

1974 No. 2009

SOCIAL SECURITY

BASIC SCHEME

**The Social Security (Contributions) (Married Women and
Widows Special Provisions) Amendment Regulations 1974**
Laid before Parliament in draft

Made - - - -	3rd December 1974
Coming into Operation	9th December 1974

Whereas a draft of the following regulations was laid before Parliament and approved by a resolution of each House of Parliament:

Now, therefore, the Secretary of State for Social Services in exercise of the powers conferred upon her by section 42 of, and paragraphs 2(1) and 6(1) of Schedule 26 to, the Social Security Act 1973(a) and of all other powers enabling her in that behalf hereby makes the following regulations:—

Citation, commencement and interpretation

1. These regulations, which may be cited as the Social Security (Contributions) (Married Women and Widows Special Provisions) Amendment Regulations 1974, shall be read as one with the Social Security (Contributions) (Married Women and Widows Special Provisions) Regulations 1973(b) (hereinafter referred to as “the principal regulations”) and shall come into operation seven days after they have been approved by resolution of each House of Parliament.

Amendment of regulation 1 of the principal regulations

2. In regulation 1 of the principal regulations (citation, commencement and interpretation)—

(a) in paragraph (2)—

(i) after the definition of “the Industrial Injuries Act” there shall be inserted the following definition:—

“the appointed day” means 6th April 1975; and

(ii) for the definition of “Service Pensions Instrument” there shall be substituted the following definition:—

“Service Pensions Instrument” means those provisions and only those provisions of any Royal Warrant, Order in Council or other instrument (not being a 1914-1918 War Injuries Scheme) under which a death or a disablement pension (not including a pension calculated by reference to length of service) and allow-

(a) 1973 c. 38.

(b) S.I. 1973/1376 (1973 II, p. 4245).

ances for dependants payable with either such pension may be paid out of public funds in respect of any death or 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;”;

(b) after paragraph (4) there shall be inserted the following paragraph:—

“(4A) References in these regulations to any enactment shall, except in so far as the context otherwise requires, be construed as a reference to that enactment as amended or extended by or under any other enactment, order or regulation.”

Amendment of regulation 2 of the principal regulations

3. In paragraph (2) of regulation 2 of the principal regulations (Class 1 and Class 2 contributions)—

(a) after the words “notice of election” there shall be inserted the words “in writing”; and

(b) after the words “Secretary of State” there shall be inserted the words “and shall specify the year in respect of which it is made”.

Amendment of regulation 3 of the principal regulations

4. For paragraph (2) of regulation 3 of the principal regulations (continuation of election) there shall be substituted the following paragraph:—

“(2) An election made in accordance with regulation 2 shall not be treated as an election made—

(a) in the case of a woman whose marriage or remarriage, as the case may be, is terminated otherwise than by the death of her husband and who is not at the end of the year in which her marriage or remarriage is so terminated again a married woman—in respect of any year beginning after that year;

(b) in the case of a woman whose marriage or remarriage, as the case may be, is terminated by the death of her husband—in respect of any year beginning after the year in which the marriage or remarriage is so terminated;

(c) in the case of a widow who in the course of any year ceases to be entitled to any such benefit as is mentioned in regulation 2(5) or, by reason of her cohabiting with a man as his wife, ceases to be entitled to payment of such benefit and, in either case, at the end of that year is not so entitled, except in a case in which she is no longer so entitled only because of her remarriage—in respect of any year beginning after that year.”

Amendment of regulation 6 of the principal regulations

5. In regulation 6 of the principal regulations (scope of elections) at the end of the regulation there shall be added the words “and likewise a revocation made for either one of those purposes shall be deemed to be made also for the other.”

Amendment of regulation 7 of the principal regulations

6. In regulation 7 of the principal regulations (Class 3 contributions) for all

the words after the words “an election” there shall be substituted the words “in accordance with regulation 2 in respect of any year shall, while that election has effect in respect of that year, be entitled to pay any Class 3 contributions”.

