

## 1979 No. 642

### SOCIAL SECURITY

#### The Social Security (Widow's Benefit and Retirement Pensions) Regulations 1979

<i>Made</i> - - - -	<i>11th June 1979</i>
<i>Laid before Parliament</i>	<i>19th June 1979</i>
<i>Coming into Operation</i>	<i>10th July 1979</i>

#### ARRANGEMENT OF REGULATIONS

1. Citation, commencement and interpretation
2. Election to be treated as not having retired
3. Provisions applying after election
4. Days to be treated as days of increment
5. Modification of paragraph 2(1) to (3) of Schedule 1 to the Pensions Act
6. Benefit at reduced rates for those who do not satisfy the contribution conditions in full
7. Category B retirement pension for certain widows by virtue of husband's contributions
8. Substitution of former spouse's contribution record to give entitlement to a Category A retirement pension
9. Conditions for entitlement to a Category C retirement pension
10. Conditions for entitlement to a Category D retirement pension
11. Category C retirement pension for widows of men over pensionable age on 5th July 1948
12. Category C retirement pension for certain women whose marriage has been terminated otherwise than by death
13. Benefit corresponding to a widow's pension for widows of men over pensionable age on 5th July 1948
14. Benefit corresponding to a widowed mother's allowance for widows of men over pensionable age on 5th July 1948
15. Restriction on benefit under regulations 13 and 14 in certain cases
16. Provision in relation to entitlement to child benefit for the purposes of a widowed mother's allowance
17. Provisions relating to age addition for persons not in receipt of a retirement pension
18. Revocations

## Reg. 1

## SCHEDULES

- SCHEDULE 1. Method of treating former spouse's contributions as those of the beneficiary so as to entitle him to a Category A retirement pension
- SCHEDULE 2. Regulations revoked

The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 29(5), 30(3), 33, 39(1) and (4), 40(2), 85(1) and 162 of, and Schedule 20 to, the Social Security Act 1975(a), section 20 of, and paragraphs 2(2)(a) and 3 of Schedule 1 to, the Social Security Pensions Act 1975(b) and of all other powers enabling him in that behalf, hereby makes the following regulations which only consolidate the regulations herein revoked and which accordingly, by virtue of paragraph 20 of Schedule 15 to the Social Security Act 1975, are not subject to the requirement of section 139(1) of that Act for prior reference to the National Insurance Advisory Committee:—

**Citation, commencement and interpretation**

1.—(1) These regulations may be cited as the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1979 and shall come into operation on 10th July 1979.

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

“the Act” means the Social Security Act 1975;

“the Pensions Act” means the Social Security Pensions Act 1975;

▶<sup>1</sup>“bereavement allowance” means an allowance awarded in accordance with section 39B of the Social Security Contributions and Benefits Act 1992; ▶<sup>2</sup>(as in force immediately before it was repealed by paragraph 13 of Schedule 16 to the Pensions Act 2014)◀◀

▶<sup>3</sup>“civil partner” in relation to any person who has been in a civil partnership more than once means the last civil partner;◀

▶<sup>4</sup>◀

“husband”, “wife” or “spouse” in relation to any person who has been married more than once means the last husband, last wife or last spouse respectively;

“a period of at least 10 years” means a period of, or periods amounting in the aggregate to, at least 3,652 days;

▶<sup>5</sup>◀

▶<sup>6</sup>◀

▶<sup>6</sup>“the determining authority” means, as the case may require, the Secretary of State, ▶<sup>7</sup>the First-tier Tribunal or Upper Tribunal;◀◀

“section 9(2), 9(3) or 10(2) increase” means under section 9(2), 9(3) or 10(2), respectively, of the Pensions Act of a person's Category A retirement pension attributable to his spouse's contributions;

“Service Pensions Instrument” means a provision and only a provision of any Royal Warrant, Order in Council or other instrument (not being a 1914–1918 War Injuries Scheme) under which a disablement pension (not including a pension calculated or determined by reference to length of service) may be paid out of public funds in respect of any disablement, wound, injury or disease due to service 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;

▶<sup>8</sup>“shared additional pension” means a shared additional pension under section 55A ▶<sup>9</sup>or 55AA◀ of the Social Security Contributions and Benefits Act 1992;◀

“1914–1918 War Injuries Scheme” means any scheme made under the Injuries in War (Compensation) Act 1914(c) or under the Injuries in War

<sup>1</sup>Defn. of “bereavement allowance” inserted by reg. 7(2) of S.I. 2000/1483 as from 9.4.01.

<sup>2</sup>Words in defn. of “bereavement allowance” inserted by reg. 7(2) of S.I. 2017/422 as from 6.4.17, see art. 1(2) of this S.I. for when to apply.

<sup>3</sup>Defn. of “civil partner” inserted in reg. 1(2) by reg. 2(2) of S.I. 2005/2878 as from 5.12.05.

<sup>4</sup>Defns. of “home responsibilities year” and “qualifying year” omitted by reg. 6(2) of S.I. 2009/2206 as from 6.4.10.

<sup>5</sup>Defn. of “period of enhancement” omitted by reg. 4(2) of S.I. 2005/453 as from 6.4.05.

<sup>6</sup>Defn. of “the determining authority” substituted by para. 1(a) of Sch. 3 to S.I. 1999/2422 as from 6.9.99.

<sup>7</sup>Words substituted in defn. of “the determining authority” by art. 8 of S.I. 2008/2683 as from 3.11.08.

<sup>8</sup>Defn. of “shared additional pension” inserted by reg. 6(2) of S.I. 2005/1551 as from 6.7.05.

<sup>9</sup>Words inserted in defn. of “shared additional pension” by art. 5(2) of S.I. 2015/1985 as from 6.4.16.

(a) 1975 c. 14.

(b) 1975 c. 60, as amended by s. 3(1) of the Social Security (Miscellaneous Provisions) Act 1977 (c. 5).

(c) 1914 c. 30.

Compensation Act 1914 (Session 2)(a) or 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;

“unemployability supplement” has the extended meaning assigned to it in regulation 2 of the Social Security (Overlapping Benefits) Regulations 1979(b) and further includes benefit corresponding to an unemployability supplement by virtue of regulations under section 159(3)(a) of the Act;

▶<sup>1</sup>“widowed parent’s allowance” means an allowance referred to in section 39A of the Social Security Contributions Act 1992;◀

“year” means tax year.

<sup>1</sup>Defn. of “widowed parent’s allowance” inserted by reg. 7(2) of S.I. 2000/1483 as from 9.4.01.

(3) 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(c) 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 ▶<sup>2</sup>◀ the determining authority, ▶<sup>2</sup>◀; 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.

<sup>2</sup>Words omitted from reg. 1(3) by para. 1(b) of Sch. 3 to S.I. 1999/2422 as from 6.9.99.

▶<sup>3</sup>(3A) For the purposes of regulation 8 of these Regulations, where, before the coming into force of the Nullity of Marriages Act 1971(d) a decree of nullity was granted in relation to a person on the ground that the marriage was voidable, that person shall be treated as a person whose marriage has been terminated by divorce from the date on which that decree was made absolute.◀

<sup>3</sup>Para. (3A) added to reg. 1 by reg. 2 of S.I. 1995/74 as from 10.2.95.

(4) For the purposes of regulations 11(1)(d), 12(3) and 13(2) a person shall be deemed to be, or to have been, entitled to a pension or benefit if he would have been so entitled had he made a claim for it.

▶<sup>4</sup>**Disapplication of section 1(1A) of the Administration Act for the purposes of Retirement Pension.**

<sup>4</sup>Reg. 1A inserted by reg. 15(2) of S.I. 1997/2676 as from 1.12.97.

**1A.** Section 1(1A) of the Administration Act (requirement to state national insurance number) shall not apply—

(a) ▶<sup>5</sup>◀

(b) to an adult dependant in respect of whom a claim for an increase of retirement pension is made or treated as made before 5th October 1988.◀

<sup>5</sup>Reg. 1A(a) omitted by reg. 2(4)(a) of S.I. 2003/937 as from 6.4.03.

▶<sup>6</sup>(c) to an adult dependant who—

(i) is a person in respect of whom a claim for an increase of retirement pension is made;

(ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act 1999(e); and

(iii) has not previously been allocated a national insurance number.◀

<sup>6</sup>Reg. 1A(c) inserted by reg. 3 of S.I. 2009/471 as from 6.4.09.

