STATUTORY RULES OF NORTHERN IRELAND

2016 No. 100

SOCIAL SECURITY

The State Pension (Amendment No. 3) Regulations (Northern Ireland) 2016

Made - - - -	*3rd March 2016*
Coming into operation	*6th April 2016*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 22(5ZA), (5ZB) and 171(1), (3), (4) and (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and now vested in it(**2**).

Citation and commencement

1. These Regulations may be cited as the State Pension (Amendment No. 3) Regulations (Northern Ireland) 2016 and shall come into operation on 6th April 2016 immediately after the coming into operation of the State Pension (Amendment) Regulations (Northern Ireland) 2016(**3**).

Amendment of the State Pension Regulations

2.—(1) The State Pension Regulations (Northern Ireland) 2015(**4**) are amended in accordance with paragraph (2).

(2) At the end of Part 7(**5**) (overseas residents) add—

(**1**) 1992 c. 7; subsections (5ZA) and (5ZB) of section 22 are inserted by paragraph 6(3) of Schedule 12 to the Pensions Act (Northern Ireland) 2015 (c. 5 (N.I.)) and section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)
(**2**) *See* Article 8(b) of S.R. 1999 No. 481
(**3**) S.R. 2016 No. 80
(**4**) S.R. 2015 No. 315; relevant amending Rule is S.R. 2016 No.80
(**5**) Parts 6 and 7 were added by regulation 2(4) of S.R. 2016 No. 80

"PART 8

National Insurance Credits

CHAPTER 1

General

Interpretation

24.—(1) In this Part—

"the 1975 Regulations" means the Social Security (Credits) Regulations (Northern Ireland) 1975(**6**);

"the 2015 Order" means the Welfare Reform (Northern Ireland) Order 2015(**7**);

"post-commencement qualifying year" and "pre-commencement qualifying year" have the same meaning as in section 4(4) of the Act (entitlement to state pension at transitional rate);

"qualifying year" has the same meaning as in section 2(4) of the Act (entitlement to state pension at full or reduced rate);

"working tax credit" means a working tax credit under section 10 of the Tax Credits Act 2002(**8**);

"year" means a tax year.

(2) Nothing in Chapter 3 is to be construed as entitling any person to be credited with earnings or contributions for any day or in respect of any event occurring before 6th April 2016.

General provisions relating to the crediting of earnings or contributions

25.—(1) For the purposes of Part 1 of the Act—

(a) Chapter 2 makes provision for crediting earnings or contributions in respect of a pre-commencement qualifying year;

(b) Chapter 3 makes provision for crediting earnings or contributions in respect of a qualifying year or a post-commencement qualifying year.

(2) Where under this Part, a person would, but for this paragraph, be entitled to be credited with any earnings or contributions for a year, or in respect of any week in a year, that person is only to be credited to the extent necessary to make that year a qualifying year.

(3) Where under this Part a person is entitled to be credited with earnings or a contribution in respect of a week that falls partly in one year and partly in another, that week is to be treated as falling in the year in which it begins and not in the following year.

(**6**) S.R. 1975 No. 113; relevant amending Regulations are S.R. 1976 No. 99; S.R. 1978 No. 77; S.R. 1987 No. 153; S.R.1988 Nos. 105, 298 and 326; S.R. 1989 No. 368; S.R. 1991 No. 528; S.R. 1994 No. 265; S.R. 1996 No. 430; S.R. 2000 No. 404; S.R. 2001 Nos. 88, 108 and 120; S.R. 2002 Nos. 80 and 323; S.R. 2003 Nos. 151 and 195; S.R. 2005 No. 536; S.R. 2007 No. 306; S.R. 2008 No. 286; S.R. 2010 No. 109; S.R. 2011 No. 291; S.R. 2012 Nos. 44 and 109; S.R. 2013 No. 246 and S.R. 2015 No. 411

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

(**8**) 2002 c. 21

CHAPTER 2

Crediting earnings or contributions in respect of a pre-commencement qualifying year

Credits under the 1975 Regulations

26. A person is to be credited with the earnings or contributions to which the person would have been entitled under the 1975 Regulations for the purposes of entitlement to a Category A retirement pension had—

(a) the amendment made by paragraph 47 of Schedule 12 to the Act (which limits Category A retirement pensions to people who reach pensionable age before 6th April 2016) not come into operation; and

(b) that person attained pensionable age on 6th April 2016.

