STATUTORY RULES OF NORTHERN IRELAND

2017 No. 218

SOCIAL SECURITY

The Social Security (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2017

Made - - - - 24th October 2017
Coming into operation in accordance with regulation 1(1) and (2)

The Department for Communities makes the following Regulations in exercise of the powers conferred by sections 22(5ZA), 48B(5)(a), 64(1), 70(4), 71(6), 122(1)(a) and (d), 132(3) and (4), 132A(3) and 171(1) and (3) to (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), sections 1(1), 5(1A) and 165(1), (4) and (5) of the Social Security Administration (Northern Ireland) Act 1992(**2**), Article 14(1) and (4) of the Jobseekers (Northern Ireland) Order 1995(**3**), Articles 10(1)(a) and 74(1) and (5) of the Social Security (Northern Ireland) Order 1998(**4**), and now vested in it(**5**), section 15(3) and (6) of the State Pension Credit Act (Northern Ireland) 2002(**6**), section 17(1) and (3) of the Welfare Reform Act (Northern Ireland) 2007(**7**) and Articles 82(3) and 97 of the Welfare Reform (Northern Ireland) Order 2015(**8**).

Regulations 11 and 12 are made with the consent of the Department of Finance(**9**).

(**1**) 1992 c. 7; section 22(5ZA) was inserted by paragraph 6(3) of Schedule 12 to the Pensions Act (Northern Ireland) 2015 (c. 5 (N.I.)), sections 48A, 48B and 48C were substituted for section 49 and 50 by paragraph 3(1) of Schedule 2 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)), section 64(1) was amended by paragraph 38 of Schedule 1 to the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.)) and by paragraph 4(2) of Schedule 9 to the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I. 1)), section 70 was amended by Article 2(2)(a)(iii) of the Deregulation (Carer's Allowance) Order (Northern Ireland) 2002 (S.R. 2002 No. 321), section 132A was inserted by paragraph 3 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)) and section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)

(**2**) 1992 c. 8; section 5(1A) was inserted by Article 104(3) of the Welfare Reform (Northern Ireland) Order 2015 and section 165(1) was amended by paragraph 49(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) and section 18(5) of the National Insurance Contributions Act 2014 (c. 7)

(**3**) S.I. 1995/2705 (N.I. 15)

(**4**) S.I. 1998/1506 (N.I. 10); Article 10(1) was amended by Part 7 of Schedule 12 to the Welfare Reform (Northern Ireland) Order 2015 and Article 74(1) was amended by paragraph 17(2) of Schedule 4 to the Tax Credits Act 2002

(**5**) *See* Article 8(b) of S.R. 1999 No. 481 and section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.))

(**6**) 2002 c. 14 (N.I.)

(**7**) 2007 c. 2 (N.I.)

(**8**) S.I. 2015/2006 (N.I. 1)

(**9**) *See* section 171(6A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as inserted by Article 3(3) of the Social Security (Amendment) (Northern Ireland) Order 1993 (S.I. 1993/1579 (N.I. 8)); *see also* Article 6(b) of S.R. 1999 No. 481 and section 1(4) of the Departments Act (Northern Ireland) 2016

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2017 and, subject to paragraph (2), shall come into operation on 16th November 2017.

(2) Regulations 4 and 6(2) shall come into operation on 6th December 2018.

(3) The Interpretation Act (Northern Ireland) 1954(**10**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Amendment of the Social Security (Invalid Care Allowance) Regulations

2.—(1) The Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976(**11**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 9(1)(**12**) (conditions relating to residence and presence in Northern Ireland) for "9A and 9B" substitute "9A, 9B and 9C".

(3) After regulation 9B(**13**) (persons residing in an EEA state other than the United Kingdom or in Switzerland to whom a relevant EU Regulation applies) insert—

"**Refugees**

9C.—(1) Regulation 9(1)(c) shall not apply where the person has—

(a) been granted refugee status or humanitarian protection under the immigration rules; or

(b) leave to enter or remain in the United Kingdom as the dependant of a person granted refugee status or humanitarian protection under the immigration rules.

(2) For the purposes of this regulation "immigration rules" means the rules laid before Parliament under section 3(2) of the Immigration Act 1971.".

Amendment of the Social Security (Overlapping Benefits) Regulations

3. In paragraph 10 of Schedule 1 to the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979(**14**) (personal benefits which are required to be adjusted by reference to benefits not under chapters I and II of Part II of the Act) at the beginning insert "Personal independence payment,".

Amendment of the Social Security (Widow's Benefit and Retirement Pensions) Regulations

4.—(1) The Social Security (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979(**15**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation) after the definition of "unemployability supplement" insert —

""widowed mother's allowance" means an allowance referred to in section 37 of the Contributions and Benefits Act;".

