STATUTORY RULES OF NORTHERN IRELAND

# 2017 No. 66

# SOCIAL SECURITY

## The Pensions (2015 Act) (Consequential, Supplementary and Incidental Amendments) Order (Northern Ireland) 2017

*Made - - - - 20th March 2017*

*Coming into operation in accordance with Article 1*

The Department for Communities(**1**) makes the following Order in exercise of the powers conferred by section 50 of the Pensions Act (Northern Ireland) 2015(**2**).

### Citation and commencement

**1.**—(1) This Order may be cited as the Pensions (2015 Act) (Consequential, Supplementary and Incidental Amendments) Order (Northern Ireland) 2017.

(2) Subject to Articles 2 and 3, this Order shall come into operation—

(a) for the purposes of Article 23 immediately after the coming into operation of Article 27 of the Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2017(**3**);

(b) for the purposes of Article 28 immediately after the coming into operation of the Universal Credit Regulations (Northern Ireland) 2016(**4**);

(c) for all other purposes on 6th April 2017.

### Later commencement for abolition of bereavement payment and bereavement allowance

**2.**—(1) Subject to Article 3, this Order shall not come into operation in accordance with Article 1(2) for a person to whom this Article applies.

(2) This Article applies to a person who, on 5th April 2017—

(a) was entitled to—

(**1**) See section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.))
(**2**) 2015 c. 5 (N.I.)
(**3**) S.I. 2017/422
(**4**) S. R. 2016 No. 216

(i) a bereavement payment under section 36 of the Contributions and Benefits Act (bereavement payment)(**5**); or

(ii) a bereavement allowance under section 39B (bereavement allowance where no dependent children)(**6**) of that Act; or

(b) would have been entitled to such a benefit if the person made a claim for it.

(3) But this Article ceases to apply to a person if—

(a) the person was entitled to a benefit in accordance with paragraph (2)(a) and the person is no longer entitled to that benefit; or

(b) the person would have been entitled to a benefit in accordance with paragraph (2)(b) and the person would no longer be entitled to that benefit if the person made a claim for it.

(4) On the date this Article ceases to apply to a person, this Order shall come into operation for that person.

**Commencement for entitlement to bereavement payment and bereavement support payment**

**3.**—(1) This Order shall not come into operation in accordance with Article 1(2) for a person to whom this Article applies.

(2) This Article applies to a person—

(a) whose spouse or civil partner died in the 12 months before 6th April 2017;

(b) who would have been entitled to a bereavement payment under section 36 of the Contributions and Benefits Act (bereavement payment) if the person had made a claim for it;

(c) who formed a new marriage or civil partnership; and

(d) whose new spouse or civil partner dies—

(i) on or after 6th April 2017, and

(ii) within 12 months of the death referred to in sub-paragraph (a).

(3) This Order shall come into operation for a person to whom this Article applies—

(a) at the end of the period of 12 months starting on the day on which the death referred to in paragraph (2)(a) occurred, for the purposes of entitlement to a bereavement payment for the death referred to in paragraph (2)(a); and

(b) on 6th April 2017, for the purposes of entitlement to bereavement support payment for the death referred to in paragraph (2)(d).

**Amendment of the Social Security (Credits) Regulations**

**4.**—(1) The Social Security (Credits) Regulations (Northern Ireland) 1975(**7**) are amended in accordance with paragraphs (2) to (9).

(2) In regulation 2(1) (interpretation)—

(**5**) 1992 c. 7; section 36 was substituted by Article 51(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and amended by paragraph 70 of Schedule 24 to the Civil Partnership Act 2004 (c. 33); see also Article 2 of S.R. 2016 No. 195

(**6**) Section 39B was inserted by Article 52(2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 and amended by paragraph 75 of Schedule 24, and Schedule 30, to the Civil Partnership Act 2004

(**7**) S.R. 1975 No. 113; relevant amending Rules are S.R. No. 1976 No. 99; S.R. 1987 No. 153; S.R. 1988 No. 326; S.R. 1995 No. 479; S.R. 1996 No. 430; S.R. 1988 No. 326; S.R. 2001 No. 108; S.R. 2002 Nos. 80 and 323; S.R. 2003 No. 195; S.R. 2005 No. 536; S.R. 2007 Nos. 306 and 395; S.R. 2008 No. 286; S.R. 2010 No. 56; S.R. 2011 Nos. 107 and 291

(a) omit the definitions of "bereavement allowance" and "bereavement benefit"(**8**); and

(b) in the definition of "reckonable year(**9**)", in paragraph (a) omit "bereavement benefits,".