Credits for parents and carers

27. A person is to be credited with a Class 3 contribution to which the person would have been entitled under section 23A of the Contributions and Benefits Act(**9**) (contributions credits for relevant parents and carers) or regulations made under that section, for the purposes of entitlement to a Category A retirement pension had—

(a) the amendment made by paragraph 47 of Schedule 12 to the Act not come into operation; and

(b) the person attained pensionable age on 6th April 2016.

Credits for spouses and civil partners of members of Her Majesty's forces

28.—(1) Subject to paragraph (5), a person who satisfies the conditions in paragraph (2) for any part of a week to which this regulation applies is to be credited with a Class 3 contribution in respect of that week.

(2) The conditions are that the person—

(a) is a spouse or civil partner of a member of Her Majesty's forces, or is treated as such by the Secretary of State for the purposes of occupying accommodation, and

(b) is accompanying the member of Her Majesty's forces on an assignment outside the United Kingdom or is treated as such by the Secretary of State.

(3) This regulation applies to a week which falls within a year beginning on or after 6th April 1975 and ending before 6th April 2016 for which the earnings factors of the member of Her Majesty's forces exceed the qualifying earnings factor.

(4) Paragraph (1) does not apply to—

(a) a person in respect of a week in which the person is entitled to be credited with earnings under—

(i) regulation 7A(**10**) (credits for carer's allowance);

(ii) regulation 8A(**11**) (credits for unemployment);

(**9**) Section 23A was inserted by section 3(1) of the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.)) and amended by Article 5 of S.I. 2010/242; paragraph 50 of Schedule 12 to the Pensions Act (Northern Ireland) 2015 and Article 2 of S.R. 2016 No. 78

(**10**) Regulation 7A was inserted by regulation 19 of S.R. 1976 No. 99 and amended by regulation 2(2) of S.R. 1978 No. 77; regulation 6 of S.R. 1987 No. 153; regulation 2(5)(c) of S.R. 1988 No. 326; regulation 2(4) of S.R. 1996 No. 430; regulation 3(5)(b) of S.R. 2001 No. 108; regulation 2(3) of S.R. 2002 No. 80; paragraph 1(a) of the Schedule to S.R. 2002 No. 323; paragraph 4(2) of Schedule 3 to S.R. 2005 No. 536 and regulation 3(2) of S.R. 2011 No. 291

(**11**) Regulations 8A and 8B were inserted by regulation 2(6) of S.R. 1996 No. 430; regulation 8A (which is subject to transitional provision by virtue of regulation 4(3)) was amended by regulation 3 of S.R. 2000 No. 404; regulation 3 of S.R. 2001 No. 120;

(iii) regulation 8B(**12**) (credits for incapacity for work or limited capability for work), or

(iv) regulation 9E(**13**) (credits for certain spouses and civil partners of members of Her Majesty's forces),

of the 1975 Regulations; or

(b) a woman in respect of a week in any part of which an election made by her under regulations under section 19(4) of the Contributions and Benefits Act(**14**) (general power to regulate liability for contributions) is in force.

(5) A person is not entitled to be credited with a Class 3 contribution under paragraph (1) unless an application to be so credited is received by the Department in accordance with paragraph (6).

(6) An application under paragraph (5) may only be made in respect of a past period and must—

(a) be on a form approved by the Department, or made in such manner as the Department accepts as sufficient in the circumstances, and

(b) include such information as may be specified by the Department or the Commissioners for Her Majesty's Revenue and Customs.

CHAPTER 3

Crediting earnings or contributions in respect of a qualifying year or a post-commencement qualifying year

Credits under the 1975 Regulations

29.—(1) Where a person is credited with earnings or contributions under the provisions of the 1975 Regulations specified in paragraph (2), the person is also to be credited with those earnings or contributions for the purposes of Part 1 of the Act.