**Election to be treated as not having retired**

**2.—(1)** Subject to the provisions of these regulations, where any person (other than one mentioned in paragraph (2))—

(a) has ▶<sup>7</sup>◀ become entitled to either a Category A or a Category B retirement pension ▶<sup>8</sup>◀ or a shared additional pension◀ ▶<sup>9</sup>◀ and

(b) elects that this regulation apply in his case,

<sup>7</sup>Words deleted from reg. 2(1) by reg. 11(3) of S.I. 1989/1642 as from 1.10.89.

<sup>8</sup>Words inserted in reg. 2(1)(a) by reg. 6(4) of S.I. 2005/1551 as from 6.7.05.

the Act shall have effect as if that person had not ▶<sup>7</sup>◀ become entitled as aforesaid.

<sup>9</sup>Words omitted in reg. 2(1)(a) by reg. 4(3)(a) of S.I. 2005/453 as from 6.4.05.

(a) 1914 c. 18 (5 & 6 Geo. 5).

(b) S.I. 1979/597.

(c) 1973 c. 18.

(d) 1971 c. 44. The Act came into force on 1 August 1971; see section 7(5).

(e) 1999 c. 33.

**Regs. 2-4**

<sup>1</sup>Words in reg. 2(2) and (4) substituted, and omitted in reg. 2(3)(5) and Reg. 3(a)-(c) by regs. 7 and 8 of S.I. 2009/2206 as from 6.4.10.

<sup>2</sup>Reg. 2(3) and (4) substituted by reg. 4(3) (b) of S.I. 2005/453 as from 6.4.05.

▶<sup>1</sup>(2) Paragraph (1) shall not apply to a person who has previously made such an election.◀

▶<sup>2</sup>(3) Notice of election for the purpose of this regulation may be given by telephone call to the telephone number specified by the Secretary of State unless the Secretary of State directs in any particular case that the notice ▶<sup>1</sup>◀ or consent must be given in writing.

(4) Subject to ▶<sup>1</sup>paragraph (6)◀, an election shall take effect—

- (a) on the date on which it is given; or
- (b) on such other date specified by the person making the election, being no earlier than the date on which it is given and no later than 28 days after the date on which it is given.◀

(5) ▶<sup>1</sup>◀

(6) Where a woman entitled to a Category B retirement pension under section 29(4) of the Act has, on or after 6th April 1979, made an election and has not revoked it, then, for the purpose only of determining her right to increments under paragraph 2 of Schedule 1 to the Pensions Act, her election shall be treated as if it took effect from 6th April 1979 or, if later, the date of the death of her husband by virtue of whose contributions she is so entitled.

**Provisions applying after election**

3. Where an election has been made in accordance with regulation 2—

- (a) subject to the provisions of regulations made under section 81(2)(a) of the Act (adjustment to prevent payments for periods of less than a week or at different rates for different parts of a week), no Category A or B retirement pension ▶<sup>3</sup> or a shared additional pension◀ shall be payable to a person ▶<sup>1</sup>◀ for any period on or after the date of his election and before he subsequently ▶<sup>4</sup> becomes entitled to a Category A or Category B retirement pension ▶<sup>3</sup> or a shared additional pension◀◀ or dies; and
- (b) where the person who has made the election is a woman who became entitled to a Category B retirement pension ▶<sup>4</sup> in accordance with section 29(4) of the Act◀, and she revokes her election, she shall cease to be treated as if she had not become entitled to such a retirement pension; ▶<sup>1</sup>◀

▶<sup>1</sup>◀

<sup>3</sup>Words inserted in regs. 3(a) by reg. 6(4) of S.I. 2005/1551 as from 6.7.05.

<sup>4</sup>Words substituted in reg. 3 by reg. 11(4) of S.I. 1989/1642 as from 1.10.89.

<sup>5</sup>Reg. 3A inserted by reg. 7 of S.I. 1998/2231 as from 5.10.98.

<sup>6</sup>Words substituted in reg. 3A by reg. 2 of S.I. 2006/2378 as from 1.10.06.

<sup>7</sup>Words substituted in reg. 4(1) by reg. 11(5) (a) of S.I. 1989/1642 as from 1.10.89.

<sup>8</sup>Words substituted in reg. 4(1) by reg. 4(4)(a) of S.I. 2005/453 as from 6.4.05.

**▶<sup>5</sup>Calculating periods of incapacity for work for welfare to work beneficiaries entitled to an increase of long-term incapacity benefit**

3A. Section 47(1) of the Social Security Contributions and Benefits Act 1992(a) (increase of Category A retirement pension for long-term incapacity) shall have effect, in any case where a person is treated in accordance with Regulation 13A of the Social Security (Incapacity for Work) (General) Regulations 1995 as a welfare to work beneficiary, as if for the reference to 8 weeks there substituted a reference to ▶<sup>6</sup>104 weeks◀.◀

**Days to be treated as days of increment**

4.—(1) For the purposes of paragraph 2 of Schedule 1 to the Pensions Act a day shall be treated as a day of increment in relation to any person if it is a day in that person's ▶<sup>7</sup>period of ▶<sup>8</sup>deferment◀◀, other than a Sunday, in respect of which—

(a) S.I. 1992/1814; relevant amending instruments are S.I. 1993/688, 1994/2137, 1995/560, 626, 2303.

- ▶<sup>1</sup>(a) if that person had not deferred his entitlement to a Category A or Category B retirement pension, ▶<sup>2</sup>◀ or section 10(2) increase, if both she and her husband had not deferred their entitlement to, respectively, a Category A and a Category B retirement pension, that person would have been entitled to such a pension (and would not have been disqualified for receiving it by reason of imprisonment or detention in legal custody); and◀
- (b) that person had not received any of the following benefits:—
- (i) any benefit under Chapters I and II of Part II of the Act other than child's special allowance, attendance allowance, ▶<sup>3</sup>disability living allowance◀ and guardian's allowance; or
- ▶<sup>4</sup>(ii) graduated retirement benefit where that person's period of deferment ended on or before 5th April 2006; or
- (iii) an unemployability supplement;▶<sup>5</sup>or
- (iv) state pension credit under section 1 of the State Pension Credit Act 2002(a); and◀
- (c) in the case of a married woman who would have been entitled to a Category B retirement pension or a section 10(2) increase ▶<sup>6</sup>and whose period of deferment began before 6th April 2005◀, her husband had not received an increase of any of the benefits mentioned in paragraph (1)(b) in respect of her ▶<sup>6</sup>and
- (d) in the case of a person who would have been entitled to a Category A or Category B retirement pension ("the deferrer") and whose period of deferment begins on or after 6th April 2005—
- (i) no other person has received an increase of any of the benefits mentioned in sub-paragraph (b) in respect of the deferrer; or
- (ii) another person has received such an increase in respect of the deferrer and the deferrer is neither married to, ▶<sup>7</sup>or in a civil partnership with,◀ nor residing with, that other person◀▶<sup>5</sup>; and
- (e) in the case of a person who was a member of a couple, the other member of the couple was not in receipt of—
- (i) income support under section 124 of the Social Security Contributions and Benefit Act 1992(b);
- (ii) income-based jobseeker's allowance under section 1 of the Jobseekers Act 1995(c);
- (iii) state pension credit under section 1 of the State Pension Credit Act 2002; ▶<sup>8</sup>◀
- (iv) income-related employment and support allowance under section 1 of the Welfare Reform Act 2007(d).◀▶<sup>8</sup>or
- (v) universal credit under Part 1 of the Welfare Reform Act 2012;◀
- (2) Subject to the following paragraph, for the purposes of this regulation, where in respect of any day—
- (a) a person has received one or more of the benefits mentioned in paragraph (1)(b) or (c), and
- (b) either—
- (i) ▶<sup>9</sup>◀ the determining authority ▶<sup>9</sup>◀ has determined that in respect of that day he was not entitled to that benefit; or
- (ii) by virtue of the provisions of the Employment Protection (Recoupment of Unemployment Benefit and Supplementary Benefit) Regulations 1977(e) the Secretary of State has recovered from that person's employer sums on account of ▶<sup>10</sup>a ▶<sup>8</sup>◀ jobseeker's allowance◀ received by that person in respect of that day; and
- (c) the whole of the benefit or sum on account of benefit in respect of that day has been repaid or, as the case may be, recovered before the relevant date, that day shall be treated as a day in respect of which he did not receive that benefit; and in this paragraph "relevant date" means—

<sup>1</sup>Sub-para. (a) of reg. 4(1) substituted by reg. 11(5)(b) of S.I. 1989/1642 as from 1.10.89.