(3) In regulation 3(1)(ab)(**10**) (general provisions relating to the crediting of contributions and earnings) omit head (iii) except for the "and" immediately after it.

(4) In regulation 4(1)(**11**) and in the heading to regulation 4 (starting credits for the purposes of a retirement pension, a widowed mother's allowance, a bereavement allowance and a widow's pension) omit ", a bereavement allowance".

(5) In regulation 7A(1)(**12**) (credits for carer's allowance) for "bereavement benefit" substitute "widowed parent's allowance".

(6) In regulation 7C(1)(**13**) (credits for working tax credits) omit ", a bereavement allowance".

(7) In regulation 8C(**14**) (credits on termination of bereavement benefits) after paragraph (2) insert—

"(3) In this regulation, "bereavement benefit" means—

(a) a bereavement payment referred to in section 36 of the Contributions and Benefits Act as in operation immediately before it was repealed by paragraph 8 of Schedule 16 to the Pensions Act (Northern Ireland) 2015;

(b) a bereavement allowance referred to in section 39B of the Contributions and Benefits Act as in operation immediately before it was repealed by paragraph 13 of Schedule 16 to the Pensions Act (Northern Ireland) 2015; and

(c) widowed parent's allowance.".

(8) In regulation 8E(3)(**15**) (credits for the purposes of entitlement to retirement pension following official error) after "bereavement allowance" insert "referred to in section 39B of the Contributions and Benefits Act as in operation immediately before it was repealed by paragraph 13 of Schedule 16 to the Pensions Act (Northern Ireland) 2015".

(9) In regulation 9F(**16**) (credits for persons providing care for a child under the age of 12)—

(a) in paragraph (2)(b) omit "or bereavement allowance"; and

(b) omit paragraph (3)(e).

### Amendment of the Social Security Benefit (Persons Abroad) Regulations

**5.**—(1) The Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978(**17**) are amended in accordance with paragraphs (2) to (6).

(**8**) The definitions of "bereavement allowance" and "bereavement benefit" were inserted by regulation 3(2)(a) of S.R. 2001 No. 108

(**9**) The definition of "reckonable year" was substituted by regulation 2(2)(d) of S.R. 1996 No. 430 and amended by regulation 2(2) of S.R. 2007 No. 306 and regulation 7(2)(e) of S.R. 2008 No. 286

(**10**) Sub-paragraph (ab) was substituted by regulation 5(2) of S.R. 2010 No. 56

(**11**) Regulation 4(1) was amended by regulation 2(5)(a) of S.R. 1988 No. 326 and regulation 2(2)(a) of S.R. 2011 No. 107; paragraph (1) and the heading to regulation 4 were amended by regulation 3(4) of S.R. 2001 No. 108

(**12**) Regulation 7A was inserted by regulation 19 of S.R. 1976 No. 99 and paragraph (1) was amended by regulation 6(a) of S.R. 1987 No. 153; regulation 2(5)(c) of S.R. 1988 No. 326; regulation 3(5)(b) of S.R. 2001 No. 108; regulation 2(3) of S.R. 2002 No. 80; paragraph 1 of the Schedule to S.R. 2002 No. 323; regulation 4(2) of S.R. 2005 No. 536 and regulation 3(2) of S.R. 2011 No. 291

(**13**) Regulation 7C was inserted by regulation 2 of S.R. 1995 No. 479 and paragraph (1) was amended by regulation 3(6) of S.R. 2001 No. 108 and paragraph 1(e)(i) and (ii) of Schedule 4 to S.R. 2003 No. 195

(**14**) Regulation 8C was inserted by regulation 3(7) of S.R. 2001 No. 108 and paragraph (2) was amended by regulation 4(4) of S.R. 2005 No. 536 and regulation 7(7) of S.R. 2008 No. 286