Amendment of regulation 9 of the principal regulations

7. In regulation 9 of the principal regulations (certificates of election) for the words “an employer” in paragraphs (3), (7)(a) and (8), the words “her employer” in paragraph (4) and the words “each employer” in paragraph (5), there shall respectively be substituted the words “a secondary contributor”, “the secondary contributor” and “each secondary contributor”.

Amendment of regulation 10 of the principal regulations

8. In regulation 10 of the principal regulations (notice of marriage and giving of information by married women and widows) for paragraph (2) there shall be substituted the following paragraph:—

“(2) Where under the foregoing provisions of these regulations an election has been made by a woman to pay primary Class 1 contributions at the reduced rate and that election ceases to have effect, it shall be the duty of that woman to inform the secondary contributor accordingly.”

Insertion of regulations 10A, 10B, 10C, 10D, 10E and 10F in the principal regulations

9. After regulation 10 of the principal regulations there shall be inserted the following regulations:—

“Deemed election of married women and widows excepted from contribution liability under former principal Act

10A. Where as respects a woman immediately before the appointed day there is, or is deemed to be, in issue a current certificate of exception under regulation 9(3) or (4A) of the National Insurance (Contributions) Regulations 1969(a), as amended (b) (exception for certain widows) or there is current an election under regulation 2(1)(a) of the National Insurance (Married Women) Regulations 1973(c) (married women who are employed persons), or a woman then is, or but for any exception under or by virtue of another provision of the former principal Act (d) would be, excepted under regulation 3(1)(a) of those regulations (married women who are self-employed persons) from liability for contributions as a self-employed person under that Act and in any of those cases on that day the woman is a widow or, as the case may be, a married woman, that woman shall be deemed to have made an election under regulation 2.

Newly widowed women on the appointed day

10B. Where on the appointed day a woman is a widow, and either—

- (a) her husband had died on or after 7th October 1974; or
- (b) she had within 182 days (including Sundays) of her husband’s death claimed or applied for a benefit specified in regulation 2(5) and the claim or application has not been determined by that day;

the provisions of regulation 5 shall apply to that woman as if her husband had died on the appointed day.

(a) S.I. 1969/1696 (1969 III, p. 5323).

(b) The relevant amending instrument is S.I. 1970/1580 (1970 III, p. 5325).

(c) S.I. 1973/693 (1973 I, p. 2301).

(d) See, e.g. National Insurance Act 1965 (1965 c. 51) section 10(1) and S.I. 1969/1696 regulations 3, 6, 7(1), 11 and 12.

Special transitional provisions regarding deemed elections

10C.—(1) Where by virtue of regulation 10A a woman is deemed to have made an election under regulation 2, the following provisions of this regulation shall apply.

(2) Before the woman first becomes liable to pay a primary Class 1 contribution she may revoke any such election in accordance with the provisions of regulation 4 by notice in writing given to the Secretary of State and, if she so specifies in the said notice, the revocation shall have effect from and including the beginning of the year in which the notice is given.

(3) If no notice of revocation is given—

(a) in the first year in which the woman becomes liable to pay primary Class 1 contributions—

(i) she shall be entitled in respect of that year to choose whether to pay such contributions at the standard rate or at the reduced rate; and

(ii) she shall notify any secondary contributor at which rate to pay such contributions on her behalf; and

(iii) such secondary contributor shall pay those contributions at that rate until the woman notifies him to the contrary in accordance with the provisions of regulation 10(2);

(b) if in any year any primary Class 1 contribution at the standard rate is paid by or on behalf of the woman, unless it is shown to the satisfaction of the Secretary of State that the woman did not intend thereby to revoke the election—

(i) she shall be deemed to have revoked the election; and

(ii) the revocation shall, subject to the provisions of the next succeeding sub-paragraph, have effect from and including the beginning of the year next following the year in which the payment is made or, if the woman so wishes, from and including the beginning of the last-mentioned year;

(c) notwithstanding the provisions of the last foregoing sub-paragraph, if in the said first year a Class 1 contribution at the standard rate is paid by or on behalf of the woman, she will nevertheless be deemed to have made an election under regulation 2 in respect of the next following year if, having regard to the contributions paid by her or on her behalf in that year and to all other relevant circumstances, the Secretary of State is satisfied that her failure to make such an election in accordance with regulation 2 was due solely to an erroneous belief on her part that primary Class 1 contributions in that year were payable by her or on her behalf only at the reduced rate.