<sup>2</sup>Words in reg. 4(1)(a) omitted by reg. 9 of S.I. 2009/2206 as from 6.4.10.

<sup>3</sup>Words substituted in reg. 4(1)(b)(i) by reg. 6 of S.I. 1991/2742 as from 6.4.92.

<sup>4</sup>Reg. 4(1)(b)(ii) substituted and head (iii) added by reg. 2 of S.I. 2006/516 as from 6.4.06.

<sup>5</sup>Word in reg. 4(1)(b)(iii) substituted & inserted in 4(1)(d)(ii) & reg. 4(1)(b)(iv) & (1)(e) inserted by reg. 2(2)-(4) of S.I. 2011/634 as from 6.4.11 but only in respect of a day falling on or after 6.4.11 (see reg. 2(6) of the S.I.).

<sup>6</sup>Words inserted in reg. 4(1)(c) & reg. 4(1)(d) inserted by reg. 4(4)(b) of S.I. 2005/453 as from 6.4.05.

<sup>7</sup>Words inserted in reg. 4(1)(d)(ii) by reg. 2(3) of S.I. 2005/2878 as from 5.12.05.

<sup>8</sup>Words omitted & reg. 4(1)(v) inserted by reg. 26(a) & (b) of S.I. 2013/630 as from 29.4.13. See Explanatory Notes for transitional provision.

<sup>9</sup>Words omitted from reg. 4(2)(b)(i) by para. 2 of Sch. 3 to S.I. 1999/2422 as from 6.9.99.

<sup>10</sup>Words in reg. 4(2)(b)(ii) substituted for "unemployment benefit" by reg. 26 of S.I. 1996/1345 as from 7.10.96.

(a) 2002 c. 16.

(b) 1992 c. 4.

(c) 1995 c. 18.

(d) 2007 c. 5.

(e) S.I. 1977/674.

<sup>1</sup>Words substituted in reg. 4(2)(c)(i) & (ii) and 5(1), 5(3)(a) & (b) and deleted from reg. 5(4)(c) by regs. 11(5)(c) & 11(6)(a)-(d) of S.I. 1989/1642 as from 1.10.89.

<sup>2</sup>Words substituted in reg. 4(2)(i), 5(1), 5(3)(a) and (5)(a) & (b) by regs. 4(4)(a) & (5)(a)-(b) of S.I. 2005/453 as from 6.4.05.

<sup>3</sup>Para. (4) inserted in reg. 4 by reg. 6(5) of S.I. 2005/1551 as from 6.7.05.

<sup>4</sup>Reg. 4(5) substituted by reg. 26(c) of S.I. 2013/630 as from 29.4.13.

<sup>5</sup>Words in reg. 5(1) substituted by reg. 2(2) of S.I. 1987/1854 as from 11.4.88.

(i) where a person's entitlement to increments under paragraph 2 of Schedule 1 to the Pensions Act is in question, the end of his <sup>1</sup>period of <sup>2</sup>deferment~~◀◀~~; or

(ii) where a person's entitlement to increments under paragraph 4 or 4A of that Schedule in relation to the <sup>1</sup>deferred retirement~~◀~~ of a deceased spouse is in question, the date of the death of that spouse.

(3) Where the benefit or sum on account of benefit in respect of a day to which paragraph (2)(a) and (b) applies is repaid or, as the case may be, recovered on or after the said relevant date, that day shall not be treated as a day in respect of which that person did not receive that benefit until the benefit has been repaid or, as the case may be, sums on account of the benefit have been recovered in respect of all the days to which those sub-paragraphs relate and which fall within the period to which this regulation applies.

<sup>3</sup>(4) For the purposes of paragraph 3 of the Schedule 5A to the Social Security Contributions and Benefits Act 1992 a day shall be treated as a day of increment in relation to any person if it is a day in that person's period of deferment, other than a Sunday, in respect of which if that person had not deferred his entitlement to a shared additional pension he would have been entitled to it (and would not have been disqualified from receiving it by reason of imprisonment or detention in legal custody)~~◀~~.

<sup>4</sup>(5) In this regulation—

(a) in paragraph (1), “couple” has the meaning—

(i) apart from in relation to universal credit, given by section 137(1) of the Social Security Contributions and Benefits Act 1992 (interpretation of Part VII and supplementary provisions);

(ii) in relation to universal credit, given by section 39 of the Welfare Reform Act 2012 (couples);

(b) in paragraph (2), “jobseeker's allowance” means an allowance under the Jobseekers Act 1995 as amended by the provisions of Part 1 of Schedule 14 to the Welfare Reform Act 2012 that remove references to an income-based allowance, and a contribution-based allowance under the Jobseekers Act 1995 as that Act has effect apart from those provisions; and

(c) “universal credit” means universal credit under Part 1 of the Welfare Reform Act 2012.~~◀~~

#### Modification of paragraph 2(1) to (3) of Schedule 1 to the Pensions Act

5.—(1) This regulation applies to a person referred to in paragraph 1 of Schedule 1 to the Pensions Act during whose <sup>1</sup>period of <sup>2</sup>deferment~~◀◀~~ there has been an increase, other than an increase made by an order under <sup>3</sup>section 63 of the Social Security Act 1986~~◀(a)~~ in the rate of the Category A or Category B retirement pension to which he would have been entitled <sup>1</sup>if his entitlement to the pension had commenced on the day on which he attained pensionable age~~◀~~.

(2) In relation to a person to whom this regulation applies, paragraph 2(1) to (3) of the said Schedule 1 shall have effect with the additions, omissions and amendments prescribed below.

(3) In paragraph 2(1) for the words after “incremental period” there shall be substituted—

“(a) in his <sup>1</sup>period of <sup>2</sup>deferment~~◀◀~~; and

(b) in each period beginning with the day on which an increase in the weekly rate of his pension took place and ending with the day before <sup>2</sup>his entitlement arose~~◀~~.”

(4) After paragraph 2(2)(b) there shall be added—  
“and

(a) 1986 c. 50.

- (c) 'weekly rate of his pension' means the weekly rate of the Category A or Category B retirement pension to which that person would have been entitled ►<sup>1</sup>◀ on attaining pensionable age; and
- (d) 'increase' means an increase in the weekly rate of his pension other than an increase made by such an order as is mentioned in sub-paragraph (5) below."

(5) In paragraph 2(3) for the words after "incremental period" there shall be substituted—

- “(a) in the case of an incremental period specified in paragraph 2(1)(a) above, shall be ►<sup>2</sup>1/5th per cent◀ of the weekly rate of his pension immediately after he attained pensionable age; and
- (b) in the case of an incremental period specified in paragraph 2(1)(b) above, shall be ►<sup>2</sup>1/5th per cent◀ of that increase.”

►<sup>3</sup>Rate of benefit where the second contribution condition in paragraph 5 of Schedule 3 to the Social Security Contributions and Benefits Act 1992 is not satisfied◀

6.—►<sup>4</sup>(1) Subject to paragraph (2) of this regulation, where the second contribution condition specified in paragraph 5(3) of Schedule 3 to the Act is not satisfied a person shall be entitled to—

- (a) widowed mother's allowance;
- <sup>5</sup>(aa) widowed parent's allowance;
- (ab) ►<sup>6</sup>◀◀
- (b) widow's pension;
- (c) Category A retirement pension; or
- (d) Category B retirement pension,

provided the percentage of the number of qualifying years in the working life of that person calculated in accordance with paragraph (3B) of this regulation is 25 per cent. or more.

(2) Where a person to whom paragraph (1) alone would otherwise apply is not entitled to benefit under that paragraph because the percentage of the number of qualifying years in his working life, calculated in accordance with paragraph (3B) of this regulation, is less than 25 per cent, but there are one or more surpluses in that person's earnings factors for the relevant years, that person shall be entitled to—

- (a) widowed mother's allowance;
- <sup>5</sup>(aa) widowed parent's allowance◀
- (b) widow's pension;
- (c) Category A retirement pension; or
- (d) Category B retirement pension

consisting only of the additional pension in that benefit.

