

STATUTORY INSTRUMENTS

1952 No. 19

*Law not brought into force*NATIONAL INSURANCE*Repealed by the Social Insurance (Guernsey) Law, 1964*THE NATIONAL INSURANCE (GUERNSEY) (PENSIONS, EXISTING BENEFICIARIES AND OTHER PERSONS) (TRANSITIONAL) REGULATIONS, 1952Made 23rd January, 1952.

Laid before the States

Coming into Operation 23rd January, 1952.

The States Insurance Authority, in exercise of the powers conferred by section 57 of the National Insurance (Guernsey) Law, 1951, and of all other powers enabling it in that behalf, hereby makes the following regulations:-

PART IGeneral

Citation, commencement and interpretation.

1. - (1) These regulations may be cited as the National Insurance (Guernsey) (Pensions, Existing Beneficiaries and Other Persons) (Transitional) Regulations, 1952, and shall come into operation on the 23rd January, 1952.

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

"the Law" means the National Insurance (Guernsey) Law, 1951;

"the Contributory Pensions Laws" means the Contributory Pensions Laws, 1935 to 1949;

"the Family Allowances Law" means the Family Allowances (Guernsey) Law, 1950;

"the Authority" has the same meaning as in the Law;

"existing widow pensioner" means an existing beneficiary, being a woman, who immediately before the appointed day (a) was, or but for any disqualification would have been, entitled to a widow's pension under the Contributory Pensions Laws;

(a) 3rd March, 1952. See G.S.I. 1951 No. 155.

"existing old age pensioner" means an existing beneficiary who immediately before the appointed day was entitled to an old age pension under or by virtue of the Contributory Pensions Laws;

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

(3) References in these regulations to any enactment or regulations shall include references to such enactment or regulations as amended by any subsequent enactment, order or regulations.

(4) The Interpretation (Guernsey) Law, 1948, applies to the interpretation of these regulations as it applies to the interpretation of an enactment.

Modification of the Law in its application to existing beneficiaries.

2. In relation to existing beneficiaries who immediately before the appointed day are, or but for any disqualification or forfeiture would be, entitled to a pension or allowance by under or/virtue of the Contributory Pensions Laws, the provisions of the Law and the orders and regulations for the time being in force thereunder shall have full force and effect subject to the modifications contained in these regulations.

Descriptions of additional benefits to be included in benefit under the Law.

3. - (1) Subject to the provisions of these regulations, there shall be included in the descriptions of benefit under the Law benefit of the following descriptions:-

- (a) widow's basic pension;
- (b) child's allowance;
- (c) orphan's pension;
- (d) contributory old age pension;
- (e) supplementary child's allowance.

(2) Subject as aforesaid, for the purposes of the provisions of the Law and the orders and regulations for the time being in force thereunder, a widow's basic pension, a supplementary child's allowance or a child's allowance shall be treated as widow's benefit, an orphan's pension shall be treated as guardian's allowance, a contributory old age pension shall be treated as retirement pension:

Provided that -

- (a) a widow's basic pension shall not be so treated for the purposes of the provisions of subsection (3) of section 17 of the Law (which subsection relates to widows' pensions for widows who would otherwise cease to be entitled to widow's benefit), paragraph (b) of subsection (1) and subsection (6) of section 20 thereof (which paragraph and subsection respectively relate to retirement pensions for widows in receipt of widow's benefit immediately before attaining pensionable age and for widows not so in receipt of widow's benefit), and subsection (3) of section 28 thereof (which subsection also relates to retirement pensions for widows in receipt of widow's benefit);
- (b) a contributory old age pension shall not be so treated for the purposes of the provisions of subsection (3) of section 20 of the Law (which subsection relates to the reduction of retirement pensions in respect of earnings);
- (c) an orphan's pension shall not be so treated for the purpose of subsection (2) of section 18 of the Law (which subsection relates to the person to receive a guardian's allowance) in any case unless the Authority so determines.

PART II

Provisions relating to existing beneficiaries

Certain existing widow pensioners under the Contributory Pensions Laws to be entitled to

4. - (1) Subject to the provisions of the Law and of these regulations, an existing widow pensioner shall as from the appointed day be entitled to a widowed mother's allowance for any period for which she has a family which includes a child in respect of whom immediately before that day an additional allowance under the Contributory Pensions Laws

widowed mother's allowances, widows' pensions, etc. was payable by virtue of her husband's insurance, or a child who, or children one of whom, either was at the husband's death a child of his family or is a son or daughter of theirs.

