STATUTORY RULES OF NORTHERN IRELAND

2007 No. 395

SOCIAL SECURITY

The Social Security (National Insurance Credits) (Amendment) Regulations (Northern Ireland) 2007

Made - - - -	*6th September 2007*
Coming into operation	*1st October 2007*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 22(5) and 171(1) and (3) of, and paragraph 8(1)(d) and (1A) of Schedule 1 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and Articles 10(1)(a) and 74(3) of the Social Security (Northern Ireland) Order 1998(**2**) and now vested in it(**3**).

Regulation 4 is made with the concurrence of the Commissioners for Her Majesty's Revenue and Customs.

Citation and commencement

1.—(1) These Regulations may be cited as the Social Security (National Insurance Credits) (Amendment) Regulations (Northern Ireland) 2007 and shall come into operation on 1st October 2007.

Amendment of the Social Security (Credits) Regulations

2. After regulation 8C of the Social Security (Credits) Regulations (Northern Ireland) 1975(**4**), insert—

"**Credits for the purposes of entitlement to incapacity benefit following official error**

8D.—(1) This regulation applies for the purpose only of enabling a person who was previously entitled to incapacity benefit to satisfy the condition referred to in paragraph 2(3)

(**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)). Section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21). Paragraph 8 of Schedule 1 was amended by paragraph 38(2) and sub-paragraph (1A) inserted by paragraph 38(3) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671). Sub-paragraph (1A) was amended by paragraph 12 of Schedule 11 to the Welfare Reform and Pensions Act 1999 (c. 30). Under section 50(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11) references to the Commissioners of Inland Revenue in enactments are to be taken as references to the Commissioners for Her Majesty's Revenue and Customs

(**2**) S.I. 1998/1506 (N.I. 10)

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

(**4**) S.R. 1975 No. 113; regulation 8C was inserted by regulation 3(7) of S.R. 2001 No.108

(a) of Schedule 3 to the Contributions and Benefits Act in respect of a subsequent claim for incapacity benefit where his period of incapacity for work is, together with a previous period of incapacity for work, to be treated as one period of incapacity for work under section 30C of that Act(**5**).

(2) Where—

(a) a person was previously entitled to incapacity benefit;

(b) the award of incapacity benefit was as a result of satisfying the condition referred to in paragraph (1) by virtue of being credited with earnings for incapacity for work or approved training in the years from 1993-94 to 2007-08;

(c) some or all of those credits were credited by virtue of official error derived from the failure to transpose correctly information relating to those credits from the Department for Work and Pensions' Pension Strategy Computer System to Her Majesty's Revenue and Customs' computer system (National Insurance Recording System 2) or from related clerical procedures;

(d) that person makes a further claim for incapacity benefit; and

(e) his period of incapacity for work is, together with the period of incapacity for work to which his previous entitlement referred to in sub-paragraph (a) related, to be treated as one period of incapacity for work under section 30C of the Contributions and Benefits Act,

that person shall be credited with such earnings as may be required to enable the condition referred to in paragraph (1) to be satisfied.

(3) In this regulation and regulations 8E and 8F, "official error" means an error made by—

(a) an officer of the Department or the Department for Work and Pensions or an officer of Revenue and Customs acting as such which no person outside those Departments or Her Majesty's Revenue and Customs caused or to which no person outside those Departments or Her Majesty's Revenue and Customs materially contributed; or

(b) a person employed by a service provider and to which no person who was not so employed materially contributed,

but excludes any error of law which is shown to have been an error by virtue of a subsequent decision of a Commissioner or a court.

(4) In paragraph (3)—

"Commissioner" means the Chief Social Security Commissioner or any other Social Security Commissioner and includes a tribunal of two or more Commissioners constituted under Article 16(7) of the Social Security (Northern Ireland) Order 1998;

"service provider" means a person providing services to the Department, the Department for Work and Pensions or Her Majesty's Revenue and Customs.

Credits for the purposes of entitlement to retirement pension following official error

8E.—(1) This regulation applies for the purpose only of enabling the condition referred to in paragraph 5(3)(a) of Schedule 3 to the Contributions and Benefits Act(**6**) to be satisfied in respect of a claim for retirement pension made by a person ("the claimant")—

(a) who would attain pensionable age no later than 31st May 2008;

(**5**) Section 30C was inserted by Article 5(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)) and amended by paragraph 37 of Schedule 3 to the Tax Credits Act 2002

(**6**) Paragraph 5(3)(a) was amended by Article 126 of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))

(b) not falling within sub-paragraph (a) but based on the satisfaction of that condition by another person—

(i) who would attain, or would have attained, pensionable age no later than 31st May 2008, or

(ii) in respect of whose death the claimant received a bereavement benefit.

(2) Where—

(a) a person claims retirement pension;

(b) the satisfaction of the condition referred to in paragraph (1) would be based on earnings credited for incapacity for work or approved training in the years from 1993-94 to 2007-08; and

(c) some or all of those credits were credited by virtue of official error derived from the failure to transpose correctly information relating to those credits from the Department for Work and Pensions' Pension Strategy Computer System to Her Majesty's Revenue and Customs' computer system (National Insurance Recording System 2) or from related clerical procedures,

those earnings shall be credited.

(3) In this regulation, "bereavement benefit" means a bereavement allowance, a widowed mother's allowance, a widowed parent's allowance or a widow's pension.

Credits for the purposes of entitlement to contribution-based jobseeker's allowance following official error

8F.—(1) This regulation applies for the purpose only of enabling a person to satisfy the condition referred to in Article 4(1)(b) of the Jobseekers (Northern Ireland) Order 1995(**7**) (the contribution-based conditions).

(2) Where—

(a) a person claims a jobseeker's allowance;

(b) the satisfaction of the condition referred to in paragraph (1) would be based on earnings credited for incapacity for work or approved training in the years from 1993-94 to 2007-08; and

(c) some or all of those credits were credited by virtue of official error derived from the failure to transpose correctly information relating to those credits from the Department for Work and Pensions' Pension Strategy Computer System to Her Majesty's Revenue and Customs' computer system (National Insurance Recording System 2) or from related clerical procedures,

that person shall be credited with those earnings.".

Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations

3. In regulation 3 of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(**8**) (revision of decisions)—

(a) at the beginning of paragraph (5)(a) insert "except where paragraph (5ZA) applies";

(b) after paragraph (5) insert—

"(5ZA) This paragraph applies where—

(**7**) S.I. 1995/2705 (N.I. 15); Article 4(1) was amended by paragraph 4 of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)). Sub-paragraph (b) was modified by regulations 159 and 166 of S.R. 1996 No. 198 as amended by regulation 13(9) and (10) of S.R. 2006 No. 359

(**8**) S.R. 1999 No. 162; to which there are amendments not relevant to these Regulations