(2) The provisions specified are—

(a) regulation 7(**15**) (credits for approved training);

(b) regulation 7A (credits for carer's allowance);

(c) regulation 7B(**16**) (credits for disability element of working tax credit);

(d) regulation 8A (credits for unemployment);

(e) regulation 8B (credits for incapacity for work or limited capability for work);

(f) regulation 9B(**17**) (credits for jury service);

regulation 2(4) of S.R. 2002 No. 80; regulation 7(5) of S.R. 2008 No. 286; regulation 3(3) of S.R. 2011 No. 291; regulation 3(1)(b) of S.R. 2012 No. 44 and regulation 2 of S.R. 2013 No. 246

(**12**) Regulation 8B was inserted by regulation 2(6) of S.R. 1996 No. 430 and amended by regulation 3 of S.R. 2000 No. 404; regulation 2(2)(b) of S.R. 2003 No. 151; regulation 2(3) of S.R. 2007 No. 306; regulation 7(6) of S.R. 2008 No. 286 and regulation 2(2) of S.R. 2010 No. 109

(**13**) Regulation 9E was added by regulation 2(3) of S.R. 2010 No. 109

(**14**) Section 19(4) was amended by paragraph 24(4) of Schedule 1 to the National Insurance Contributions Act 2002 (c. 19); *see* regulation 127 of S.I. 2001/1004 as amended by regulation 5 of S.I. 2003/964 and paragraph 34(1) of Schedule 1 to the National Insurance Contributions Act 2015 (c. 5)

(**15**) Regulation 7 was amended by regulation 2(2) of S.R. 1978 No. 77; regulation 5(a) of S.R. 1987 No. 153; regulation 2 of S.R. 1988 No. 298; regulation 2(5)(b) of S.R. 1988 No. 326 and regulation 2 of S.R. 1989 No. 368

(**16**) Regulation 7B was inserted by regulation 3 of S.R. 1991 No. 528 and amended by regulation 2(4) of S.R. 1996 No. 430 and paragraph 1(b) and (c) of Schedule 4 to S.R. 2003 No. 195

(**17**) Regulation 9B and 9C were inserted by regulation 3 of S.R. 1988 No. 105; regulation 9B was amended by regulation 2(5)(e) of S.R. 1988 No. 326 and regulation 4 of S.R. 1994 No. 265

(g) regulation 9C(**18**) (credits for adoption pay period, additional pay period and maternity pay period);

(h) regulation 9D(**19**) (credits for certain periods of imprisonment or detention in legal custody);

(i) regulation 9E (credits for certain spouses and civil partners of members of Her Majesty's forces).

Credits for persons in receipt of working tax credit

30.—(1) Where working tax credit is paid in respect of a person in respect of a week in which the person is—

(a) an employed earner;

(b) a self-employed earner whose profits for the year are below the small profits threshold specified by section 11(4) of the Contributions and Benefits Act(**20**) (liability for Class 2 contributions), who would otherwise be liable to pay a Class 2 contribution; or

(c) excepted from liability to pay a Class 2 contribution by virtue of regulation 43 of the Social Security (Contributions) Regulations 2001(**21**),

the person is to be credited with earnings equal to the lower earnings limit then in force in respect of that week.

(2) Where working tax credit is paid in respect of a couple, the reference in paragraph (1) to the person in respect of whom working tax credit is paid is a reference to—

(a) where only one member of the couple is assessed for the purposes of the award of working tax credit as having income consisting of earnings, that member; or

(b) where the earnings of each member are assessed, the member of the couple to whom working tax credit is paid.

(3) Paragraph 1 does not apply to—

(a) a person in respect of a week in which the person is entitled to be credited with earnings under—

(i) regulation 7B (credits for disability element of working tax credit);

(ii) regulation 8A (credits for unemployment), or

(iii) regulation 8B (credits for incapacity for work or limited capability for work),

of the 1975 Regulations; or

(b) a woman in respect of a week in any part of which an election made by her under regulations under section 19(4) of the Contributions and Benefits Act (general power to regulate liability for contributions) is in force.

(4) In this regulation—

"couple" means

(a) a man and woman who are married to each other and are neither—

(i) separated under a court order, nor

(ii) separated in circumstances in which the separation is likely to be permanent,

(**18**) Regulation 9C was substituted by regulation 2(3) of S.R. 2003 No. 151 and amended by regulation 2 of S.R. 2012 No. 109
(**19**) Regulation 9D was inserted by regulation 2 of S.R. 2001 No. 88
(**20**) Section 11 was substituted by paragraph 12 of Schedule 1 to the National Insurance Contributions Act 2015
(**21**) S.1.2001/1004; regulation 43 was amended by regulation 3 of S.I. 2002/2924 and regulation 4 of S.I. 2015/478