STATUTORY RULES OF NORTHERN IRELAND

2005 No. 122

SOCIAL SECURITY

The Social Security (Claims and Payments) (Amendment) Regulations (Northern Ireland) 2005

Made - - - - 16th March 2005
Coming into operation in accordance with regulation 1(1)

The Department for Social Development, in exercise of the powers conferred by sections 5(1)(a) to (c) and (g), and 165(1), (4) and (5) of the Social Security Administration (Northern Ireland) Act 1992(**1**), and now vested in it(**2**), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Claims and Payments) (Amendment) Regulations (Northern Ireland) 2005 and shall come into operation –

(a) for the purposes of this regulation and regulation 2(1) and (2), on 6th April 2005,

(b) for the purposes of regulation 3, on 6th July 2005, and

(c) for all other purposes, on 6th April 2006.

(2) In these Regulations "the Claims and Payments Regulations" means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**3**).

(3) The Interpretation Act (Northern Ireland) 1954(**4**) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Social Security (Claims and Payments) Regulations

2.—(1) The Claims and Payments Regulations shall be amended in accordance with paragraphs (2) to (5).

(2) Before regulation 16 there shall be inserted the following regulation –

(**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. 1988 No. 369, S.R. 1990 No. 398, S.R. 1992 No. 7, S.R. 1996 No. 354, S.R. 1997 No. 156, S.R. 2001 No. 108, S.R. 2002 Nos. 323 and 327, S.R. 2003 No. 191 and S.R. 2004 No. 304
(**4**) 1954 c. 33 (N.I.)

"**Advance claim for pension following deferment**

15B. Where a person's entitlement to a Category A or Category B retirement pension is deferred in accordance with section 55(3) of the Contributions and Benefits Act(**5**) (pension increase or lump sum where entitlement to retirement pension is deferred) a claim for –

(a) a Category A or Category B retirement pension; and

(b) any increase in that pension,

may be made any time not more than 4 months before the date on which the period of deferment, within the meaning of that section, ends.".

(3) In regulation 19(3)(**6**) (time for claiming benefit) sub-paragraphs (c) and (f) shall be omitted.

(4) In regulation 30 (payments on death) –

(a) at the beginning of paragraph (5)(**7**) there shall be inserted "Subject to paragraphs (5A) to (5F),"; and

(b) after paragraph (5) there shall be inserted the following paragraphs –

"(5A) Subject to paragraphs (5B) to (5F), a claim may be made in accordance with paragraph (5) on behalf of the deceased for a Category A or Category B retirement pension or graduated retirement benefit provided that the deceased was not married on the date of his death.

(5B) In determining for the purposes of paragraphs (5) and (5A) the benefit to which the deceased would have been entitled if he had claimed within the prescribed time, the prescribed time shall be the period of three months ending on the date of his death and beginning with any day on which, apart from satisfying the condition of making a claim, he would have been entitled to the pension or benefit.

(5C) Paragraph (5D) applies where, throughout the period of 12 months ending with the day before the death of the deceased person, his entitlement to a Category A or a Category B retirement pension or to graduated retirement benefit was deferred in accordance with, as the case may be –

(a) section 55 of the Contributions and Benefits Act (pension increase or lump sum where entitlement to retirement pension is deferred); or

(b) section 35(4A) of the National Insurance Act (Northern Ireland) 1966(**8**) (deferment of graduated retirement benefit).

(5D) Where a person claims under paragraphs (5) and (5A) the deceased shall be treated as having made an election in accordance with, as the case may be –

(a) paragraph A1(1)(a) of Schedule 5 to the Contributions and Benefits Act(**9**) (electing to have an increase of pension), where paragraph (5C)(a) applies; or

(b) paragraph 12(1)(a) of Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations (Northern Ireland) 2005(**10**) (electing to have an increase of benefit), where paragraph (5C)(b) applies.

(**5**) 1992 c. 7; section 55 is substituted by Article 273(1) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))

(**6**) Regulation 19 was substituted by regulation 3(7) of S.R. 1997 No. 156 and paragraph (3) was amended by regulation 10(4) of S.R. 2001 No. 108, paragraph 2(a) of the Schedule to S.R. 2002 No. 323 and regulation 2(2)(a) of S.R. 2002 No. 327

(**7**) Paragraph (5) was amended by regulation 3(6) of S.R. 1988 No. 369, regulation 7(5)(a) of S.R. 1990 No. 398, regulation 15 of S.R. 1992 No. 7, regulation 2(15) of S.R. 1996 No. 354 and regulation 10 of S.R. 2003 No. 191

(**8**) 1966 c. 6 (N.I.); section 35 was repealed by the Social Security Act 1973 (c. 38) but continues in force by regulation 2 of the Social Security (Graduated Retirement Benefit) (No. 2) Regulations (Northern Ireland) 1978 (S.R. 1978 No. 105) and subsection (4A) is inserted by S.R. 2005 No. 121

(**9**) Paragraph A1 is inserted by paragraph 3 of Schedule 9 to the Pensions (Northern Ireland) Order 2005

(**10**) S.R. 2005 No. 121; Schedule 1 has effect by virtue of section 35(4) of the National Insurance Act (Northern Ireland) 1966 as amended by S.R. 2005 No. 121