(**15**) Regulation 8E was inserted by regulation 2 of S.R. 2007 No. 395

(**16**) Regulation 9F was inserted by regulation 2(3) of S.R. 2011 No. 107

(**17**) S.R. 1978 No. 114; relevant amending Rules are S.R. 1989 No. 373; S.R. 1990 No. 123; S.R. 1994 No. 269; S.R. 2001 Nos. 108 and 287 and S.R. 2005 No. 536

(2) In regulation 1(2)(**18**) (citation, commencement and interpretation) omit the definitions of "bereavement allowance", "bereavement benefit" and "bereavement payment".

(3) In regulation 4(1) (modification of the Contributions and Benefits Act) and in the heading to regulation 4, for "bereavement benefit" substitute "widowed parent's allowance".

(4) Omit regulation 4(2B)(**19**).

(5) In regulation 5(3)(d)(**20**) (application of disqualification in respect of up-rating of benefit) for "bereavement benefit" substitute "widowed parent's allowance".

(6) In regulation 5A(**21**) (rate of guaranteed minimum pension) omit ", bereavement allowance".

**Amendment of the Social Security (Overlapping Benefits) Regulations**

**6.**—(1) The Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979(**22**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(1) (interpretation) omit the definition of "bereavement allowance".

(3) In Schedule 1 (personal benefits which are required to be adjusted by certain benefits) in paragraph 3 of column (1)(**23**) omit ", bereavement allowance".

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

**7.**—(1) The Social Security (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979(**24**) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation) in the definition of "bereavement allowance"(**25**) after "Benefits Act" insert "(as in operation immediately before it was repealed by paragraph 13 of Schedule 16 to the Pensions Act (Northern Ireland) 2015(**26**)".

(3) In regulation 6(1) (rate of benefit where the second contribution condition in paragraph 5 of Schedule 3 to the Contributions and Benefits Act is not satisfied) omit sub-paragraph (ab)(**27**).

(4) After regulation 7A(**28**) (Category B retirement pension for surviving spouses and surviving civil partners by virtue of deceased spouse's or deceased civil partner's contributions) insert—

"**Notional entitlement to Category B retirement pension for new State Pension purposes**

**7B.**—(1) This regulation applies for the purposes of determining whether, in accordance with paragraph 3(1)(d) of Schedule 3 to the Pensions Act (Northern Ireland) 2015 (survivor's pension under section 7: inherited amount: dead spouse or civil partner in old state pension scheme etc.)(**29**), a person ("the pensioner") would have been entitled to a Category B retirement pension.

(**18**) The definitions of "bereavement allowance" and "bereavement benefit" were inserted by regulation 6(2)(a) of S.R. 2001 No. 108 and the definition of "bereavement payment" was inserted by regulation 2 of S.R. 2001 No. 287
(**19**) Regulation 4(2B) was inserted by regulation 6(3)(b) of S.R. 2001 No. 108
(**20**) Regulation 5(3)(d) was amended by regulation 6(3)(a)(iii) of S.R. 1989 No. 373, regulation 6(4) of S.R. 2001 No. 108 and paragraph 8(4)(a)(ii) of Schedule 3 to S.R. 2005 No. 536
(**21**) Regulation 5A was inserted by regulation 2(3) of S.R. 1990 No.123 and amended by regulation 6(5) of S.R. 2001 No. 108
(**22**) S.R. 1979 No. 242; relevant amending Regulations are S.R. 1983 No. 36 and S.R. 2001 No. 108
(**23**) Paragraph 3 was amended by regulation 12(3)(a) of S.R. 1983 No. 36 and regulation 7(3) of S.R. 2001 No. 108
(**24**) S.R. 1979 No. 243; relevant amending Regulations are S.R. 1990 No. 452; S.R. 2001 No. 108; S.R. 2005 No. 536; S.R. 2010 No. 56 and S.R. 2001 No. 108
(**25**) The definition of "bereavement allowance" was inserted by regulation 8(2)(b) of S.R. 2001 No. 108
(**26**) 2015 (c. 5 (N.I.))
(**27**) Regulation 6(1) was substituted by regulation 2(2) of S.R. 1990 No. 452 and amended by regulation 3(7)(a) of S.R. 2010 No. 56; sub-paragraph (ab) was inserted by regulation 8(3)(a) of S.R. 2001 No. 108
(**28**) Regulation 7A was inserted by regulation 8(4) of S.R. 2001 No. 108 and amended by paragraph 10(2) of S.R. 2005 No. 536
(**29**) See S.R. 2016 No. 195 for transitional provisions relating to paragraph 3 of Schedule 3