(**10**) 1954 c. 33 (N.I.)
(**11**) S.R. 1976 No. 99; relevant amending Regulations are S.R. 1996 No. 521, S.R. 2000 No. 71, S.R. 2002 No. 323 and S.R. 2016 No. 229
(**12**) Regulation 9(1) was amended by regulation 2(8) of S.R. 1996 No. 521, regulation 3 of S.R. 2000 No. 71, paragraph 1(b) of the Schedule to S.R. 2002 No. 323 and regulation 2(2)(a) of S.R. 2016 No. 229
(**13**) Regulation 9B was inserted by regulation 2(3) of S.R. 2016 No. 229
(**14**) S.R. 1979 No. 242; paragraph 10 of Schedule 1 was inserted by Article 13(5)(c) of S.I. 2013/3021
(**15**) S.R. 1979 No. 243, to which there are amendments not relevant to these Regulations

(3) In regulation 7 (Category B retirement pension for certain widows by virtue of husband's contributions)—

(a) in paragraph (e) for "the age of 65" substitute "pensionable age"; and

(b) after paragraph (f) add—

"(g) her having ceased to be entitled to a widowed mother's allowance at a time when she had reached the age of 65 but was under pensionable age,".

Amendment of the Income Support (General) Regulations

5. In regulation 42(2B) of the Income Support (General) Regulations (Northern Ireland) 1987(**16**) (notional income) for "maximum amount of income which may be withdrawn from the fund" substitute "rate of the annuity which may have been purchased with the fund".

Amendment of the Social Security (Claims and Payments) Regulations

6.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**17**) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 3(1)(d)(**18**) (claims not required for entitlement to benefit in certain cases)—

(a) in head (i)—

(i) for "over the age of 65 and" substitute "who has reached pensionable age and is", and

(ii) omit "or a widowed parent's allowance"; and

(b) omit head (ii) and the "or" immediately before it.

(3) In regulation 7(6)(b)(**19**) (evidence and information)—

(a) in head (i) for "maximum amount of income which may be withdrawn from the scheme" substitute "rate of the annuity which may have been purchased with the funds held under the scheme"; and

(b) in head (ii) for "maximum amount of income which might be withdrawn from the fund" substitute "rate of the annuity which might have been purchased with the fund".

(4) In regulation 32(5)(b)(**20**) (information to be given and changes to be notified)—

(a) in head (i) for "maximum amount of income which may be withdrawn from the scheme" substitute "rate of the annuity which may have been purchased with the funds held under the scheme"; and

(b) in head (ii) for "maximum amount of income which might be withdrawn from the fund" substitute "rate of the annuity which might have been purchased with the fund".

Amendment of the Social Security (Attendance Allowance) Regulations

7.—(1) The Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992(**21**) are amended in accordance with paragraphs (2) and (3).

(**16**) S.R. 1987 No. 459; regulation 42(2B) was inserted by regulation 2(4)(b) of S.R. 1995 No. 367 and amended by Article 7(2) of S.R. 1999 No. 472 (C. 36) and regulation 3(6)(d) of S.R. 2007 No. 306

(**17**) S.R. 1987 No. 465; relevant amending Regulations are S.R. 1995 No. 367, S.R. 2001 No. 108 and S.R. 2015 Nos. 185 and 411

(**18**) Regulation 3(1) was renumbered by regulation 4 of S.R. 2015 No. 185 and sub-paragraph (d) was amended by regulation 3(b) of S.R. 2001 No. 108 and regulation 9(3)(b) of S.R. 2015 No. 411

(**19**) Regulation 7(6) was added by regulation 5(3) of S.R. 1995 No. 367

(**20**) Regulation 32(5) was added by regulation 5(4) of S.R. 1995 No. 367

(**21**) S.R. 1992 No. 20; relevant amending Regulations are S.R. 1997 No. 69, S.R. 2000 No. 71, S.R. 2006 No. 359 and S.R. 2016 No. 229

(2) In regulation 2(1)(**22**) (conditions as to residence and presence in Northern Ireland) for "2A and 2B" substitute "2A, 2B and 2C".

(3) After regulation 2B(**23**) (persons residing in an EEA state other than the United Kingdom or in Switzerland to whom a relevant EU regulation applies) insert—

"**Refugees**

2C.—(1) Regulation 2(1)(a)(iii) shall not apply where the person has—

(a) been granted refugee status or humanitarian protection under the immigration rules; or

(b) leave to enter or remain in the United Kingdom as the dependant of a person granted refugee status or humanitarian protection under the immigration rules.

(2) For the purposes of this regulation "immigration rules" means the rules laid before Parliament under section 3(2) of the Immigration Act 1971.".

Amendment of the Social Security (Disability Living Allowance) Regulations

8.—(1) The Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992(**24**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(1)(**25**) (conditions as to residence and presence in Northern Ireland) for "2A and 2B" substitute "2A, 2B and 2C".

