STATUTORY RULES OF NORTHERN IRELAND

2010 No. 56

SOCIAL SECURITY

The Social Security (State Pension and National Insurance Credits) Regulations (Northern Ireland) 2010

Made - - - - 26th February 2010

Coming into operation in accordance with regulation 1

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 22(5), 44C(3)(e), 48(1), 54(1), 60(1), 60A(2), 62(1)(a), (ab) and (b) and 171(1), (3) and (4) of, and paragraph 11 of Schedule 4B and paragraph 2(2) of Schedule 5 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and paragraph 15 of Schedule 3 to the Social Security (Consequential Provisions) (Northern Ireland) Act 1992(**2**) and now vested in it(**3**).

PART 1

General

Citation and commencement

1.—(1) These Regulations may be cited as the Social Security (State Pension and National Insurance Credits) Regulations (Northern Ireland) 2010.

(**1**) 1992 c. 7; section 22(5) was amended by paragraph 5 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)) and paragraph 3(3)(b) of Schedule 3 to the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.)); section 44C was inserted by section 7(1) of the Pensions Act (Northern Ireland) 2008 (c.1 (N.I.)); section 48(1) was amended by paragraph 78(2) of Schedule 24 to the Civil Partnership Act 2004 (c. 33); section 54(1) was amended by paragraph 6(1) of Schedule 2 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and paragraph 12 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)); section 60(1) was amended by paragraph 7(2) of Schedule 8 to the Welfare Reform and Pensions (Northern Ireland) Order 1999; section 60A was inserted by paragraph 5 of Schedule 1 to the Pensions Act (Northern Ireland) 2008; section 62(1)(a) was amended by paragraph 7(a) of Schedule 2 to the Pensions (Northern Ireland) Order 1995 and paragraph 16(a) of Schedule 9 to the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)); paragraph (ab) was inserted by paragraph 87 of Schedule 24 to the Civil Partnership Act 2004; paragraph (b) was amended by paragraph 7(b) of Schedule 2 to the Pensions (Northern Ireland) Order 1995; section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21); Schedule 4B was inserted by paragraph 1 of Schedule 2 to the Pensions Act (Northern Ireland) 2008; paragraph 2(2) of Schedule 5 was amended by paragraph 6(2) of Schedule 2 and Part II of Schedule 5 to the Pensions (Northern Ireland) Order 1995; *see also* Article 273(3) of the Pensions (Northern Ireland) Order 2005

(**2**) 1992 c. 9

(**3**) *See* Article 8(b) of S.R. 1999 No. 481

(2) Paragraphs (1) to (4) of regulation 4 shall come into operation on 6th April of the flat rate introduction year(**4**).

(3) The other provisions of these Regulations shall come into operation on 6th April 2010.

PART 2

Graduated retirement benefit – amendment of secondary legislation

Amendment of the Social Security (Graduated Retirement Benefit) (No. 2) Regulations

2.—(1) Schedule 1 to the Social Security (Graduated Retirement Benefit) (No. 2) Regulations (Northern Ireland) 1978(**5**) (which sets out sections 35 and 36 of the National Insurance Act (Northern Ireland) 1966 as continued in force by those regulations) is amended in accordance with paragraphs (2) to (5).

(2) In section 35(2) (graduated retirement benefit), for "the units" to the end substitute ", a unit of graduated contributions shall be £7.50".

(3) The amendment in paragraph (2) does not apply—

(a) in relation to a woman who attained pensionable age before 6th April 2010; or

(b) for the purposes of the reference to the graduated retirement benefit of a deceased person in section 36(1) (as amended by paragraph (4)), where the deceased person was a woman who would have attained pensionable age before 6th April 2010.

(4) In section 36 (special provisions as to graduated retirement benefit for widows, widowers and surviving civil partners), in subsection (1)(**6**)—

(a) for paragraphs (a) to (c) and the dash preceding them substitute—

", where a person, having paid graduated contributions as an insured person, dies leaving a widow, widower or surviving civil partner and the survivor—

(a) has attained pensionable age at the time of the death; or

(b) remains that person's widow, widower or surviving civil partner (as the case may be) when attaining pensionable age,";

(b) omit from "; and where a man" to the end of the subsection.

(5) The amendment in paragraph (4)(a) does not apply where the survivor attained pensionable age before 6th April 2010 (and it is immaterial for this purpose when the deceased person died).

