STATUTORY RULES OF NORTHERN IRELAND

2007 No. 392

SOCIAL SECURITY; HOUSING; RATES

The Social Security (Miscellaneous Amendments No. 4) Regulations (Northern Ireland) 2007

Made - - - -	*3rd September 2007*
Coming into operation	*24th September 2007*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 1(1), 5(1)(a), (b), (j) and (r) and 165(1), (3), (4) and (6) of the Social Security Administration (Northern Ireland) Act 1992(**1**) and Articles 10(1)(a) and (4), 11(3) and (6) and 74(1), (3) and (6) of the Social Security (Northern Ireland) Order 1998(**2**), and now vested in it(**3**) and paragraphs 4(5) and 20(1)(b) of Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**4**).

Citation and commencement

1. These Regulations may be cited as the Social Security (Miscellaneous Amendments No. 4) Regulations (Northern Ireland) 2007 and shall come into operation on 24th September 2007.

Amendment of the Social Security (Claims and Payments) Regulations

2.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**5**) are amended in accordance with paragraphs (2) to (5).

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

(a) after sub-paragraph (c) insert—

"(ca) in the case of a Category A retirement pension where the beneficiary—

(i) is entitled to any category of retirement pension other than a Category A retirement pension; and

(ii) becomes divorced or the beneficiary's civil partnership is dissolved;

(**1**) 1992 c. 8; section 165(1) was amended by pargraph 49(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) and section 165(3) was amended by paragraph 10 of Schedule 4 to the Tax Credits Act 2002 (c. 21)

(**2**) S.I. 1998/1506 (N.I. 10); Article 74(1) was amended by paragraph 17(2) of Schedule 4 to the Tax Credits Act 2002

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

(**4**) 2000 c. 4 (N.I.)

(**5**) S.R 1987 No. 465; relevant amending Regulations are S.R. 1997 No. 156, S.R 2000 Nos. 215 and 365, S.R. 2002 No.67, S.R. 2005 No. 139 and S.R. 2006 Nos. 168 and 365

(cb) in the case of a Category B retirement pension where the beneficiary—

(i) is entitled to either a Category A retirement pension or to a graduated retirement benefit or to both; and

(ii) marries or enters into a civil partnership;"; and

(b) after sub-paragraph (d) insert—

"(da) in the case of a bereavement payment where the beneficiary is over pensionable age and satisfies the conditions of entitlement under section 36(1) of the Contributions and Benefits Act(**6**);".

(3) In regulation 6 (date of claim)—

(a) after paragraph 15(**7**) insert—

"(15A) Paragraphs (16) to (34) shall not apply in any case where it would be advantageous to the claimant to apply the provisions of regulation 19.";

(b) in paragraph (19)(**8**)—

(i) after "been terminated" insert "or reduced or payment under that award ceases", and

(ii) in sub-paragraph (b) at the end add "or becomes payable again";

(c) in paragraph (20)(**9**)—

(i) omit "or" after sub-paragraph (a), and

(ii) after sub-paragraph (b) add—

"or

(c) that the qualifying benefit has ceased to be payable in accordance with—

(i) regulation 6(1) of the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992(**10**) or regulation 8(1) of the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992(**11**) because the claimant is undergoing treatment as an in-patient in a hospital or similar institution, or

(ii) regulation 7 of the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992 or regulation 9 of the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992 because the claimant is resident in certain accommodation other than a hospital.";

(d) in paragraph (21)(**12**)—

(i) at the beginning insert "Subject to paragraph (21A),",

(ii) omit "and" after sub-paragraph (a), and

(**6**) Section 36(1) was substituted by Article 51(1) of the Welfare Reform and Pension (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and amended by paragraph 70(2) of Schedule 24 to the Civil Partnership Act 2004 (c. 33)

(**7**) Paragraphs (15) and (19) to (21) were added by regulation 3(4)(e) of S.R. 1997 No.156

(**8**) Paragraph(19) was substituted by regulation 3(2)(a) of S.R. 2000 No. 215 and amended by regulation 2(2)(d) of S.R. 2002 No. 67 and regulation 2(3)(a) of S.R. 2006 No. 365

