
STATUTORY INSTRUMENTS

1975 No. 561

SOCIAL SECURITY

**The Social Security and Family Allowances
(Polygamous Marriages) Regulations 1975**

<i>Made</i>	- - - -	<i>3rd April 1975</i>
<i>Laid before Parliament</i>		<i>4th April 1975</i>
<i>Coming into Operation</i>		<i>6th April 1975</i>

The Secretary of State for Social Services, in exercise of powers conferred upon her under section 162(b) of the Social Security Act 1975 and section 12(2) of the Family Allowances Act 1965 as substituted by paragraph 16 of Schedule 2 to the Social Security (Consequential Provisions) Act 1975, hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security and Family Allowances (Polygamous Marriages) Regulations 1975 and shall come into operation on 6th April 1975.

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

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

“the Family Allowances Act” means the Family Allowances Act 1965;

“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 “in fact monogamous” is to be construed in accordance with regulation 2(2) below;

and other expressions shall, as appropriate, have the same meanings as in the Social Security Act and the Family Allowances Act.

(3) Any reference in these regulations to any provision made by or contained in any enactment or instrument shall, except in so far as the context otherwise requires, be construed as a reference to that provision as amended or extended by any enactment or instrument and as including a reference to any provision which it re-enacts or replaces, or which may re-enact or replace it, with or without modification.

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

General rule as to the consequences of a polygamous marriage for the purpose of the Social Security Act and the Family Allowances Act

2.—(1) Subject to the following provisions of these regulations, a polygamous marriage shall, for the purpose of the Social Security 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.

(2) In this and the next following regulation—

- (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 retirement pension for women

3.—(1) Subject to the provisions of paragraphs (2) and (3) of this regulation, 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 [^{F1}and in respect of which neither of them has an entitlement to a Category A or Category B retirement pension which is deferred], 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 of any category under the Social Security Act 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) of this regulation 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 29(10) of the Social Security Act (increase of Category B

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retirement pension in certain circumstances) only with effect from the date referred to in sub-paragraph (a)(ii) or, as the case may be, sub-paragraph (b)(ii) of this paragraph.

(4) In a case where section 28(3) of and Schedule 7 to the Social Security Act (retirement pension for widows who were widowed before attaining pensionable age) or regulation 4 of the Social Security (Benefit) (Married Women and Widows Special Provisions) Regulations 1974 (retirement pension for women whose marriages have been dissolved) applies to a woman and the relevant marriage for the purposes of that section and Schedule or that regulation was a polygamous marriage and throughout the day on which either—

- (a) her marriage was dissolved, or
- (b) her spouse died,

that marriage was in fact monogamous, that polygamous marriage shall, for those purposes, 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 from which she becomes entitled to a Category D retirement pension under section 39(1)(c) of the Social Security Act (retirement pensions 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 her Category D retirement pension, be treated as having the same consequences as a monogamous marriage.

<p>F1 Words in reg. 3(1)(a) substituted (1.10.1989) by The Social Security (Abolition of Earnings Rule) (Consequential) Regulations 1989 (S.I. 1989/1642), regs. 1, 9</p>
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Signed by authority of the Secretary of State for Social Services,

Brian O'Malley
Minister of State
Department of Health and Social Security

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EXPLANATORY NOTE

These Regulations contain provisions relating to the treatment, for the purposes of the Social Security Act 1975 and the Family Allowances Act 1965, of a marriage celebrated under a law which permits polygamy. As these Regulations are, by virtue of paragraphs 14 of Schedule 15 and 5 of Schedule 16 to the Act of 1975, exempt from prior submission to the National Insurance Advisory Committee and the Industrial Injuries Advisory Council, no reference of them has been made to that Committee or Council.

Regulation 1 relates to the citation, commencement and interpretation of these Regulations; regulation 2 lays down the general rule that a polygamous marriage shall have the same consequences as a monogamous marriage for any period during which it is in fact monogamous; regulation 3 contains special rules for retirement pension for women whose marriages are polygamous.

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