(2) Subject as aforesaid, an existing widow pensioner, who on the appointed day has not attained pensionable age and is by reason of any infirmity incapable of self-support(b), shall as from that day be entitled to a widow's pension for any period before she attains pensionable age during which she is incapable of self-support by reason of that infirmity and is not entitled to a widowed mother's allowance.

(3) For the purposes of section 17 of the Law (which section relates to widows' pensions in special cases) a widow's pension which is payable by virtue of the foregoing paragraph of this regulation shall be treated as if it were a pension payable by virtue of subsection (3) of that section, and the provisions of that section and of section 20 of the Law (which section relates to retirement pensions for women by virtue of their husbands' insurance) shall, subject to the provisions of these regulations, apply to a widow to whom a widowed mother's allowance or a widow's pension is payable by virtue of this regulation as if her husband had satisfied the relevant contribution conditions:

Provided that -

(a) for the purpose of applying the provisions of subsections (1) to (3) of the said section 17 to any such widow, she shall be treated as if she were a widow in relation to whom the conditions of paragraph (c) of subsection (1) of section 16 of the Law (which paragraph relates to the conditions for widow's pension) were not satisfied;

(b) See s.68 (1), National Insurance (Guernsey) Law, 1951.

(b) for the purpose of applying the provisions of subsection (1) of the said section 20 to an existing widow pensioner who has attained pensionable age on the appointed day, and who ceases to be entitled to a widowed mother's allowance payable to her by virtue of this regulation, she shall be treated as if she were a widow who was immediately before attaining pensionable age entitled to widow's benefit in respect of the death of her husband.

Conversion of widow's pension under the Contributory Pensions Laws into widow's basic pension, contributory old age pension or retirement pension in certain cases.

5. - (1) Subject to the provisions of the Law and of these regulations, an existing widow pensioner who is not entitled on the appointed day to a widowed mother's allowance or to a widow's pension in accordance with the provisions of the foregoing regulation shall be entitled as from that day, -

(a) if on that day she has not attained pensionable age, to a widow's basic pension; or

(b) if on that day she has attained pensionable age, to a retirement pension.

(2) Subject as aforesaid, where an existing widow pensioner who on the appointed day or at any time thereafter is entitled in accordance with the provisions of the foregoing regulation -

(a) to a widowed mother's allowance, ceases to be so entitled and does not then become entitled to a widow's pension or a retirement pension; or

(b) to a widow's pension, ceases to be so entitled and does not then become entitled to a widowed mother's allowance or a retirement pension;

she shall be entitled, if she has not attained pensionable age, to a widow's basic pension or, if she has attained that age, to a contributory old age pension.

(3) A widow's basic pension shall be payable in respect of the period up to the date on which the widow attains pensionable age and shall thereupon be converted into a contributory old age pension at the same rate as the widow's basic pension;

Provided that no pension shall be payable to a widow by virtue of this regulation for any period during which she is entitled to a widowed mother's allowance or a widow's pension.

Conversion of old age pension under or by virtue of the Contributory Pensions Laws into retirement pension.

6. - (1) Subject to the provisions of the Law and of these regulations, an existing old age pensioner (being entitled to a pension by virtue of his or her own insurance) shall as from the appointed day be entitled to a retirement pension.

(2) Subject as aforesaid, an existing old age pensioner, being a woman entitled to an old age pension by virtue of her husband's insurance (other than a woman to whom the foregoing paragraph applies), shall as from the appointed day be entitled to a retirement pension.

(3) Section 20 of the Law shall, subject to the provisions of these regulations, apply to the wife of an existing old age pensioner (not being a woman to whom the foregoing paragraph applies), as if her husband had satisfied the relevant contribution conditions.

Application of regulations 4 and 5 to certain widows after the appointed day.

7. Where a widow was immediately before the appointed day disqualified for receiving payment of a widow's pension by reason of the provisions of paragraph (c) of section 1 of Article XXIII of the Contributory Pensions Law, 1935 (which provisions relate to disqualification on the grounds of cohabitation), no pension or allowance shall become payable to her by virtue of the provisions of regulations 4 and 5 of these regulations unless and until she ceases to cohabit with a man as his wife.

Rates of converted pensions.

8. - (1) A widow's basic pension or a contributory old age pension to which any person becomes entitled on or after the appointed day by virtue of any of the foregoing provisions of these regulations shall ^{be} at the same rate as the pension

to which that person was or, but for any disqualification, would have been entitled immediately before that day (excluding in the case of a widow's pension any additional allowances).