(**9**) Paragraph(20) was substituted by regulation 2(3)(b) of S.R. 2006 No. 365

(**10**) S.R.1992 No. 20; regulation 6(1) was substituted by regulation 2(2)(a) of S.R. 1992 No. 481 and regulation 7 was amended by regulation 5(3) of S.R. 1993 No. 149, regulation 2(2)(a) of S.R. 1993 No. 165, regulation 2 of S.R. 2002 No. 31, regulation 4(2)(a) of S.R. 2002 No. 132, regulation 2(2) of S.R. 2003 No. 397 and regulation 7 of S.R. 2005 No. 458

(**11**) S.R. 1992 No. 32; regulation 8(1) was substituted by regulation 3(2)(a) of S.R. 1992 No. 481 and regulation 9 was amended by regulation 3(3)(b) of S.R. 1992 No. 481, regulation 4(2) of S.R. 1993 No. 149, regulation 3(2) of S.R. 1993 No. 165, paragraph 1(b) of Schedule 17 to S.R. 1994 No. 65, regulation 3(2) of S.R. 1994 No. 263, regulation 5(2)(a) of S.R. 2002 No. 132, regulation 3(2) of S.R. 2003 No. 397 and regulation 8 of S.R. 2005 No. 458

(**12**) Paragraph (21) was substituted by regulation 3(2)(a) of S.R. 2000 No. 215 and amended by regulation 2(2)(e) of S.R. 2002 No. 67 and regulation 2(3)(c) of S.R. 2006 No. 365

(iii) for sub-paragraph (b) substitute—

the qualifying benefit is re-awarded following revision, supersession or appeal;

(c) the qualifying benefit is re-awarded on a renewal claim when an award for a fixed period expires; or

(d) the cessation of payment ends when the claimant leaves the hospital or similar institution or accommodation referred to in paragraph (20)(c); and

the further claim referred to in paragraph (19), is made within three months of the date on which the additional circumstances apply.";

(e) after paragraph (21) insert—

"(21A) Paragraph (21) applies whether the benefit is re-awarded when the further claim is decided or following a revision of, or an appeal against, such a decision.";

(f) in paragraph (30)(b)(**13**) omit "not later than ten working days after the termination,";

(g) in paragraph (33)(**14**) at the beginning insert "Subject to paragraph (34),"; and

(h) after paragraph (33) add—

"(34) Paragraph (33) shall not apply where the decision awarding a qualifying benefit is made in respect of a renewal claim where a fixed period award of that benefit has expired, or is due to expire.".

(4) In regulation 19(**15**) (time for claiming benefit) after paragraph (3B) insert—

"(3C) In any case where the application of regulation 6(16) to (34) would be advantageous to the claimant, this regulation shall apply subject to those provisions.".

(5) In regulation 30 (payments on death)—

(a) in paragraph (4) at the beginning insert "Subject to paragraph (4B),".

(b) after paragraph (4A)(**16**) insert—

"(4B) A written application is not required where—

(a) an executor or administrator has not been appointed;

(b) the deceased was in receipt of a retirement pension of any category or state pension credit including where any other benefit was combined for payment purposes with either of those benefits at the time of death;

(c) the sum payable by way of benefit to the deceased is payable to a person who was the spouse or civil partner of the deceased at the time of death; and

(d) either—

(i) the spouse or civil partner and the deceased were living together at the time of death; or

(ii) they would have been living together at the time of death but for the fact that either or both of them were in a residential care or nursing home or in a hospital.".

(**13**) Paragraph (30) was added by regulation 2(2)(g) of S.R. 2002 No. 67

(**14**) Paragraph (33) was added by regulation 2(7)(f) of S.R. 2006 No. 168

(**15**) Regulation 19 was substituted by regulation 3(7) of S.R. 1997 No. 156 and paragraph (3B) was inserted by regulation 2(2)(c) of S.R. 2005 No. 139

(**16**) Paragraph (4A) was inserted by regulation 2(7)(b) of S.R. 2000 No. 365