STATUTORY RULES OF NORTHERN IRELAND

2010 No. 337

SOCIAL SECURITY

The Social Security (Claims and Payments) (Amendment No. 2) Regulations (Northern Ireland) 2010

Made - - - -	*29th September 2010*
Coming into operation	*2nd November 2010*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 1(1), 5(1)(a) and 165(1) and (4) to (6) of the Social Security Administration (Northern Ireland) Act 1992(**1**) and now vested in it(**2**).

Citation and commencement

1. These Regulations may be cited as the Social Security (Claims and Payments) (Amendment No. 2) Regulations (Northern Ireland) 2010 and shall come into operation on 2nd November 2010.

Amendment of the Social Security (Claims and Payments) Regulations

2.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**3**) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 3 (claims not required for entitlement to benefit in certain cases) before paragraph (a) insert—

"(za) in the case of a Category A or B retirement pension where the beneficiary is a person to whom regulation 3A applies;".

(3) After regulation 3 insert—

"**Notification that claim not required for entitlement to a Category A or B retirement pension**

3A.—(1) Subject to paragraph (4), this regulation applies to a beneficiary who has received, on or before the day provided for in paragraph (2), a written notification from the Department that no claim is required for a Category A or B retirement pension.

(**1**) 1992 c. 8; 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)
(**2**) *See* Article 8(b) of S.R. 1999 No. 481
(**3**) S.R. 1987 No. 465; relevant amending Regulations are S.R. 2005 Nos. 14 and 299

(2) The day referred to in paragraph (1) is—

(a) the day which falls 2 weeks before the day on which the beneficiary reaches pensionable age; or

(b) such later day as the Department may consider reasonable in any particular case or class of case.

(3) The Department may give a notification under paragraph (1) only in a case where, on the day which falls 8 weeks before the day on which the beneficiary reaches pensionable age, the beneficiary—

(a) is in receipt of an exempt benefit, or would be in receipt of it but for that benefit not being payable as a result of the application of any of the provisions listed in paragraph (7); and

(b) is neither entitled to, nor awaiting the determination of a claim for, a non-exempt benefit.

(4) Receipt of a written notification under paragraph (1) does not affect the requirement that beneficiaries who—

(a) before reaching pensionable age, inform the Department that they want their entitlement to a Category A or B retirement pension to be deferred in accordance with section 55(3)(a) of the Contributions and Benefits Act(**4**); or

(b) after reaching pensionable age, elect to be treated as not having become entitled to either a Category A or B retirement pension in accordance with regulation 2 of the Social Security (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979(**5**),

must make a claim in order subsequently to be entitled to a Category A or B retirement pension.

(5) For the purposes of paragraph (3)(a), a beneficiary who is in receipt of an exempt benefit includes a beneficiary who—

(a) has been awarded such a benefit on or before the day which falls 8 weeks before the day on which the beneficiary reaches pensionable age; and

(b) has not yet received the first payment of that benefit.

(6) For the purposes of this regulation—

"exempt benefit" means any of the following—

(a) an employment and support allowance;

(b) income support;

(c) a jobseeker's allowance;

(d) long-term incapacity benefit;

(e) state pension credit;

"non-exempt benefit" means any of the following—

(a) carer's allowance;

(b) short-term incapacity benefit;

(c) severe disablement allowance;

(d) widowed mother's allowance;

(**4**) Section 55 was substituted by Article 273(1) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) and subsection (3)(a) was substituted by paragraph 7 of Schedule 1 to the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.))

(**5**) S.R. 1979 No. 243; regulation 2 was amended by regulation 8(3) of S.R. 1989 No. 373, regulation 4(3) of S.R. 2005 No. 120, regulation 5(3) of S.R. 2005 No. 299 and regulation 3(4) of S.R. 2010 No. 56