(4) Where under the provisions of paragraph (2) or (3)(b)(ii) of this regulation a revocation has effect from the beginning of the year in which the notice of revocation is given or, as the case may be, the payment is made, the woman shall be liable to the exclusion of any secondary contributor to pay the Secretary of State the sum (if any) equal to the difference between the following amounts, that is to say—

(a) the amount of the contributions paid by or on behalf of the woman in respect of the earnings paid to her or for her benefit in that year and

(b) the amount of the contributions which would have been payable if they had been paid at the standard rate in respect of those earnings.

Application of regulations 1 to 10 to elections and revocation of elections deemed made under regulations 10A and 10C

10D.—(1) Subject to the provisions of paragraph (2) below, regulations 1 to 10, save only in so far as inconsistent with regulations 10A and 10C, shall apply to any election deemed to have been made under regulation 2 by virtue of regulations 10A and 10C(3)(c) as if it had been made under, and in accordance with, the provisions of the said regulation 2 except that the Secretary of State shall not be obliged to issue a certificate of election, and as if any revocation which is deemed to be made under the last foregoing regulation were made under, and in accordance with, the provisions of regulation 4.

(2) Where a woman who under regulation 10A is not liable for a primary Class 1 contribution otherwise than at the reduced rate and to whom no certificate of election under the Act has been issued becomes employed in employed earner's employment, she shall make application in writing to the Secretary of State for such a certificate and, notwithstanding the provisions of paragraph (1) above, the Secretary of State shall issue such a certificate to her.

Special transitional provisions relating to married women and certain widows to whom regulations 10A and 10B do not apply

10E.—(1) Any woman to whom this regulation applies may, subject to the provisions of regulation 6, and notwithstanding the provisions of regulation 2(4)—

- (a) during the first year in which she becomes liable to pay a primary Class 1 contribution under the Act, make an election under regulation 2 in respect of that same year;
- (b) if she has never become liable to pay such contribution nor has paid any Class 2 or Class 3 contribution under the Act and makes an election under regulation 2 within the period of 3 years from and including the appointed day, make that election in respect of each year in the period of 3 years until and including the year in which she makes the election.

(2) The woman to whom this regulation applies is any woman who immediately before the appointed day is a married woman to whom regulation 10A does not apply or a widow to whom regulation 9(3) or (4A) of the National Insurance (Contributions) Regulations 1969(a), as amended (b) (exception for certain widows) applies but to whom no certificate of exception is or is deemed to be issued, or to whom paragraph 9(2) of those regulations applies and who in each case at the time of the election has not ceased to be married or, as the case may be, a widow.

Savings

10F. For the purpose of facilitating the introduction of the basic scheme relating to contributions, the following provisions of the National Insurance (Married Women) Regulations 1973(c) shall be saved, that is to say, regulations 2(2) (married women who are employed persons), 3(2) (married women

(a) S.I. 1969/1696 (1969 III, p. 5323).

(b) The relevant amending instrument is S.I. 1970/1580 (1970 III, p. 5325).

(c) S.I. 1973/693 (1973 I, p. 2301).

who are self-employed persons), 4(2) (married women who are non-employed persons) and 16 (notice of marriage).”

Barbara Castle,
Secretary of State for Social Services.

3rd December 1974.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations being made before the day appointed for the coming into force of section 2 of the Social Security Act 1973, by virtue of section 48(2) of, and paragraph 16 of Schedule 12 to, that Act are not required to be referred to the National Insurance Advisory Committee and no such reference has been made.

The Regulations amend the Social Security (Contributions) (Married Women and Widows Special Provisions) Regulations 1973. The principal amendment relates to the non-continuation of elections, made by married women or widows not to be liable for Class 2 contributions or to be liable to pay primary Class 1 contributions at a reduced rate, following termination of marriage (regulation 4). The amendments made by regulation 9 are of a transitional or formal character.

The Regulations also make other minor amendments.

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