(2) A retirement pension to which an existing old age pensioner, or an existing widow pensioner who had attained pensionable age on the appointed day, becomes entitled by virtue of these regulations shall be at the rate of the pension to which that person would, but for the repeal of the Contributory Pensions Laws (and apart from any disqualification), have been entitled under or by virtue of those Laws.

rates of increases in respect of wives, and of retirement pensions for certain wives of existing beneficiaries.

9. Where the rate of retirement pension to which an existing old age pensioner, being a man, is entitled by virtue of these regulations is at a rate less than twenty-six shillings a week, that is to say at one of the rates set out in the first column of the Schedule to these regulations, -

- (a) any increase in respect of his wife; and
- (b) any retirement pension for his wife by virtue of his insurance if she was not an existing old age pensioner;

shall be at the appropriate rate set opposite to that rate in the second column of that Schedule.

Modification of provisions of the Law relating to reductions in rate of benefit on account of earnings.

10. In the application of the provisions of subsection (3) of section 16 or subsection (3) of section 20 of the Law to any widowed mother's allowance, widow's pension or retirement pension for a widow by virtue of her husband's insurance, to which a person is entitled by virtue of any of the foregoing provisions of these regulations, the weekly rate thereof shall not be reduced -

- (a) in the case of a widowed mother's allowance at the rate of thirty-three shillings and sixpence, to less than twenty-six shillings and three pence; or
- (b) in the case of a widow's pension or such a retirement pension at the rate of twenty-six shillings, to less than seventeen shillings and six pence.

Supplomentary 11. Subject to the provisions of the Law and of these child's allowance. regulations, where a widow was immediately before the appointed day entitled to a widow's pension which included an additional allowance in respect of children at a weekly rate in excess of thirty-three shillings and six pence, such widow shall be entitled as from that day, in addition to any widowed mother's allowance to which she becomes entitled by virtue of these regulations, to a supplementary child's allowance at one of the following rates appropriate to the case, that is to say -

- (a) five shillings and three pence in the case of a widow while she has a family which includes three children; or
- (b) eleven shillings and six pence in the case of a widow while she has a family which includes four or more children.

Orphan's pensions.

12. - (1) Where at any time on or after the appointed day any person has in his family a child in respect of whom an orphan's pension under the Contributory Pensions Laws was payable immediately before that day, that person shall be entitled to an orphan's pension under the Law in respect of that child at the rate at which the orphan's pension under the said Laws was or would be payable.

(2) An orphan's pension under the Law shall be payable for any period during which the child would be treated as a child for the purposes of the Family Allowances Law.

Disquali-
fication,
over-
lapping
benefits,
etc.

13. Nothing in this Part of these regulations shall be construed as making -

- (a) a pension or allowance payable to any person for any period when he is by reason of any provision of the Law or of the regulations for the time being in force thereunder disqualified for the receipt thereof, or as affecting the operation of the provisions of the regulations for the

- time being in force under subsection (1) of section 30 of the Law (which subsection empowers the Authority to make regulations providing for adjusting or suspending benefit, or treating benefit as reduced, in the case of overlapping benefits, etc.);
- (b) a pension payable to a widow for any period during which it would not be payable by reason of the provisions of the proviso to subsection (2) of section 16 of the Law (which relates to the cessation of widow's benefit for any period after her death or remarriage or during which she is cohabiting with a man as his wife), or of the proviso to subsection (2) of section 20 thereof (which relates to the cessation on the remarriage of a widow of a retirement pension payable to her by virtue of her late husband's insurance).

PART III

Miscellaneous provisions

- Claims by existing beneficiaries.
14. - (1) Where by virtue of these regulations -
- (a) an existing beneficiary becomes entitled on the appointed day to a pension or allowance which is payable at the same rate as the pension or allowance which was payable to that person under or by virtue of the Contributory Pensions Laws immediately before that day; or

(b) a person in receipt of a pension or allowance by virtue of these regulations becomes entitled at any time after the appointed day to a pension or allowance of a different description; any such pension or allowance shall begin to accrue, without a claim having been made therefor, as from the appropriate day determined for the payment of that pension or allowance in accordance with regulations for the time being in force under subsection (1) of section 41 of the Law, (which subsection relates to the administration of benefit) next following the appointed day or, as the case may be, the day on which he becomes so entitled:

Provided that this paragraph shall not apply in the case of a widow who becomes entitled on or after the appointed day to a widowed mother's allowance, a child's allowance or a supplementary child's allowance.

(2) Claims by existing beneficiaries shall be made in such manner and subject to the production of such particulars, evidence and information as the Authority may require.

Over-
payments.