(2) The pensioner shall be treated as being entitled to bereavement support payment if the pensioner would have been so entitled but for one or both of the circumstances specified in paragraph (3).

(3) The circumstances referred to in paragraph (2) are—

(a) the pensioner's failure to make, or the pensioner's delay in making, a claim for that bereavement support payment;

(b) the operation of section 31 of the Pensions Act (Northern Ireland) 2015 (bereavement support payment: prisoners) or any regulations made under that section.".

**Amendment of the Social Security (General Benefit) Regulations**

**8.**—(1) The Social Security (General Benefit) Regulations (Northern Ireland) 1984(**30**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (citation, commencement and interpretation) omit the definition of "bereavement benefit"(**31**).

(3) In regulation 2(2) (exceptions from disqualification for imprisonment etc.) for "bereavement benefit"(**32**) substitute "widowed parent's allowance".

**Amendment of the Income Support (General) Regulations**

**9.**—(1) The Income Support (General) Regulations (Northern Ireland) 1987(**33**) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2(1) (interpretation) in the definition of "the benefits Acts"(**34**) for "Part 1 of the Pensions Act (Northern Ireland) 2015" substitute "Parts 1 and 5 of the Pensions Act (Northern Ireland) 2015".

(3) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings) after paragraph 72A(**35**) insert—

"**72B.** Any bereavement support payment under section 29 of the Pensions Act (Northern Ireland) 2015 (bereavement support payment) except any such payment which is disregarded as capital under paragraph 7(1)(ba) or 65 of Schedule 10.".

(4) In Schedule 10 (capital to be disregarded)—

(a) in paragraph 7(1)(**36**) after sub-paragraph (b) insert—

"(ba) bereavement support payment under section 29 of the Pension Act (Northern Ireland) 2015,"; and

(b) after paragraph 64A(**37**) insert—

"**65.** Any bereavement support payment in respect of the rate set out in regulation 3(2) or (5) (rate of bereavement support payment) of the Bereavement

(**30**) S.R. 1984 No. 92; relevant amending Regulations are S.R. 2001 No. 108
(**31**) The definition of "bereavement benefit" was inserted by regulation 9(2) of S.R. 2001 No. 108
(**32**) Regulation 2(2) was amended by regulation 9(3) of S.R. 2001 No.108; there are other amendments to regulation 2 which are not relevant to this Order
(**33**) S.R. 1987 No. 459; relevant amending instruments are S.R. 1992 No. 6; S.R. 2001 No. 261; S.R. 2002 No. 295; S.R. 2004 No. 389; S.R. 2008 Nos. 112 and 286; S.I. 2013/3021; S.R. 2015 No. 411 and S.R. 2016 Nos. 228 and 236
(**34**) The definition of "the benefits Act" was inserted by regulation 12(2)(a) of S.R. 2008 No. 286 and amended by Article 8(2) of S.R. 2015 No. 411 and regulation 11(2)(b) of S.R. 2016 No. 228
(**35**) Paragraph 72A was inserted by regulation 14(7) of S.I. 2013/3021
(**36**) Paragraph 7(1) was amended by regulation 10(7) of S.R. 1992 No. 6, regulation 2(2)(b) of S.R. 2001 No. 261, regulation 2 of S.R. 2002 No. 295, regulation 2(17)(a) of S.R. 2008 No. 112 and regulation 12(15)(a) of S.R. 2008 No. 286 and is amended by regulation 26(10) of S.R. 2016 No. 236
(**37**) Paragraph 64A was inserted by regulation 3(3) of S.R. 2004 No. 389