(3) After Regulation 2B(**26**) (persons residing in an EEA state other than the United Kingdom or in Switzerland to whom a relevant EU Regulation applies) insert—

"**Refugees**

2C.—(1) Regulation 2(1)(a)(iii) shall not apply where the person has—

(a) been granted refugee status or humanitarian protection under the immigration rules; or

(b) leave to enter or remain in the United Kingdom as the dependant of a person granted refugee status or humanitarian protection under the immigration rules.

(2) For the purposes of this regulation "immigration rules" means the rules laid before Parliament under section 3(2) of the Immigration Act 1971.".

Amendment of the Jobseeker's Allowance Regulations

9. In regulation 105(4) of the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**27**) (notional income) for "maximum amount of income which may be withdrawn from the fund" substitute "rate of the annuity which may have been purchased with the fund".

(**22**) Regulation 2(1) was amended by regulation 2 of S.R. 1997 No. 69, regulation 8(a) of S.R. 2000 No. 71, regulation 7 of S.R. 2006 No. 359 and regulation 3(2)(a) of S.R. 2016 No. 229
(**23**) Regulation 2B was inserted by regulation 3(3) of S.R. 2016 No. 229
(**24**) S.R. 1992 No. 32; relevant amending Regulations are S.R. 1993 No. 340, S.R. 1997 No. 69, S.R. 2000 No. 71, S.R. 2006 No. 359 and S.R. 2016 No. 229
(**25**) Regulation 2(1) was amended by regulation 2(3)(a) of S.R. 1993 No. 340, regulation 3(2) of S.R. 1997 No. 69, regulation 9(a) of S.R. 2000 No. 71, regulation 8 of S.R. 2006 No. 359 and regulation 4(3)(a) of S.R. 2016 No. 229
(**26**) Regulation 2B was inserted by regulation 4(4) of S.R. 2016 No. 229
(**27**) S.R. 1996 No. 198, regulation 105(4) was amended by Article 9(5)(h) of S.R. 1999 No. 428 (C. 32) and regulation 4(4)(b) of S.R. 2007 No. 306

Amendment of the State Pension Credit Regulations

10.—(1) The State Pension Credit Regulations (Northern Ireland) 2003(**28**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 15 (income for the purposes of the Act)—

(a) in paragraph (3)—

(i) after "prescribed under paragraph (1)" insert ", or retirement pension income to which section 16(1)(za) to (e) applies,", and

(ii) after "taken into account under paragraph (1)" insert ", or section 16(1)(za) to (e),"; and

(b) in paragraph (4)(**29**) after sub-paragraph (d) add—

"(e) section 14 of the Pensions Act (Northern Ireland) 2015 (pension sharing: reduction in the sharer's section 4 pension);

(f) section 45B (reduction of additional pension in Category A retirement pension: pension sharing) or section 55B (reduction of shared additional pension: pension sharing) of the Contributions and Benefits Act.".

(3) In regulation 18(3) (notional income) for "maximum amount of income which may be withdrawn from the fund" substitute "rate of the annuity which may have been purchased with the fund and is to be determined by the Department, taking account of information provided by the pension fund holder in accordance with regulation 7(5) of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987".

Amendment of the Housing Benefit Regulations

11. In regulation 82(7)(b) of the Housing Benefit Regulations (Northern Ireland) 2006(**30**) (evidence and information)—

(a) in head (i) for "maximum amount of income which may be withdrawn from the scheme" substitute "rate of the annuity which may have been purchased with the funds held under the scheme"; and

(b) in head (ii) for "maximum amount of income which might be withdrawn from the fund" substitute "rate of the annuity which might have been purchased with the fund".

Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations

12.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(**31**) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 27 (meaning of "income")—

(a) in paragraph (3) after "prescribed under paragraph (1)" insert ", or retirement pension income to which section 16(1)(za) to (e) of the State Pension Credit Act applies,"; and

(b) in paragraph (4) after sub-paragraph (d)(**32**) add—

(**28**) S.R. 2003 No. 28; relevant amending Regulations are S.R. 2005 No. 580 and S.R. 2008 No. 286
(**29**) Paragraph (4) was amended by regulation 7(3) of S.R. 2005 No. 580 and sub-paragraph (d) was added by regulation 30(6) of S.R. 2008 No. 286
(**30**) S.R. 2006 No. 405; regulation 82(7)(b) was amended by regulation 5(6)(c) of S.R. 2007 No. 306
(**31**) S.R. 2006 No. 406; relevant amending instruments are S.R. 2007 No. 306 and S.R. 2008 No. 378
(**32**) Sub-paragraph (d) was added by regulation 4(5) of S.R. 2008 No. 378