STATUTORY RULES OF NORTHERN IRELAND

2004 No. 378

SOCIAL SECURITY

The Social Security (Retirement Pensions) (Amendment) Regulations (Northern Ireland) 2004

Made - - - -	*6th September 2004*
Coming into operation	*27th September 2004*

The Department for Social Development, in exercise of the powers conferred by sections 5(1)(b) and 165(1) and (4) of the Social Security Administration (Northern Ireland) Act 1992(**1**) and Articles 10(4) and 74(1) and (3) of the Social Security (Northern Ireland) Order 1998(**2**), and now vested in it(**3**), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Social Security (Retirement Pensions) (Amendment) Regulations (Northern Ireland) 2004 and shall come into operation on 27th September 2004.

Amendment of the Social Security (Claims and Payments) Regulations

2. In regulation 6 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**4**) (date of claim) after paragraph (30) there shall be added the following paragraphs –

"(31) Subject to paragraph (32), where –

(a) a person –

(i) has attained pensionable age, but for the time being makes no claim for a Category A retirement pension; or

(ii) has attained pensionable age and has a spouse who has attained pensionable age, but for the time being makes no claim for a Category B retirement pension;

(b) in accordance with regulation 50A of the Social Security (Contributions) Regulations 2001(**5**) (Class 3 contributions: tax years 1996-97 to 2001-02) the

(**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**) 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 (c. 21)
(**3**) *See* Article 8(b) of S.R. 1999/481
(**4**) S.R. 1987 No. 465; relevant amending regulations are S.R. 2002 No. 67
(**5**) S.I. 2001/1004; regulation 50A was inserted by regulation 4 of S.I. 2004/1362

Commissioners of Inland Revenue subsequently accept Class 3 contributions paid after the due date by the person or, in the case of a Category B retirement pension, the spouse;

(c) in accordance with regulation 6A of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001(**6**) the contributions are treated as paid on a date earlier than the date on which they were paid; and

(d) the person claims a Category A or, as the case may be, a Category B retirement pension,

the claim shall be treated as made on –

(i) 1st October 1998; or

(ii) the date on which the person attained pensionable age in the case of a Category A retirement pension, or, in the case of a Category B retirement pension, the date on which the person's spouse attained pensionable age,

whichever is later.

(32) Paragraph (31) shall not apply where –

(a) the person's entitlement to a Category A or B retirement pension has been deferred by virtue of section 55(2)(a) of the Contributions and Benefits Act (increase of retirement pension where entitlement is deferred); or

(b) the person's nominal entitlement to a Category A or B retirement pension is deferred in pursuance of section 35(4) and (7) of the National Insurance Act (Northern Ireland) 1966 (increase of graduated retirement benefit in cases of deferred retirement),

nor where sub-paragraph (a) and (b) apply.".

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

3. Regulation 5 of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(**7**) (date from which a decision revised under Article 10 takes effect) shall be renumbered paragraph (1) of regulation 5 and after that paragraph there shall be added the following paragraph –

"(2) Where –

(a) a person attains pensionable age, claims a retirement pension after the prescribed time for claiming and the Department decides that he is not entitled ("the original decision") because –

(i) in the case of a Category A retirement pension, the person has not satisfied the contribution conditions; or

(ii) in the case of a Category B retirement pension, the person's spouse has not satisfied the contribution conditions;

(b) in accordance with regulation 50A of the Social Security (Contributions) Regulations 2001 the Board subsequently accepts Class 3 contributions paid after the due date by the claimant or, as the case may be, the spouse;

(c) in accordance with regulation 6A of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001 the

(**6**) S.I. 2001/769; regulation 6A was inserted by regulation 2(b) of S.I. 2004/1361
(**7**) S.R. 1999 No. 162