(3) Where a person is entitled to benefit under paragraph (1) of this regulation, the benefit payable shall be—

- (a) the basic pension in that benefit at a reduced rate calculated in accordance with paragraph (3B) of this regulation as a percentage of the higher of the sums specified in section 6(1)(a) of the Pensions Act; and
- (b) any additional pension arising from one or more surpluses in the pensioner's earnings factors for the relevant years; and
- (c) any increase of benefit to which he may be entitled under sections ►<sup>7</sup>◀, 45, 45A, or 46 of the Act—
  - (i) in respect of an adult dependant calculated in accordance with paragraph (3B) of this regulation as a percentage of the appropriate increase specified in Part IV of Schedule 4 to the Act; ►<sup>7</sup>◀
  - (ii) ►<sup>7</sup>◀

(3A) Where a person is entitled to benefit under paragraph (2) of this regulation, the benefit payable shall be only the additional pension in that benefit.

<sup>1</sup>Words substituted in reg. 4(2)(c)(i) & (ii) and 5(1), 5(3)(a) & (b) and deleted from reg. 5(4)(c) by regs. 11(5)(c) & 11(6)(a)-(d) of S.I. 1989/1642 as from 1.10.89.

<sup>2</sup>Words substituted in reg. 4(2)(i), 5(1), 5(3)(a) and (5)(a) & (b) by regs. 4(4)(a) & (5)(a)-(b) of S.I. 2005/453 as from 6.4.05.

<sup>3</sup>Heading to reg. 6 & word in para. (3B) substituted, para. (4) omitted and para. (6) inserted by regs. 10-12 of S.I. 2009/2206 as from 6.4.10.

<sup>4</sup>Paras. (1) to (3B) of reg. 6 substituted for paras. (1) to (3) and words in reg. 6(5)(a)(i) substituted by regs. 2(2) & 2(4)(a) of S.I. 1990/2642 as from 29.1.91.

<sup>5</sup>Regs. 6(1)(aa) reg. 6(1)(ab) and 6(2)(aa) inserted by reg. 7(3) of S.I. 2000/1483 as from 9.4.01.

<sup>6</sup>Reg. 6(1)(ab) omitted by art. 7(3) of S.I. 2017/422 as from 6.4.17, see art. 1(2) of this S.I. for when to apply.

<sup>7</sup>Word in reg. 6(3)(c) & (i) omitted and head (ii) omitted by reg. 2(4)(b) of S.I. 2003/937 as from 6.4.03. See S.I. 2003/938 at page 3.731 for details as to savings provisions.

<sup>1</sup>Word substituted in paras. (3B) & (4) omitted by regs. 11 & 12 of S.I. 2009/2206 as from 6.4.10.

<sup>2</sup>Words in reg. 6(5)(a) substituted by Social Security Act 1986 (c. 50), s. 18(1) as from 6.4.87.

<sup>3</sup>Words in reg. 6(5)(b) substituted by Social Security Act 1986 (c. 50), s. 18(1) as from 6.4.87.

<sup>4</sup>Words in reg. 6(5)(b) substituted by reg. 2(4)(b) of S.I. 1990/2642 as from 29.1.91.

<sup>5</sup>Para. (6) inserted by reg. 11(4) of S.I. 2009/2206 as from 6.4.10.

<sup>6</sup>Para. (6A) & (6B) inserted by reg. 12 of S.I. 2009/2206 as from 6.4.10.

## SOCIAL SECURITY (WIDOW'S BENEFIT AND RETIREMENT PENSIONS) REGULATIONS 1979

(3B) <sup>1</sup>The percentage referred to in paragraphs (1), (2), (3)(a) and (3)(c)(i) of this regulation shall be ascertained by taking the number of qualifying years in the working life of the contributor concerned, expressing that number as a percentage of the requisite number of years specified for that working life in paragraph 5(4) of Schedule 3 to the Act and rounding up that percentage to the next whole number.

(4) <sup>1</sup>

(5) Where a person is entitled by virtue of this regulation to a Category A retirement pension and also to a section 9(2), 9(3) or 10(2) increase, an up-rating order shall have the effect of increasing—

(a) the <sup>2</sup>basic pension in that pension

(i) where there is a section 9(2) increase, in proportion to the increase under that order of the <sup>3</sup>higher of the sums specified in section 6(1)(a) of the Pensions Act; and

(ii) where there is a section 10(2) increase, in proportion to the increase under that order of the sum specified in paragraph 9 of Part I of Schedule 4 to the Act;

(b) the <sup>3</sup>additional pension in that pension, where there is a section 9(3) increase, by the percentage specified in that order for an increase of the sums <sup>4</sup>which are the additional pensions in the rates of long-term benefits.

<sup>5</sup>(6) For the purposes of this regulation, “qualifying year” means a year for which a person’s earnings factor is sufficient to satisfy paragraph 5(3)(b) of Schedule 3 to the Social Security Contributions and Benefits Act 1992 and includes a year which is treated as such a year by virtue of regulation 8(4).

### **<sup>6</sup>Proportion of retirement pension where the contribution condition in paragraph 5A of Schedule 3 to the Social Security Contributions and Benefits Act 1992 is not satisfied**

**6A.—**(1) This regulation applies where the contribution condition in paragraph 5A of Schedule 3 (contribution conditions for entitlement to benefit) to the Social Security Contributions and Benefits Act 1992 (“the 1992 Act”) is not satisfied in relation to a benefit to which that paragraph applies.

(2) The amount of such a benefit to which a person is nevertheless entitled shall be—

(a) 1/30th of the weekly rate of basic pension in that benefit for each year in the contributor’s working life in relation to which the requirements of paragraph 5A(2)(a) and (b) of Schedule 3 to the 1992 Act are satisfied; and

(b) any additional pension in that benefit arising from one or more surpluses in the contributor’s earnings factors for the relevant years.

(3) For the purposes of paragraph (2)(a), satisfaction of the requirements of paragraph 5A(2)(a) and (b) of Schedule 3 to the 1992 Act in relation to a year includes satisfaction of those requirements by virtue of regulation 8.

(4) Paragraph (5) of regulation 6 applies to entitlement to a Category A retirement pension by virtue of this regulation as it does to such entitlement by virtue of that regulation.

### **Regulations 6 and 6A: supplemental**

**6B.** In regulations 6 and 6A, “basic pension” includes the weekly rate of Category B retirement pension specified in paragraph 5 of Part 1 (contributory periodical benefits) of Schedule 4 (rates of benefit, etc) to the Social Security Contributions and Benefits Act 1992.



**Category B retirement pension of certain widows by virtue of husband's contributions**

7. For the purposes of a woman's entitlement to a Category B retirement pension under section 29(5) of the Act, she shall be treated as being entitled to a widow's pension if she would have been so entitled but for any one or more of the following circumstances:-

- (a) her failure to make, or delay in making, a claim for that widow's pension;
- (b) her entitlement to <sup>1</sup> a widowed mother's allowance;
- (c) the operation of section 82 of the Act (disqualification and suspension) or section 85 of the Act (overlapping benefits and hospital in-patients) or any regulations made under either of those sections, except of the operation of section 82(5)(a) of the Act (absence from Great Britain);
- (d) the operation of any provision of the Act or any regulations made under the Act disqualifying her for the receipt of that widow's pension for any period, except for the operation of the said section 28(5)(a);
- (e) her having attained the age of 65;
- (f) her remarriage after 4th April 1971,

<sup>1</sup>Words in reg. 7(b) deleted by reg. 2(3) of S.I. 1987/1854 as from 11.4.88.

and for the purposes of section 29(7)(c) of the Act the weekly rate of the widow's pension shall be the weekly rate to which she would have been entitled but for any one or more for the said circumstances.

SI 1979/642

**SOCIAL SECURITY (WIDOW'S BENEFIT AND RETIREMENT  
PENSIONS) REGULATIONS 1979**

►<sup>1</sup>Category B retirement pension for surviving spouses ►<sup>2</sup>and surviving civil partners◄ by virtue of deceased spouse's ►<sup>2</sup>or deceased civil partner's◄ contributions

<sup>1</sup>Reg. 7A inserted by reg. 7(4) of S.I. 2000/1483 as from 9.4.01.