(**4**) The definition of "the flat rate introduction year" was inserted into section 121 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 by section 9(4) of the Pensions Act (Northern Ireland) 2008

(**5**) S.R. 1978 No. 105; sections 35 and 36 of the National Insurance Act (Northern Ireland) 1966 c. 6 (N.I.) were repealed by the Social Security Act 1973 (c. 38) but are continued in force by regulation 2 of S.R. 1978 No. 105; relevant amending Regulations are S.R. 1989 No. 373 and S.R. 2005 Nos. 121 and 541

(**6**) Subsection (1) was amended by regulation 5(2)(b)(i) of S.R. 1989 No. 373, regulation 2(3) of S.R. 2005 No. 121 and regulation 2(4)(a) of S.R. 2005 No. 541

PART 3

State pension reform – amendment of secondary legislation

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

3.—(1) The Social Security (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979(**7**) are amended in accordance with paragraphs (2) to (14).

(2) In regulation 1(2) (interpretation), omit the definitions of "home responsibilities year" and "qualifying year".

(3) The amendment in paragraph (2) does not apply where the person concerned attained pensionable age or died before 6th April 2010.

(4) In regulation 2 (election to be treated as not having retired)—

(a) for paragraph (2) substitute—

"(2) Paragraph (1) shall not apply to a person who has previously made such an election.";

(b) in paragraph (3)(**8**) omit "or consent";

(c) in paragraph (4) for "paragraphs (5) and (6)" substitute "paragraph (6)"; and

(d) omit paragraph (5).

(5) In regulation 3(**9**) (provisions applying after election)—

(a) in paragraph (a) omit from "and no Category B retirement pension" to "his contributions";

(b) at the end of paragraph (b) omit "and"; and

(c) omit paragraph (c).

(6) In regulation 4(1)(a)(**10**) (days to be treated as days of increment), omit from "or, in the case of a married woman" to "a Category B retirement pension,".

(7) In regulation 6 (benefit at reduced rates for those who do not satisfy the contribution conditions in full)—

(a) for the heading substitute—

"Rate of benefit where the second contribution condition in paragraph 5 of Schedule 3 to the Contributions and Benefits Act is not satisfied".

(b) in paragraph (3B)(**11**) for "Subject to paragraph (4), the" substitute "The";

(c) omit paragraph (4); and

(d) after paragraph (5) add—

"(6) For the purposes of this regulation, "qualifying year" means a year for which a person's earnings factor is sufficient to satisfy paragraph 5(3)(b) of Schedule 3 to the Contributions and Benefits Act and includes a year which is treated as such a year by virtue of regulation 8(4).".

(8) The amendments in paragraph (7) do not apply where the contributor concerned attained pensionable age or died before 6th April 2010.

(**7**) S.R. 1979 No. 243; relevant amending provisions are S.I. 1986/1888 (N.I. 18), S.R. 1989 No. 373, S.R. 1990 No. 452 and S.R. 2005 Nos. 120, 299 and 536
(**8**) Paragraphs (3) and (4) were substituted by regulation 4(3)(b) of S.R. 2005 No. 120
(**9**) Regulation 3 was amended by regulation 8(4) of S.R. 1989 No. 373 and regulation 5(4) of S.R. 2005 No. 299
(**10**) Sub-paragraph (a) was substituted by regulation 8(5)(b) of S.R. 1989 No. 373
(**11**) Paragraph (3B) was inserted by regulation 2(2) of S.R. 1990 No. 452

(9) After regulation 6 insert—

"**Proportion of retirement pension where the contribution condition in paragraph 5A of Schedule 3 to the Contributions and Benefits Act is not satisfied**

6A.—(1) This regulation applies where the contribution condition in paragraph 5A of Schedule 3 to the Contributions and Benefits Act(**12**) (contribution condition for entitlement to benefit) is not satisfied in relation to a benefit to which that paragraph applies.

(2) The amount of such a benefit to which a person is nevertheless entitled shall be—

(a) 1/30th of the weekly rate of basic pension in that benefit for each year in the contributor's working life in relation to which the requirements of paragraph 5A(2) of Schedule 3 to the Contributions and Benefits Act are satisfied; and

(b) any additional pension in that benefit arising from one or more surpluses in the contributor's earnings factors for the relevant years.

