STATUTORY RULES OF NORTHERN IRELAND

2005 No. 120

SOCIAL SECURITY

The Social Security (Deferral of Retirement Pensions) Regulations (Northern Ireland) 2005

Made - - - -	*16th March 2005*
Coming into operation	*6th April 2005*

The Department for Social Development, in exercise of the powers conferred by sections 54(1) and 171(3) of, and paragraphs 2(2), 3(1), 3B(2) and (5)(b)(iii) and 7B(2) and (5)(b)(iii) of Schedule 5 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), and now vested in it(**2**), and of all other powers enabling it in that behalf, by this statutory rule which contains regulations made by virtue of, or consequential upon, Article 273(3) of, and Schedule 9 to, the Pensions (Northern Ireland) Order 2005(**3**), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Deferral of Retirement Pensions) Regulations (Northern Ireland) 2005 and shall come into operation on 6th April 2005.

(2) In these Regulations –

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

"retirement pension" means a Category A or Category B retirement pension.

Beginning of accrual period

2. For the purposes of paragraphs 3B and 7B of Schedule 5 to the Contributions and Benefits Act (calculation of lump sum), the accrual period shall begin on the day of the week on which retirement pension would have been payable to a person in accordance with regulation 22(3) of, and paragraph 5

(**1**) 1992 c. 7; section 54(1) was amended by paragraph 12 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and is amended by paragraph 6(1) of Schedule 2 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)), paragraphs 2(2) and 3(1) of Schedule 5 are amended by paragraph 6(2) of Schedule 2 to the Pensions (Northern Ireland) Order 1995, *see* Article 273(3) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1), and paragraphs 3B and 7B of Schedule 5 were inserted by paragraphs 7 and 10 of Schedule 9 to the Pensions (Northern Ireland) Order 2005 respectively

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

(**3**) S.I. 2005/255 (N.I. 1)

of Schedule 6 to, the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**4**), if his entitlement to a retirement pension had not been deferred.

Amount of retirement pension not included in the calculation of the lump sum

3.—(1) For the purposes of the calculation of the lump sum under paragraphs 3B and 7B of Schedule 5 to the Contributions and Benefits Act, the amount of retirement pension to which the person ("the deferrer") would have been entitled for the accrual period if his entitlement had not been deferred shall not include any such pension where, for the entire accrual period –

(a) the deferrer has received any of the following benefits –

(i) any benefit under Parts II and III of the Contributions and Benefits Act other than child's special allowance, attendance allowance, disability living allowance and guardian's allowance;

(ii) any severe disablement allowance under sections 68 and 69 of the Contributions and Benefits Act as in force before 6th April 2001(**5**);

(iii) any unemployability supplement within the extended meaning in regulation 2(1) of the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979(**6**) and including benefit corresponding to an unemployability supplement by virtue of regulations under paragraph 4(2) of Schedule 8 to the Contributions and Benefits Act;

(b) an increase of any of the benefits specified in sub-paragraph (a) is being paid to a married man in respect of his wife where the wife is a deferrer whose period of deferment began before 6th April 2005 and who would have been entitled to a Category B retirement pension or to an increase under section 51A(2) of the Contributions and Benefits Act(**7**);

(c) an increase of any of the benefits specified in sub-paragraph (a) is being paid to any person in respect of a deferrer whose period of deferment began on or after 6th April 2005 except where that deferrer is neither married to, nor residing with, that person;

(d) the deferrer would have been disqualified for receiving retirement pension by reason of imprisonment or detention in legal custody.

(2) Where any of the benefits referred to in paragraph (1)(a) or an increase referred to in paragraph (1)(b) or (c) has been received for part only of an accrual period, the amount of retirement pension not included by paragraph (1) shall be reduced by 1/7th for each day of the accrual period in respect of which the benefit or increase has not been received.

(3) Where the deferrer would have been disqualified for receiving retirement pension as specified in paragraph (1)(d) for part only of an accrual period, the amount of retirement pension not included by paragraph (1) shall be reduced by 1/7th for each day of the accrual period for which he would not have been so disqualified.

(4) Subject to paragraph (5), where –

(a) a person has, in respect of any day in an accrual period, received one or more of the benefits referred to in paragraph (1)(a) or increases referred to in paragraph (1)(b) and (c) or both;

(b) the determining authority has determined that in respect of that day, he was not entitled to the benefit or increase; and

(**4**) S.R. 1987 No. 465; paragraph 5 of Schedule 6 was amended by regulation 10(6)(a) of S.R. 2001 No. 108 and regulation 2(10)(a) and (b) of S.R. 2002 No. 297

(**5**) Sections 68 and 69 were repealed by Schedule 10 to the Welfare Reform and Pensions (Northern Ireland) Order 1999; *see* Article 4 of the Welfare Reform and Pensions (1999 Order) (Commencement No. 6 and Transitional and Savings Provisions) Order (Northern Ireland) 2000 (S.R. 2000 No. 332 (C. 14))

(**6**) S.R. 1979 No. 242, to which there are amendments not relevant to these Regulations

(**7**) Section 51A was inserted by paragraph 18(6) of Schedule 2 to the Pensions (Northern Ireland) Order 1995