<sup>2</sup>Words inserted in headings to reg. 7A, paras. 7A(2)(e), (3)(a) by paras. 10(2) & (3) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

**7A.**—(1) For the purposes of entitlement of any person (“the pensioner”) to a Category B retirement pension under section 48BB of the Social Security Contributions and Benefits Act 1992 (Category B retirement pension: entitlement by reference to benefit under section 39A or 39B)(a) (“the 1992 Act”), the pensioner shall be treated as being entitled to a widowed parent’s allowance or a bereavement allowance as the case may be, if he would have been so entitled but for any one or more of the circumstances specified in paragraph (2) below.

(2) The circumstances referred to in paragraph (1) above are—

- (a) the pensioner’s failure to make, or his delay in making, a claim for that widowed parent’s allowance or bereavement allowance;
- (b) the operation of section 113 of the 1992 Act (disqualification and suspension)(b) or section 73 of the Social Security Administration Act 1992 (overlapping benefits)(c) or any regulations made under either of those sections, except for the operation of section 113(1)(a) of the 1992 Act (absence from Great Britain);
- (c) the operation of any provision of the 1992 Act or any regulations made under the 1992 Act, disqualifying the pensioner from receipt of that widowed parent’s allowance or bereavement allowance for any period except for the operation of the said section 113(1)(a);
- (d) the pensioner’s having attained pensionable age;
- (e) the pensioner’s having remarried ►<sup>2</sup>or formed a civil partnership◄.

(3) Where this regulation applies the weekly rate of a Category B pension shall—

- (a) in the case of a pensioner treated as being entitled to widowed parent’s allowance immediately before attaining pensionable age in consequence of the death of his or her spouse ►<sup>2</sup>or civil partner◄, be that specified in section 48BB(2) of the 1992 Act;
- (b) in the case of a pensioner treated as being entitled to—
  - (i) widowed parent’s allowance at any time when over the age of 45 but not immediately before attaining pensionable age, or
  - (ii) bereavement allowance at any time prior to obtaining pensionable age,be that specified in section 48BB(5) and (6) of the 1992 Act as the case may be.◄

►<sup>3</sup>National entitlement to Category B retirement pension for new State Pension purposes

<sup>3</sup>Reg. 7B inserted by art. 7(4) of S.I. 2017/422 as from 6.4.17, see art. 1(2) of this S.I. for when to apply.

**7B.**—(1) This regulation applies for the purposes of determining whether, in accordance with paragraph 3(1)(d) of Schedule 3 to the Pensions Act 2014 (survivor’s pension inherited amount: dead spouse or civil partner in old state pension scheme) (d), a person (“the pensioner”) would have been entitled to a Category B retirement pension.

(2) The pensioner shall be treated as being entitled to bereavement support payment if the pensioner would have been so entitled but for one or both of the circumstances specified in paragraph (3).

(3) The circumstances referred to in paragraph (2) are—

- (a) the pensioner’s failure to make, or the pensioner’s delay in making a claim for that bereavement support payment;
- (b) the operation of section 32 of the Pensions Act 2014 (bereavement support payment: prisoners) or any regulations made under the section.◄

(a) Section 48BB was inserted by section 56 of the Welfare Reform and Pensions Act 1999.

(b) Section 113 was amended by paragraph 66 Schedule 7 to the Social Security Act 1998.

(c) Section 73 was amended by paragraph 49(2) of Schedule 2 to the Jobseekers Act 1995.

(d) See S.I. 2016/408 for transitional provisions relating to paragraph 3 of Schedule 3.

## Regs. 8-8A

<sup>1</sup>Words inserted in heading to reg. 8, added to reg. 8(1)(a)-(c) & sub-para. (aa) inserted by para. (3) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>2</sup>Reg. 8(1)(b) substituted by reg. 7(5) of S.I. 2000/1483 as from 9.4.01.

<sup>3</sup>Words in reg. 8(1)(c), substituted by reg. 14 of S.I. 2009/2206 as from 6.4.10.

<sup>4</sup>Words in para. 8(2) inserted by para. 10(3) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>5</sup>Words in reg. 8(2) and (3) substituted, words inserted in paras. (4) & (5), para. (6) omitted and reg. 8A inserted by regs. 13 and 14 of S.I. 2009/2206 as from 6.4.10.

<sup>6</sup>Reg. 8(3A) inserted by art. 5(3) of S.I. 2015/1985 as from 6.4.16.

<sup>7</sup>Words in reg. 8(5) substituted (7.4.87) by Social Security Act 1986 (c. 50), s. 18(1).

### Substitution of former spouse's <sup>1</sup>or former civil partner's <sup>2</sup> contribution record to give entitlement to a Category A retirement pension

8.—(1) This regulation applies to—

- (a) any person whose last marriage terminated before he attained pensionable age and who did not remarry <sup>1</sup>or, as the case may be, form a civil partnership <sup>2</sup> before that date;
- <sup>1</sup>(aa) any person whose last civil partnership terminated before he attained pensionable age and who did not form a subsequent civil partnership or, as the case may be, marry before that date; <sup>2</sup>
- <sup>2</sup>(b) any man or woman widowed on or after attaining pensionable age <sup>1</sup>or whose civil partner died on or after the man or woman had attained that age <sup>2</sup>, his or her former spouse <sup>1</sup>or former civil partner <sup>2</sup>, as the case may be, being under pensionable age when she or he died; and <sup>2</sup>
- (c) any person <sup>3</sup>, other than one to whom regulation 8A applies <sup>2</sup> whose last marriage <sup>1</sup>or last civil partnership <sup>2</sup> terminated on or after the date on which he attained pensionable age otherwise than by the death of his spouse <sup>1</sup>or, as the case may be, his civil partner <sup>2</sup>,

and any such person shall be referred to in this regulation as “the beneficiary”.

(2) Where the beneficiary does not, in respect of the year in which his marriage <sup>4</sup>or civil partnership <sup>2</sup> terminated or any previous year, with his own contributions satisfy the contribution conditions for a Category A retirement pension specified in paragraph 5 of Schedule 3 <sup>5</sup>, to the Social Security Contributions and Benefits Act 1992 (“the 1992 Act”) or the contribution condition for such a pension specified in paragraph 5A of that Schedule to that Act <sup>2</sup>, then, for the purpose of enabling him to satisfy those conditions, the contributions of his former spouse <sup>4</sup>or former civil partner <sup>2</sup> may, if it is advantageous to him, be treated to the extent specified in paragraphs (3) to (6) as though they were his own.

<sup>5</sup>(3) The beneficiary shall be treated as satisfying the first contribution condition specified in paragraph 5 of Schedule 3 to the 1992 Act if his former spouse or former civil partner—

- (a) had satisfied that condition; or
- (b) would have satisfied that condition had paragraph 5A of Schedule 3 not been applicable,

as respects any year of his working life up to (inclusive) the year in which the marriage or civil partnership terminated. <sup>2</sup>

<sup>6</sup>(3A) The beneficiary shall be treated as satisfying the first contribution condition specified in paragraph 5 of Schedule 3 to the 1992 Act if his former spouse or former civil partner would have satisfied that condition had Part 1 of the Pensions Act 2014 not been applicable, as respects any year of his working life up to the year ending on 5th April 2016 (inclusive). <sup>2</sup>

(4) The beneficiary shall be treated as satisfying the second contribution condition <sup>5</sup>specified in paragraph 5 of the Schedule 3 to the 1992 Act or the contribution condition specified in paragraph 5A of that Schedule to that Act <sup>2</sup> as respects the number of years arrived at under paragraph 2 or 3 of Schedule 1 to these regulations, whichever is the more beneficial to him.

(5) Where a person is entitled for any period to <sup>7</sup>basic pension <sup>2</sup> in his Category A retirement pension by virtue of this regulation and regulation 6 <sup>5</sup>or 6A <sup>2</sup>, he shall not be entitled for that period to a section 9(2) increase.

