

1972. No. 226

[C]

NATIONAL INSURANCE, INDUSTRIAL INJURIES AND FAMILY ALLOWANCES

Polygamous Marriages

REGULATIONS, DATED 8TH SEPTEMBER 1972, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES UNDER THE SOCIAL SERVICES (PARITY) ORDER (NORTHERN IRELAND) 1971.

The Ministry of Health and Social Services on behalf of the Secretary of State, in exercise of powers conferred by Article 12(1) of the Social Services (Parity) Order (Northern Ireland) 1971(a), and of all other powers enabling it in that behalf, hereby makes the following regulations being regulations subject to negative resolution in accordance with Article 12(2) of that Order :

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Insurance, Industrial Injuries and Family Allowances (Polygamous Marriages) Regulations (Northern Ireland) 1972 and shall come into operation on 18th September 1972.

(2) In these regulations—

“the Insurance Act” means the National Insurance Act (Northern Ireland) 1966(b);

“the Industrial Injuries Act” means the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966(c);

“the Family Allowances Act” means the Family Allowances Act (Northern Ireland) 1966(d);

“polygamous marriage” means a marriage celebrated under a law which, as it applies to the particular ceremony and to the parties thereto, permits polygamy;

“monogamous marriage” means a marriage celebrated under a law which does not permit polygamy;

and other expressions shall, as appropriate, have the same meanings as in the Insurance Act, the Industrial Injuries Act and the Family Allowances Act.

General rule as to the consequences of a polygamous marriage for the purpose of the Insurance Act, the Industrial Injuries Act and the Family Allowances Act.

2.—(1) Subject to the provisions of regulations 3 and 4, a polygamous marriage shall, for the purposes of the Insurance Act, the Industrial Injuries Act and the Family Allowances Act and any enactment construed as one with those Acts, be treated as having the same consequences as a monogamous marriage for any day, but only for any day, throughout which the polygamous marriage is in fact monogamous.

(a) S.R. & O. (N.I.) 1971, No. 224.

(b) 1966, c. 6 (N.I.).

(c) 1966, c. 9 (N.I.).

(d) 1966, c. 8 (N.I.).

- (2) In this regulation and regulation 3—
- (a) a polygamous marriage is referred to as being in fact monogamous when neither party to it has any spouse additional to the other; and
 - (b) the day on which a polygamous marriage is contracted, or on which it terminates for any reason, shall be treated as a day throughout which that marriage was in fact monogamous if at all times on that day after it was contracted, or, as the case may be, before it terminated, it was in fact monogamous.

Special rules for particular purposes and circumstances of the Insurance Act

3.—(1) Subject to the provisions of paragraphs (2) and (3), where on or after the date on which she attained pensionable age a woman was a married woman by virtue of a polygamous marriage and either—

- (a) throughout a day, falling on or after the date on which both she and her spouse have attained pensionable age and retired from regular employment, that marriage was in fact monogamous, or
- (b) throughout the day on which her spouse died that marriage was in fact monogamous,

that marriage, whether or not it has at all times been or continues to be in fact monogamous, shall, for the purposes of determining her right to and the rate of a retirement pension under the Insurance Act or under section 1 of the National Insurance Act (Northern Ireland) 1970(e) be treated as having the same consequences as a monogamous marriage from and including the date on which she attained pensionable age or, if the marriage was contracted after that date, from and including the date of the marriage.

(2) Paragraph (1) shall not operate so as to entitle a woman to a retirement pension for any period before the first such day as is referred to in sub-paragraph (a) of that paragraph or, in a case where that sub-paragraph does not apply, the day referred to in sub-paragraph (b) of that paragraph.

(3) Where the marriage of a woman is a polygamous marriage which was contracted—

- (a) before she attained pensionable age and—
 - (i) was not in fact monogamous when she attained that age, but
 - (ii) became in fact monogamous on a date after she attained that age;
 or
- (b) on or after the day on which she attained pensionable age and—
 - (i) was not in fact monogamous when it was contracted, but
 - (ii) became in fact monogamous on a date after it was contracted;

that marriage shall be treated as having the same consequences as a monogamous marriage for the purposes of section 33(1)(a) of the Insurance Act (increase in woman's retirement pension in certain cases) only with effect from the date referred to in sub-paragraph (a)(ii) or, as the case may be, sub-paragraph (b)(ii).

(4) In a case where section 32(3)(f) of the Insurance Act (retirement pensions for certain widows who were widowed before attaining pensionable age) or regulation 12(g) of the National Insurance (Married Women) Regulations (Northern Ireland) 1962(h) (retirement pensions for certain women whose marriages were dissolved before attaining pensionable age) applies and the relevant marriage for the purposes of that section or regulation was a polygamous marriage, for the purposes of paragraph (b) of the said section 32(3) and of paragraph (1)(b) of the said regulation 12 the polygamous marriage shall, notwithstanding that it has not at all times been in fact monogamous, be treated as having the same consequences as if it had been a monogamous marriage.

(5) Where a woman is a married woman by virtue of a polygamous marriage which is in fact monogamous on the date as from which she becomes entitled to a retirement pension under Article 5 of the Social Services (Parity) Order (Northern Ireland) 1971 (retirement pension for persons over age 80), that marriage, notwithstanding that it ceases to be in fact monogamous, shall, for the purpose of determining the rate of retirement pension payable to her under the said Article 5, thereafter be treated as having the same consequences as a monogamous marriage.

Transitory provision

4. Nothing in these regulations shall entitle a person—

- (a) to benefit under the Insurance Act or the Industrial Injuries Act, or to an allowance under the Family Allowances Act, for any period before the date on which the regulations come into operation, or
- (b) to a maternity or death grant under the Insurance Act payable in respect of a confinement or death which occurred before that date.

Sealed with the Official Seal of the Ministry of Health and Social Services for Northern Ireland this 8th day of September 1972.

(L.S.)

C. G. Oakes,
Assistant Secretary.

EXPLANATORY NOTE

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

These regulations lay down the general rule for National Insurance, Industrial Injuries and Family Allowances purposes that a polygamous marriage shall have the same consequences as a monogamous marriage for any period during which it is in fact monogamous and special rules for particular purposes and circumstances of the National Insurance legislation.

(f) See para. 3 of Sch. 4 to 1967. c. 22 (N.I.).
(g) See reg. 2 of S.R. & O. (N.I.) 1971, No. 168.
(h) S.R. & O. (N.I.) 1962, No. 64.