15. If it is found on, or at any time after, the appointed day that any person, having been in receipt of a pension under or by virtue of the Contributory Pensions Laws during any period during which he was not entitled to payment thereof, or of such a pension at a higher rate than that appropriate to the case, would, but for the Law, have been liable in accordance with section 2 of Article XXXVII of the Contributory Pensions Law, 1935 (which section relates to overpayments) to repay to the Authority any sums paid to him in respect of that pension during the period aforesaid, any such sums shall be recoverable by deduction from benefit under the Law or otherwise from that person in like manner as if they were sums paid to that person on account of benefit under the Law which it is subsequently decided was not payable, and any amount so recovered shall be paid to the Guernsey Insurance Fund.

Special provisions relating to persons abroad, etc.

16. - (1) An existing widow pensioner who is resident outside Guernsey immediately before the appointed day shall not become entitled to a widowed mother's allowance or a widow's pension by virtue of these regulations unless and until she becomes resident in Guernsey.

(2) Where immediately before the appointed day an additional allowance under the Contributory Pensions Laws was payable to a widow in respect of a child, and no widowed mother's allowance becomes payable by virtue of paragraph (1) of this regulation, such widow shall be entitled to a child's allowance in respect of that child at the rate at which the additional allowance would, but for the Law, have been payable under paragraph (b) (iii) of the Third Schedule to the Benefits and Pensions (Contributory and Non-Contributory) Amendment Law, 1947.

(3) Subject to the following provision of this regulation, a child's allowance shall be payable for any period during which the child would be treated as a child for the purposes of the Family Allowances Law if that child were in Guernsey.

(4) A child's allowance in respect of any child shall not be payable for any period after a widowed mother's allowance becomes payable by reason of the child being included in the family of the widow or after the re-marriage or death of the widow.

(5) Notwithstanding the provisions of regulation 7 of the National Insurance (Guernsey) (Residence and Persons Abroad) Regulations, 1952 (c), any widow's benefit or retirement pension, to which a person is entitled by virtue of these regulations, shall be payable to that person if she is:-

- (a) an existing widow pensioner; or
- (b) an existing old age pensioner; or
- (c) the wife of an existing old age pensioner;

who immediately before the appointed day is resident outside Guernsey.

Special provisions as to children to be included in a family.

17. For the purposes of these regulations, where by order of any court any child has before the appointed day been removed from the custody of a widow, that child shall not, if and so long as the order is in force, be treated as being in that widow's family.

Special provisions relating to existing widow pensioners.

18. Regulation 3 of the National Insurance (Guernsey) (Widow's Benefit and Retirement Pensions) Regulations, 1952 (d) (which relates to the condition as to duration of marriage in relation to widows' pensions in the case of widows who have been married more than once) shall apply to a widow who was an existing widow pensioner as if the references therein to any periods during which she was entitled to widow's benefit included references to any periods during which she was entitled to a widow's pension under the Contributory Pensions Laws in so far as that pension included an additional allowance in respect of a child or children.

Dated this 23rd day of January, 1952.

(Signed) Wilfred J. Corbet.

President,
States Insurance Authority
on behalf of that Authority.

SCHEDULE

Regulation 9.

Table showing:-

- (1) in the first column, the rates of retirement pension payable to existing old age pensioners; and
- (2) in the second column, the corresponding rates of an increase of retirement pension in respect of a wife of such a pensioner, or of a retirement pension payable to a wife of such a pensioner by virtue of her husband's insurance, if she had not attained pensionable age at the appointed day.

<u>Rate of retirement pension.</u>		<u>Corresponding rate of increase or retirement pension for a wife.</u>	
(1)		(2)	
s.	d.	s.	d.
23	0	14	0
20	0	12	0
18	0	11	0
15	0	9	6
13	0	8	0
12	6	7	6
11	3	6	6
10	0	6	0
8	9	5	0
7	6	4	0

EXPLANATORY NOTE

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

These Regulations modify the National Insurance (Guernsey) Law, 1951, in its application to persons who immediately before the appointed day (3rd March, 1952) are entitled to pensions under the Contributory Pensions Laws, 1935-1949.

Part I provides for the addition to the descriptions of benefit under that Law of pensions and allowances for which it provides no comparable benefit.

Part II converts the pensions of persons entitled under those Laws into corresponding pensions under the National Insurance (Guernsey) Law, 1951, except in the cases of widows with children, who are to receive widowed mother's allowances and, where the widow has three or more children, supplementary child's allowances; and widows under the age of sixty being incapable of self-support by reason of infirmity on the appointed day, who are to receive widows' pensions at an increased rate.

Part III deals with ancillary matters relating to claims and overpayments, and contains special provisions relating to persons resident abroad, etc.