(6) <sup>6</sup>

<sup>5</sup>8A.—(1) This regulation applies to a person—

- (a) whose marriage or civil partnership terminated otherwise than by the death of that person's spouse or civil partner;

- (b) whose marriage or civil partnership terminated after—
  - (i) that person; and
  - (ii) that person's former spouse or former civil partner, attained pensionable age;
- (c) who attained pensionable age on or after 6th April 2010;
- (d) whose former spouse or former civil partner attained pensionable age on or after 6th April 2010; and
- ▶<sup>1</sup>(e) whose former spouse or former civil partner—
  - (i) satisfied the contribution condition specified in paragraph 5A(2) of Schedule 3 (contribution conditions for entitlement to benefit) to the Social Security Contributions and Benefits Act 1992 ("the 1992 Act"); or
  - (ii) would have satisfied the contribution condition specified in paragraph 5A(2) of Schedule 3 to the 1992 Act in respect of contributions paid before 6th April 2016 had Part 1 of the Pensions Act 2014 not been applicable.◀

<sup>1</sup>Reg. 8A(e) substituted by art. 5(4) of S.I. 2015/1985 as from 6.4.16.

(2) Where a person to whom this regulation applies does not satisfy the contribution condition specified in paragraph 5A(2) of Schedule 3 to the 1992 Act, that person shall be treated as having satisfied that condition by virtue of the contributions of the former spouse or civil partner.◀

#### Conditions for entitlement to a Category C retirement pension

9. The conditions for entitlement to a Category C retirement pension shall be that the person concerned—

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

#### Conditions for entitlement to a Category D retirement pension

10. The conditions for entitlement to a Category D retirement pension shall be that the person concerned—

- ▶<sup>2</sup>(a) was resident in Great Britain for a period of at least 10 years in any continuous period of 20 years which included the day before that on which he attained the age of 80 or any day thereafter; and◀
- (b) was ordinarily resident in Great Britain either—
  - (i) on the day he attained the age of 80; or
  - (ii) if he was not so ordinarily resident on that day and the date of his claim for the pension was later than that day, on the date of his claim, so however that where a person satisfies this condition under this head he shall be deemed to have satisfied it on the date that he became so ordinarily resident.

<sup>2</sup>Para. (a) substituted by reg. 2 of S.I. 1984/1704 as from 26.11.85.

#### Category C retirement pension for widows of men over pensionable age on 5th July 1948

11.—(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 Category C retirement pension at a rate ascertained in accordance with paragraph (3) if—

- (a) she is over pensionable age; and
- (b) ▶<sup>3</sup>◀
- (c) she was over the age of ▶<sup>4</sup>45◀ either—
  - (i) when her husband died; or
  - (ii) if she was entitled under regulation 14 to benefit corresponding to a widowed mother's allowance, when she ceased to be so entitled; and either

<sup>3</sup>Sub-para. (b) of reg. 11(1) deleted by reg. 11(7) of S.I. 1989/1642 as from 1.10.89.

<sup>4</sup>Figure in reg. 11(1)(c) substituted by reg. 2 (4)(a) of S.I. 1987/1854 as from 11.4.88, with saving in reg. 4 *ibid*.



- (d) her husband was at any time entitled to a Category C retirement pension or a retirement pension under section 1(1)(a) of the National Insurance Act 1970(a); or
- (e) here husband died before 2nd November 1970 and—
  - (i) she was resident in Great Britain for a period of at least 10 years between 5th July 1948 and 1st November 1970, inclusive of both dates; and
  - (ii) she was ordinarily resident in Great Britain on 2nd November 1970 or on the date of her claim for a Category C retirement pension; and
  - (iii) he was ordinarily resident in Great Britain on the date of his death.

(2) A pension payable under paragraph (1) shall commence on 6th April 1975 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.

(3) The pension under paragraph (1) shall be at the ►<sup>1</sup>weekly rate of ►<sup>2</sup>£73.30◄◄ so however that—

- (a) in the case of a widow who was under the age of ►<sup>3</sup>55◄ either when her husband died, or, if she was entitled under regulation 14 to benefit corresponding to a widowed mother's allowance, when she ceased to be so entitled, the rate of such pension shall be reduced as if the provisions of section 26(2) of the Act applied to it'
- (b) ►<sup>4</sup>◄

<sup>1</sup>Words in reg. 11(3) substituted by art. 5(5) of S.I. 2015/1985 as from 6.4.16.  
<sup>2</sup>Amount in reg. 11(3) substituted by art. 13 of S.I. 2017/260 as from 10.4.17.  
<sup>3</sup>Figure in reg. 11(3)(a) substituted by reg. 2(4)(b) S.I. 1987/1854 as from 11.4.88, with saving in reg. 4 *ibid*.  
<sup>4</sup>Sub-para. (b) of reg. 11(3) deleted by reg. 11(7) of S.I. 1989/1642 as from 1.10.89.

**Category C retirement pension for certain women whose marriage has been terminated otherwise than by death**

12.—(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 Category C retirement pension at the higher rate specified in relation to such a pension in Part III of Schedule 4 to the Act if—

- (a) she had attained pensionable age before the date of the termination of the marriage; and
- (b) ►<sup>5</sup>◄
- (c) the conditions set out in paragraph (2) or (3), as the case may be, are satisfied.

<sup>5</sup>Sub-para. (b) of reg. 12(1) deleted by reg. 11(8) of S.I. 1989/1642 as from 1.10.89.

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

- (a) that she was resident in Great Britain for a period of at least 10 years between 5th July 1948 and 1st November 1970, inclusive of both dates; and
- (b) that she was ordinarily resident in Great Britain on 2nd November 1970 or on the date of her claim for a Category C retirement pension; and
- (c) that her husband was ordinarily resident in Great Britain on the date of the termination of the marriage; and
- (d) that she did not remarry between the date of that termination and 2nd November 1970.

(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 Category C retirement pension or a retirement pension under section 1(1)(a) of the National Insurance Act 1970.

(4) A pension payable under paragraph (1) shall commence on 6th April 1975 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; ►<sup>6</sup>◄.

<sup>6</sup>Words deleted from reg. 12(4) by reg. 11(8) of S.I. 1989/1642 as from 1.10.89.

(a) 1970 c. 51.

**Benefit corresponding to a widow's pension for widows of men over pensionable age on 5th July 1948**

**13.**—(1) Subject to the provisions of these regulations, a widow whose husband was over pensionable age on 5th July 1948 shall be entitled to benefit corresponding to a widow's pension at a rate ascertained in accordance with paragraph (3) if—

<sup>1</sup>Figure in reg. 13(1)(a) substituted by reg. 2(5)(a) of S.I. 1987/1854 as from 11.4.88, with saving in reg. 4 *ibid.*

- (a) she was over the age of <sup>1</sup>45<sup>◀</sup> but under the age of 65 either—
  - (i) when her husband died; or
  - (ii) if she was entitled under regulation 14 to benefit corresponding to a widowed mother's allowance, when she ceased to be so entitled; and
- (b) the requirements of sub-paragraph (d) or (e) of regulation 11(1) are satisfied in her case.

(2) The period for which benefit is payable under paragraph (1) shall be any period commencing on the date on which the requirements of sub-paragraph (d) or (e) of regulation 11(1) are first satisfied in the case of the widow, and during which she is under the age of 65 and for which she is not entitled under regulation 14 to benefit corresponding to a widowed mother's allowance; so however that the benefit shall not be payable for any period after the widow's remarriage or for any period during which she and a man to whom she is not married are living together as husband and wife.

(3) The benefit under paragraph (1) shall be at the higher rate specified in relation to a Category C retirement pension in Part III of Schedule 4 to the Act; so however that in the case of a widow who was under the age of <sup>2</sup>55<sup>◀</sup> either when her husband died, or, if she was entitled under regulation 14 to benefit corresponding to a widowed mother's allowance, when she ceased to be so entitled, the rate of such benefit shall be reduced as if the provisions of section 26(2) of the Act applied to it.

<sup>2</sup>Figure in reg. 13(3) substituted by reg. 2(5)(b) of S.I. 1987/1854 as from 11.4.88, with saving in reg. 4 *ibid.*

**Benefit corresponding to a widowed mother's allowance for widows of men over pensionable age on 5th July 1948.**

**14.**—(1) Subject to the provisions of these regulations, a widow whose husband was over pensionable age on 5th July 1948 shall be entitled to benefit corresponding to a widowed mother's allowance, which shall be at the higher rate specified in relation to a Category C retirement pension in Part III of Schedule 4 to the Act, for any period commencing on the date on which the requirements of sub-paragraph (d) or (e) of regulation 11(1) are first satisfied in her case and during which she would have been entitled to a widowed mother's allowance under section 25 of the Act had her husband satisfied the contribution conditions set out in paragraph 5 of Schedule 3 to the Act; so however that the benefit shall not be payable for any period after the widow's remarriage or for any period



during which she and a man to whom she is not married are living together as husband and wife.

