paragraph 1 of Column 1 and paragraph 3 of Column 2 of the Schedule to the National Insurance (Benefit Adjustment) Regulations 1951 shall both be treated as if they read "Widow's benefit payable under the Act".



GIVEN UNDER THE OFFICIAL SEAL
OF THE ISLE OF MAN BOARD OF
SOCIAL SECURITY THIS THIRTIETH
DAY OF NOVEMBER, NINETEEN
HUNDRED AND SEVENTY.

J. C. NIVISON, *Chairman.*

W. H. CAIN, *Secretary.*

Approved by me.

P. H. G. STALLARD,
Lieutenant Governor.

EXPLANATORY NOTE

(This Note is not part of the Regulations)

Regulation 2 of these regulations relaxes some of the conditions of entitlement to a widow's pension which are contained in the National Insurance (Isle of Man) (Old Persons' Pensions) Regulations 1970. These relaxations are to the advantage of a woman who was widowed, or ceased to be entitled to widowed mother's allowance, either when she was between the age of 40 and 50, or when it was less than three years after her marriage and she was over 40. Regulation 3 sets out the method of calculation which is to be applied when a widow's pension falls to be reduced because of partial satisfaction of contribution conditions and again reduced because of the age at which the widow became entitled to benefit, and makes provisions consequential upon the removal, by section 3 of the Order of 1970, of certain conditions of entitlement to retirement pension, which formerly applied to a woman who married when over 60. Regulation 4 provides that when a woman who is entitled to a widow's pension reaches the age of 60, she shall thereupon be entitled to a retirement pension by virtue of her husband's insurance payable at the same rate as the widow's pension. Regulation 5 provides for the rate of certain benefits payable to a woman who is overseas to be related to the rate current when (depending on the circumstances) she or her husband was last ordinarily resident in the Isle of Man, or her husband retired or died. Regulation 6 provides that in certain cases benefit shall not be paid without a claim, and contains a provision about payment dates. Regulation 7 contains provisions, of a transitory nature only, relating to overlapping benefits.