(3) For the purposes of paragraph (2)(a), satisfaction of the requirements of paragraph 5A(2) of Schedule 3 to the Contributions and Benefits Act in relation to a year includes satisfaction of those requirements by virtue of regulation 8.

(4) Regulation 6(5)(**13**) applies to entitlement to a Category A retirement pension by virtue of this regulation as it does to such entitlement by virtue of that regulation.

Regulations 6 and 6A: supplemental

6B. In regulations 6 and 6A, "basic pension" includes the weekly rate of Category B retirement pension specified in paragraph 5 of Part 1 of Schedule 4 to the Contributions and Benefits Act (rates of benefit, etc.).".

(10) In regulation 8 (substitution of former spouse's or former civil partner's contribution record to give entitlement to a Category A retirement pension)—

(a) in paragraph (1)(c)(**14**) after "any person" insert ", other than one to whom regulation 8A applies,";

(b) in paragraph (2)(**15**) for "to the Act" substitute "to the Contributions and Benefits Act or the contribution condition for such a pension specified in paragraph 5A of that Schedule (contribution condition for entitlement to benefit)";

(c) for paragraph (3) substitute—

"(3) The beneficiary shall be treated as satisfying the first contribution condition specified in paragraph 5 of Schedule 3 to the Contributions and Benefits Act if his former spouse or former civil partner—

(a) had satisfied that condition; or

(b) would have satisfied that condition had paragraph 5A of that Schedule not been applicable,

as respects any year of his working life up to and including the year in which the marriage or civil partnership terminated.";

(**12**) Paragraph 5A was inserted by section 1(3) of the Pensions Act (Northern Ireland) 2008
(**13**) Regulation 6(5) was amended by Article 19(1) of Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)) and regulation 2(3) of S.R. 1990 No. 452
(**14**) Paragraph (1)(c) was amended by paragraph 10(3)(b)(iv) of Schedule 3 to S.R. 2005 No. 536
(**15**) Paragraph (2) was amended by paragraph 10(3)(c) of Schedule 3 to S.R. 2005 No. 536

(d) in paragraph (4) after "the second contribution condition" insert "specified in paragraph 5 of Schedule 3 to the Contributions and Benefits Act or the contribution condition specified in paragraph 5A of that Schedule";

(e) in paragraph (5)(**16**) after "regulation 6" insert "or 6A", and

(f) omit paragraph (6).

(11) The amendment in paragraph (10)(f) does not apply where the person concerned attained pensionable age before 6th April 2010.

(12) After regulation 8 insert—

"**8A.**—(1) This regulation applies to a person—

(a) whose marriage or civil partnership terminated otherwise than by the death of that person's spouse or civil partner;

(b) whose marriage or civil partnership terminated after—

(i) that person, and

(ii) that person's former spouse or former civil partner,

attained pensionable age;

(c) who attained pensionable age on or after 6th April 2010;

(d) whose former spouse or former civil partner attained pensionable age on or after 6th April 2010; and

(e) whose former spouse or former civil partner satisfied the contribution condition specified in paragraph 5A(2) of Schedule 3 to the Contributions and Benefits Act.

(2) Where a person to whom this regulation applies does not satisfy the contribution condition specified in paragraph 5A(2) of Schedule 3 to the Contributions and Benefits Act, that person shall be treated as having satisfied that condition by virtue of the contributions of the former spouse or former civil partner.".

(13) In Schedule 1 (method of treating former spouse's or former civil partner's contributions as those of the beneficiary so as to entitle him to a Category A retirement pension), after paragraph 1(b) insert—

"; and

(c) "qualifying year" means a year for which the former spouse's or former civil partner's earnings factor is sufficient to satisfy—

(i) paragraph 5(3)(b), or

(ii) paragraph 5A(2)(b),

of Schedule 3 to the Contributions and Benefits Act and does not include a year which is treated as such a year by virtue of regulation 8(4)".

(14) The amendment in paragraph (13) does not apply so as to include in the definition of "qualifying year" any years credited by virtue of section 23A(5) of the Contributions and Benefits Act(**17**) where the marriage or civil partnership terminated before 6th April 2010.

(**16**) Paragraph (5) was amended by Article 19(1) of the Social Security (Northern Ireland) Order 1986

(**17**) Section 23A was inserted by section 3(1) of the Pensions Act (Northern Ireland) 2008