(2) The provisions of section 41(4) of the Act (which relates to increases of widowed mother's allowance in respect of children) shall apply to benefit payable under this regulation as they apply to an allowance payable under section 25(1)(a) of the Act.

**Restriction on benefit under regulations 13 and 14 in certain cases**

**15.—**(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 1976(a);
- (b) section 34 of the Police Act 1964(b);
- (c) section 26 of the Police (Scotland) Act 1967(c),

benefit under regulation 13 or 14 corresponding to a widow's pension or a widowed mother's allowance shall not be payable in respect of any week during which she is receiving an increase of the said pension under either—

- (i) the provisions of regulation 12 or 15 of the Police Pensions Regulations 1971(d), or of any corresponding regulations from time to time in force and made as mentioned in sub-paragraph (a); or
- (ii) those provisions as applied by regulations from time to time in force and made as mentioned in sub-paragraph (b) or (c).

(2) For the purposes of paragraph (1), any reference in that paragraph to an enactment or regulation shall include a reference to any corresponding Northern Ireland legislation, 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.

**Provision in relation to entitlement to child benefit for the purposes of a widowed mother's allowance**

**16.—**(1) For the sole purpose of determining whether a woman who has been widowed satisfies the requirements of section 25(1)(a) of the Act (entitlement to a widowed mother's allowance)—

- ▶(a) ▶any person under the age of 20 residing with the widow shall be deemed to be◀ within section 25(2) of the Act if—
  - (i) the requirements of section 25(2)(a) are satisfied in his case and child benefit would have been payable in respect of him had he not been absent from Great Britain and had a claim for it been made in the manner prescribed under section 6 of the Child Benefit Act 1975(e), or
  - (ii) the requirements of section 25(2)(b) or (c) would have been satisfied, and child benefit would have been payable in respect of him continuously since the date of death of the late husband, had he not been absent from Great Britain and had a claim for child benefit been made in respect of him in the manner prescribed under section 6 of the Child Benefit Act 1975; and◀

Reg. 16(1)(a) substituted by reg. 2(6) of S.I. 1987/1854 as from 11.4.88, with saving in reg. 3 *ibid*.  
Words substituted in reg. 16(1)(a) by reg. 3(2)(a) of S.I. 2006/692 as from 10.4.06.

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(a) 1976 c. 35.  
(b) 1964 c. 48.  
(c) 1967 c. 77.  
(d) S.I. 1971/232; relevant amending instruments are S.I. 1973/428 and 432.  
(e) 1975 c. 61.

## Regs. 16-16ZA

*The pre- 11.4.88 version of regulation 16(1)(a), reproduced immediately below in small sans-serif type, remains in force for women whose husbands died before 11.4.88 (S.I. 1987/1854, regulation 3, as substituted by S.S. Act 1990 (c. 27), Sch. 6 para. 27(1)).*

Words omitted in reg. 16(1)(b) and inserted in reg. 16(2) & (3) by reg. 3(2)(a)(ii), (2)(b) & (c) of S.I. 2006/692 as from 10.4.06.

- (a) any person under the age of 19 residing with the widow shall be deemed to be a child falling within section 25(2) of the Act if the requirement in section 25(2)(a) thereof is satisfied in his case, or if the requirement in section 25(2)(b) or (c) thereof is so satisfied, or could have been so satisfied had he, immediately before the death of the widow's late husband, been under the age of 16 or not absent from Great Britain; and

- (b) a widow shall be treated as entitled to child benefit in respect of any person deemed, in accordance with sub-paragraph (a), to be ►◄ within the said section 25(2).

(2) In determining whether a woman who has been more than once married and who was not residing with her late husband immediately before his death is entitled to a widowed mother's allowance under section 25 of the Act, her late husband shall, for the purposes of section 25(2)(b) of the Act, be treated as having been entitled to child benefit in respect of any child ►or qualifying young person◄ in respect of whom—

- (a) a previous husband of that woman by a marriage which ended with that husband's death was, immediate before his death, entitled or treated as entitled to child benefit; and
- (b) that woman was entitled or treated as entitled to child benefit immediately before the death of her late husband.

(3) For the purposes of paragraph (2)(a) or (b), if the death there referred to occurred before 4th April 1977 the previous husband or, as the case may be, the woman, shall be treated as entitled to child benefit in respect of the child ►or qualifying young person◄ in question if he or she satisfied the relevant requirement in section 25(2)(c) of the Act as originally enacted.

Reg. 16ZA inserted by reg. 2(a) of S.I. 2001/1235 as from 9.4.01.

**►Provision in relation to entitlement to child benefit for the purposes of a widowed parent's allowance**

**16ZA.**—(1) For the purpose only of determining whether a man or a woman who has been widowed (“the surviving spouse”) ►or whose civil partner has died (“surviving civil partner”)◄ satisfies the requirements of subsection (2)(a) of section 39A of the Social Security Contributions and Benefits Act 1992(a) (“the 1992 Act”)—

- (a) a person shall be treated for the purposes of subsection (3)(b) or (c) of that section as having been entitled to child benefit in respect of a child ►or qualifying young person◄ where that person would have been so entitled had—
- (i) that child ►or qualifying young person◄ not been absent from Great Britain, and
- (ii) a claim for child benefit been made in respect of the child ►or qualifying young person◄ in the manner prescribed under section 13 of the Social Security Administration Act 1992(b); and
- (b) the surviving spouse ►or surviving civil partner◄ shall be treated, for the purposes of subsection (2)(a) of section 39A, as entitled to child benefit in respect of the child ►or qualifying young person◄ who, by virtue of sub-paragraph (a) above, falls within subsection (3) of that section.

(a) In reg. 16ZA, words inserted by para. 10(4) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

(b) Words inserted in reg. 16ZA(a), (b) and 16ZA(2) by reg. 3(3)(a) & (b) of S.I. 2006/692 as from 10.4.06.

See note (a) above.

See note (b) above.

See note (a) above.

See note (b) above.

(2) In determining whether a surviving spouse ►or surviving civil partner◄ who has been more than once married►, has formed more than one civil partnership, or who has been both married and formed a civil partnership◄ and who was not residing with the deceased spouse ►or, as the case may be, the deceased civil partner◄ immediately before his or her death is entitled to a widowed parent's allowance under section 39A of the 1992 Act, the deceased spouse ►or deceased civil partner◄ shall for the purposes of subsection (3)(b) of that section, be treated as having been entitled to child benefit in respect of any child ►or qualifying young person◄ in respect of whom—

- (a) Section 39A was inserted by section 55(2) of the 1999 Act.
- (b) Section 13 was amended by section 69 of the 1999 Act.

- (a) a previous spouse <sup>1</sup>or civil partner<sup>◀</sup> of that surviving spouse by the marriage <sup>1</sup>or, as the case may be, by the information of a civil partnership<sup>◀</sup> which ended with that previous spouse's <sup>1</sup>or previous civil partner's<sup>◀</sup> death was, immediately before his or her death, entitled or treated as entitled to child benefit; and
- (b) that surviving spouse <sup>1</sup>or civil partner<sup>◀</sup> was entitled or treated as entitled to child benefit immediately before the death of the deceased spouse <sup>1</sup>or civil partner<sup>◀</sup>.

<sup>1</sup>Words inserted in reg. 16ZA(2)(a) & (b) by para. 10(4) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

**Disapplication of section 1(1A) of the Administration Act for the purposes of widowed mother's allowance <sup>3</sup>or widowed parent's allowance<sup>◀</sup>**

**16A.** Section 1(1A) of the Administration Act (requirement to state national insurance number) shall not apply to a child <sup>4</sup>or qualifying young person<sup>◀</sup> in respect of whom an increase of widowed mother's allowance <sup>3</sup>or widowed parent's allowance<sup>◀</sup> is claimed.<sup>◀</sup>

<sup>2</sup>Reg. 16A inserted by reg. 15(3) of S.I. 1997/2676 as from 1.12.97.

<sup>3</sup>Words inserted in heading and in reg. 16A by reg. 2(b) of S.I. 2001/1235 as from 9.4.01.

<sup>4</sup>Words inserted into reg. 16A by reg. 3(4) of S.I. 2006/692 as from 10.4.06.

