STATUTORY RULES OF NORTHERN IRELAND

2007 No. 286

SOCIAL SECURITY

The Transfer of State Pensions and Benefits Regulations (Northern Ireland) 2007

Made - - - -	*4th May 2007*
Coming into operation	*1st June 2007*

The Department for Social Development, being a Department designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to rights in respect of State pensions and benefits of members of the pension scheme provided for officials and servants of Community institutions and bodies, makes the following Regulations in exercise of the power conferred by that section.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Transfer of State Pensions and Benefits Regulations (Northern Ireland) 2007 and shall come into operation on 1st June 2007.

(2) In these Regulations—

"the 1992 Act" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**3**);

"the Communities' scheme" means the pension scheme provided for officials and other servants of Community institutions and bodies in accordance with regulations adopted by the Council of the European Communities(**4**);

"the Department" means the Department for Social Development;

"guarantee date" means the date—

(a) by reference to which the cash equivalent value of transferable rights is calculated; and

(b) which falls within a period of three months beginning with the date on which the transfer application is received by the Department;

"relevant benefit" means benefit under—

(**1**) *See* Schedule 2 to the European Communities (Designation) (No. 2) Order 2006 (S.I. 2006/1461)
(**2**) 1972 c. 68
(**3**) 1992 c. 7
(**4**) Council Regulation (EEC, Euratom, ECSC) No. 259/68 of 29th February 1968 (O.J. No. L 56, 4.3.68 SE 1968 p.1, 1 December 1972). The Communities' Scheme is contained in Title V, Chapter 3, Articles 77-84 and Annex VIII

(a) sections 35 and 36 of the National Insurance Act (Northern Ireland) 1966(**5**) (graduated retirement benefit);

(b) Parts II to V and X of the 1992 Act;

(c) Articles 3(2) and 4 of the Jobseekers (Northern Ireland) Order 1995(**6**) (contribution-based jobseeker's allowance);

"statement of entitlement" means a written statement—

(a) of the amount of the cash equivalent at the guarantee date of the transferable rights which have accrued to, or in respect of, the transferor; and

(b) which contains details of the basis of how that amount has been calculated;

"transfer application" means an application referred to in regulation 3(1);

"transferor" means the person who has applied to the Department to transfer his transferable rights into the Communities' scheme.

(3) References in these Regulations to—

(a) relevant benefits include benefits under the corresponding Acts in force in Great Britain;

(b) provisions of the 1992 Act or of the Social Security Administration (Northern Ireland) Act 1992(**7**) include references to the provisions in force in Great Britain corresponding to those provisions.

Transferable rights

2.—(1) In these Regulations, "transferable rights" means, subject to paragraph (2), any rights to relevant benefits, which, at the guarantee date, have accrued to, or in respect of, a person by virtue of—

(a) the payment by that person of Class 1, 2 or 3 contributions under the 1992 Act;

(b) that person having been credited with such contributions or with earnings; or

(c) contributions of any class paid under the National Insurance Act (Northern Ireland) 1966.

(2) Paragraph (1) does not include—

(a) any rights under—

(i) section 48 of the 1992 Act(**8**) (use of former spouse's contributions), or

(ii) sections 82 to 86A of that Act(**9**) (adult dependency increases); or

(**5**) 1966 c. 6 (N.I.); sections 35 and 36 were repealed by the Social Security Act 1973 (c. 38) but are continued in force by regulation 2 of S.R. 1978 No. 105

(**6**) S.I. 1995/2705 (N.I. 15); Article 3(2) was amended by paragraph 3(2) of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)); Article 4 was amended by paragraph 102 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)), paragraph 4 of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 and paragraph 46 of Schedule 1 to the National Insurance Contributions Act 2002 (c. 19)

(**7**) 1992 c. 8

(**8**) Section 48 was amended by paragraph 78 of Schedule 24 to the Civil Partnership Act 2004 (c. 33)

(**9**) Section 82 was amended by paragraph 7 of Schedule 2 and Schedule 3 to the Jobseekers (Northern Ireland) Order 1995, paragraph 89 of Schedule 24 to the Civil Partnership Act 2004 and paragraph 31 of Schedule 1 to the Child Benefit Act 2005 (c. 6); section 83 was amended by paragraph 20 of Schedule 1 and Schedule 2 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)); section 84 was amended by paragraph 8 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995; section 85 was amended by paragraph 22 of Schedule 1 and Schedule 2 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994, paragraphs 14(d) and 18(10) of Schedule 2 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)), paragraph 91 of Schedule 24 and Schedule 30 to the Civil Partnership Act 2004 and paragraph 32 of Schedule 1 to the Child Benefit Act 2005; section 86 was repealed by Schedule 2 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994; section 86A was inserted by Article 4(4) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

(b) the cash equivalent of the value of the appropriate national health service allocation under section 142 of the Social Security Administration (Northern Ireland) Act 1992(**10**) (destination of contributions).

(3) In determining a person's rights to relevant benefits for the purposes of this regulation, regulation 6(1) of the Social Security (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979(**11**) (benefit at reduced rates for those who do not satisfy contribution conditions in full) shall have effect as if the words from "provided" to the end of the paragraph were omitted.

Transfer application

3.—(1) Except where paragraph (2) applies, a person who wishes to transfer his transferable rights to the Communities' scheme must make an application to the Department.

(2) The transferor shall be treated as having made an application under paragraph (1) where the Department receives a copy of the transferor's application to become a member of the Communities' scheme.

(3) An application under paragraph (1) shall be in such form as the Department may from time to time approve.

Statement of entitlement

4.—(1) Subject to paragraph (4), the Department shall provide the transferor with a statement of entitlement before the end of the period of 14 days beginning with the guarantee date.

(2) A statement of entitlement shall remain valid for a period of seven months beginning with the day on which it is issued by the Department.

(3) Where the transferor is not satisfied as to the accuracy of any of the information contained in the statement of entitlement, he shall notify the Department accordingly within one month of receiving it.

(4) The Department need not provide a statement of entitlement to a transferor if it has provided a statement of entitlement to that transferor in the previous twelve months.

Calculation of the cash equivalent of transferable rights

5.—(1) The cash equivalent of the transferor's transferable rights is to be calculated and verified in such manner as may be approved by or on behalf of the Government Actuary.

(2) Where, at the guarantee date, the transferor is in receipt of one or more relevant benefits, the cash equivalent of any amounts paid in respect of that benefit or those benefits shall be deducted from the total cash equivalent of his transferable rights.

(**10**) Section 142 was amended by Article 4 of the Social Security (Contributions) (Northern Ireland) Order 1994 (S.I. 1994/765 (N.I. 4)), Schedule 2 to the Social Security Administration (Fraud) Act 1997 (c. 47), Article 61(2) of, and paragraph 77 of Schedule 6 to, the Social Security (Northern Ireland) Order 1998, paragraph 31 of Schedule 1, paragraph 45 of Schedule 3 and paragraph 11 of Schedule 4 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671), paragraph 9 of Schedule 10 to the Welfare Reform and Pensions Act 1999 (c. 30), section 5 of, and paragraph 34 of Schedule 1 and Schedule 2 to, the National Insurance Contributions Act 2002, paragraph 206 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1) and paragraph 4(3) of Schedule 1 to the National Insurance Contributions and Statutory Payments Act 2004 (c. 3)

(**11**) S.R. 1979 No. 243; regulation 6(1) was substituted by regulation 2(2) of S.R. 1990 No. 452 and amended by regulation 8(3)(a) of S.R. 2001 No. 108