**Provisions relating to age addition for persons not in receipt of a retirement pension**

**17.—(1)** For the purposes of section 40(2) of the Act (age addition for persons over the age of 80 who are not entitled to a retirement pension but are in receipt of certain other payments) the prescribed enactments and instruments shall be—

- (a) Chapter IV or V of Part II of the Act;
- (b) any scheme made under section 5 of the Industrial Injuries and Diseases (Old Cases) Act 1975<sup>(a)</sup>;
- (c) any Service Pensions Instrument;
- (d) any scheme made under the Personal Injuries (Emergency Provisions) Act 1939<sup>(b)</sup> or under the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939<sup>(c)</sup>;
- (e) any 1914–1918 War Injuries Scheme;
- (f) section 36 of the Act (<sup>5</sup>severe disablement allowance<sup>◀</sup>);
- (g) section 37 of the Act (<sup>6</sup>carer's allowance<sup>◀</sup>);
- <sup>7</sup>(h) sections 36 and 37 of the National Insurance Act 1965<sup>(d)</sup> as continued in force by the Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978<sup>(e)</sup>.<sup>◀</sup>

<sup>5</sup>Words substituted by reg. 11(f) of and Sch. 2 to S.I. 1984/1303 as from 29.11.84.

<sup>6</sup>Words substituted in reg. 17(1)(g) by Sch. 2 of S.I. 2002/2497 as from 1.4.03.

<sup>7</sup>Reg. 17(1)(h) added by reg. 2(2) of S.I. 1993/1242 as from 7.6.93.

<sup>8</sup>Words inserted in reg. 17(2) and reg. 17(3) added by reg. 2 of S.I. 1993/1242 as from 7.6.93.

(2) The following shall<sup>8</sup>, subject to paragraph (3),<sup>◀</sup> be additional conditions of entitlement to age addition under section 40(2) of the Act:—

- (a) that the person concerned is in receipt of a payment under an enactment or instrument specified in paragraph (1), by reference to which the amount of a retirement pension would, if it were otherwise payable to him, be extinguished by virtue of any regulations made under section 85(1)(a) of the Act (overlapping benefits); and
- (b) that had he made a claim for it, he would have been entitled to a retirement pension of any category by virtue of any provision of the Act or any regulations made under it.

<sup>8</sup>(3) Paragraph (2) shall not apply to a person who is in receipt of a payment under the enactment specified in paragraph (1)(h).<sup>◀</sup>

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(a) 1975 c. 16.  
 (b) 1939 c. 82.  
 (c) 1939 c. 83.  
 (d) 1965 c. 51.  
 (e) S.I. 1978/393.

**Revocations**

18. The Regulations specified in column (1) of Schedule 2 to these regulations are hereby revoked to the extent stated in column (3) of that Schedule.

11th June 1979

*Patrick Jenkin*  
Secretary of State for Social Services

**SCHEDULE 1**

Regulation 8

<sup>1</sup>Words inserted & substituted in heading & paras. 1, 2 & 3 of Sch. 1 by para. 10(5) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>2</sup>Words in para. 1(a) to Sch. 1 inserted by art. 5(6) of S.I. 2015/1985 as from 6.4.16.

<sup>3</sup>Sub-para. (c) inserted in Sch. 1(1) by reg. 15(2) of S.I. 2009/2206 as from 6.4.10.

**Method of treating former spouse's <sup>1</sup>or former civil partner's <sup>2</sup>contributions as those of the beneficiary so as to entitle him to a Category A retirement pension**

1. In this Schedule—

- (a) A is the number of the former spouse's <sup>1</sup>or former civil partner's <sup>2</sup>qualifying years up to (exclusive) the year in which the marriage <sup>1</sup>or, as the case may be, the civil partnership <sup>2</sup>terminated <sup>2</sup>but where Part 1 of the Pensions Act 2014 applies to the former spouse or former civil partner, A is the number of his qualifying years up to the year ending on 5th April 2016 (inclusive) <sup>2</sup>;
- (b) B is the number of years in the former spouse's <sup>1</sup>or former civil partner's <sup>2</sup>working life up to (exclusive) the year in which the marriage <sup>1</sup>or, as the case may be, the civil partnership <sup>2</sup>terminated <sup>3</sup>; and
- (c) "qualifying year" means a year for which the former spouse's or former civil partner's earnings factor is sufficient to satisfy—
  - (i) paragraph 5(3)(b); or
  - (ii) paragraph 5A(2)(b),

of Schedule 3 to the Social Security Contributions and Benefits Act 1992 and does not include a year which is treated as such a year by virtue of regulation 8(4). <sup>2</sup>

- (2) The number of years arrived at under this paragraph is that which is obtained by—
  - (a) taking the number of years in the beneficiary's working life between (inclusive) the first year in that working life and (inclusive) the year in which the marriage <sup>1</sup>or civil partnership <sup>2</sup>terminated, multiplying it by  $\frac{A}{B}$  and rounding up the result to the next whole number; and
  - (b) adding to that number of years the number of the beneficiary's qualifying years falling after the year in which the marriage <sup>1</sup>or civil partnership <sup>2</sup>terminate.
- 3. The number of years arrived at under this paragraph is that which is obtained by—
  - (a) taking the number of years in the beneficiary's working life between (inclusive) the year in which the marriage took place <sup>1</sup>or the civil partnership was formed <sup>2</sup>and (inclusive) the year <sup>1</sup>in which the marriage or civil partnership terminated <sup>2</sup>, multiplying it by  $\frac{A}{B}$  and rounding up the result to the next whole number; and
  - (b) adding to that number of years the number of the beneficiary's qualifying years falling—
    - (i) before the year in which the marriage took place <sup>1</sup>or the civil partnership was formed <sup>2</sup>; and
    - (ii) after that <sup>1</sup>in which the marriage or civil partnership terminated <sup>2</sup>.

SCHEDULE 2

Regulation 18

REGULATIONS REVOKED

<i>Regulations revoked</i> (1)	<i>Reference</i> (2)	<i>Extent of revocation</i> (3)
The Social Security (Widow's Benefit and Retirement Pensions) Regulations 1974	S.I. 1974/2059	The whole of the regulations
The Social Security (Miscellaneous Amendments and Transitional Provisions) Regulations 1975	S.I. 1975/566	Regulation 3
The Social Security (Non-Contributory Invalidity Pension) Regulations 1975	S.I. 1975/1058	Regulation 14
The Social Security (Non-Contributory Invalidity Pension) Amendment Regulations 1975	S.I. 1975/1166	Regulation 2
The Social Security (Invalid Care Allowance) Regulations 1976	S.I. 1976/409	Regulation 21
The Social Security (Miscellaneous Amendments) Regulations 1976	S.I. 1976/1736	Regulation 2
The Social Security (Child Benefit Consequential) Regulations 1977	S.I. 1977/342	Regulation 4
The Social Security (Miscellaneous Amendments) Regulations 1977	S.I. 1977/1509	Regulation 2
The Social Security (Widow's Benefit and Retirement Pensions) Amendment Regulations 1978	S.I. 1978/392	The whole of the regulations
The Social Security (Benefit) (Transitional) Regulations 1979	S.I. 1979/345	Regulation 6

**EXPLANATORY NOTE**

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

These Regulations are made for the purpose only of consolidating the Regulations they revoke and, accordingly, no reference of them has been made to the National Insurance Advisory Committee.

These Regulations contain provisions relating to widow's benefits, retirement pensions and age addition under the Social Security Act 1975 and the Social Security Pensions Act 1975.

These Regulations relate to: elections to be treated as not having retired (regulations 2 and 3); days to be treated as days of increment when retirement has been deferred (regulation 4); modification of certain provisions of the Social Security Pensions Act 1975 concerning deferred retirement (regulation 5); entitlement to benefit at reduced rates where contribution conditions are not fully satisfied (regulation 6); circumstances in which a widow shall be treated as entitled to a widow's pension for purposes of entitlement to a Category B retirement pension (regulation 7); substitution in certain cases of the contribution record of a former spouse to give title to a Category A retirement pension (regulation 8); conditions for entitlement to Category C and Category D retirement pensions (regulations 9 and 10); benefits for wives and widows of men over pensionable age on 5th July 1948 (regulations 11 to 15); provisions in relation to entitlement to child benefit for the purposes of a widowed mother's allowance (regulation 16); and age addition for persons not in receipt of a retirement pension (regulation 17).