STATUTORY RULES OF NORTHERN IRELAND

2001 No. 108

SOCIAL SECURITY

The Social Security (Benefits for Widows and Widowers) (Consequential Amendments) Regulations (Northern Ireland) 2001

Made - - - -	*13th March 2001*
Coming into operation	*9th April 2001*

The Department for Social Development, in exercise of the powers conferred by Articles 73(3) and (4)(*a*) and 75(5)(*a*) of the Welfare Reform and Pensions (Northern Ireland) Order 1999(**1**), and now vested in it(**2**), 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 (Benefits for Widows and Widowers) (Consequential Amendments) Regulations (Northern Ireland) 2001 and shall come into operation on 9th April 2001.

Amendment of the Social Security (Hospital In-Patients) Regulations

2.—(1) The Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975(**3**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(1) (interpretation)—

(a) after the definition of "basic pension"(**4**) there shall be inserted—

> ""bereavement allowance" means an allowance referred to in section 39B of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**5**) (bereavement allowance where no dependent children);";

(b) after the definition of "week"(**6**) there shall be inserted—

(**1**) S.I. 1999/3147 (N.I. 11)
(**2**) *See* Article 8(*b*) of S.R. 1999 No. 481
(**3**) S.R. 1975 No. 109; relevant amending regulations are S.R. 1977 No. 316, S.R. 1979 No. 68 and S.R. 1987 No. 391
(**4**) The definition of "basic pension" was substituted by regulation 2(2)(*a*)(i) of S.R. 1987 No. 391
(**5**) 1992 c. 7; section 39B is inserted by Article 52(2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999
(**6**) The definition of "week" was inserted by regulation 2 of S.R. 1977 No. 316

"" widowed parent's allowance" means an allowance referred to in section 39A of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**7**) (widowed parent's allowance);".

(3) At the end of Schedule 2 (personal benefits) there shall be added—

"Bereavement allowance

Widowed parent's allowance".

Amendment of the Social Security (Credits) Regulations

3.—(1) The Social Security (Credits) Regulations (Northern Ireland) 1975(**8**) shall be amended in accordance with paragraphs (2) to (7).

(2) In regulation 2(1) (interpretation)—

(a) after the definition of "benefit"(**9**) there shall be inserted—

""bereavement allowance" means an allowance referred to in section 39B of the Contributions and Benefits Act(**10**);

"bereavement benefit" means a benefit referred to in section 20(1)(*ea*)(**11**) of the Contributions and Benefits Act (list of contributory benefits);";

(b) after the definition of "relevant past year"(**12**) there shall be inserted—

""widowed parent's allowance" means an allowance referred to in section 39A of the Contributions and Benefits Act;".

(3) In regulation 3(1)(*a*)(**13**) (which provides that contributions or earnings shall be credited only for the purpose of satisfying the second contribution condition in relation to certain benefits) after "widowed mother's allowance," there shall be inserted "widowed parent's allowance, bereavement allowance,".

(4) In regulation 4, in the heading and in paragraph (1)(**14**) (which provides for the crediting of Class 3 contributions for the purpose of entitlement to certain benefits) after " a widowed mother's allowance" there shall be inserted ", a widowed parent's allowance, a bereavement allowance".

(5) In regulation 7A(1)(**15**) (credits for invalid care allowance) after—

(a) "widow" there shall be inserted "or widower";

(b) "widow's benefit" there shall be inserted ", bereavement benefit".

(6) In regulation 7C(1)(**16**) (which provides for the crediting of earnings equal to the prevailing weekly lower earnings limit in certain cases where working families' tax credit is being paid) after "a widowed mother's allowance" there shall be inserted ", a widowed parent's allowance, a bereavement allowance".

(7) After regulation 8B(**17**) (credits for incapacity for work) there shall be inserted—

(**7**) Section 39A is inserted by Article 52(2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999
(**8**) S.R. 1975 No. 113; relevant amending regulations are S.R. 1976 No. 99, S.R. 1987 No.153, S.R. 1988 No. 326, S.R. 1995 Nos. 150 and 479, S.R. 1996 No. 430 and S.R. 1999 No. 385
(**9**) The definition of "benefit" was inserted by regulation 2(2)(*b*) of S.R. 1996 No. 430
(**10**) The definition of "the Contributions and Benefits Act" was inserted by regulation 6(2) of S.R. 1995 No. 150
(**11**) Section 20(1)(*ea*) is inserted by paragraph 2(2)(*b*) of Schedule 8 to the Welfare Reform and Pensions (Northern Ireland) Order 1999
(**12**) The definition of "relevant past year" was substituted by regulation 2(2) of S.R. 1988 No. 326
(**13**) Regulation 3(1) was substituted by regulation 2(3) of S.R. 1996 No. 430
(**14**) Regulation 4(1) was amended by regulation 2(5)(*a*) of S.R. 1988 No. 326
(**15**) Regulation 7A(1) was inserted by regulation 19 of S.R. 1976 No. 99 and paragraph (1) was amended by regulation 6(*a*) of S.R. 1987 No. 153 and regulation 2(5)(*c*) of S.R. 1988 No. 326
(**16**) Regulation 7C was inserted by regulation 2 of S.R. 1995 No. 479 and amended by regulation 2(1) of, and Part I of Schedule 2 to, S.R. 1999 No. 385
(**17**) Regulation 8B was inserted by regulation 2(6) of S.R. 1996 No. 430

"**Credits on termination of bereavement benefits**

8C.—(1) This regulation applies for the purpose only of enabling a person who previously received a bereavement benefit ("the recipient") to satisfy, as the case may be, the condition referred to in—

(a) paragraph 2(3)(*b*) of Schedule 3 to the Contributions and Benefits Act (second contribution condition for short-term incapacity benefit) in relation to short-term incapacity benefit; or

(b) Article 4(1)(*b*)(**18**) of the Jobseekers Order(**19**) (contribution based condition) in relation to contribution-based jobseeker's allowance.

(2) For every year up to and including that in which the recipient ceased to be entitled to a bereavement benefit otherwise than by reason of remarriage or living together with a person of the opposite sex as husband and wife, the recipient shall be credited with such earnings as may be required to enable the condition referred to in paragraph (1) to be satisfied.".

Amendment of the Child Benefit and Social Security (Fixing and Adjustment of Rates) Regulations

4.—(1) The Child Benefit and Social Security (Fixing and Adjustment of Rates) Regulations (Northern Ireland) 1976(**20**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation) after the definition of "the General Regulations" there shall be added—

""widowed parent's allowance" means an allowance referred to in section 39A of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.".

(3) In regulation 2(5)(*a*)(ii) (which concerns specified benefits qualifying for the weekly rate of child benefit) after "widowed mother's allowance", where those words first occur, there shall be inserted ", widowed parent's allowance".

Amendment of the Social Security Benefit (Dependency) Regulations

5.—(1) The Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977(**21**) shall be amended in accordance with paragraph (2).

(2) For regulation 4B(**22**) (circumstances in which a person entitled to child benefit is to be treated as if he were not so entitled), there shall be substituted—

"**Circumstances in which a person entitled to child benefit is to be treated as if he were not so entitled**

4B.—(1) For the purposes of the following provisions of the Contributions and Benefits Act(**23**)—

(a) section 56 (child's special allowance);

(b) section 77 (guardian's allowance);

(**18**) Article 4(1)(*b*) was modified by regulations 159 and 166 of S.R. 1996 No. 198 and is amended by paragraph 4 of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999
(**19**) The definition of "the Jobseeker's Order" was inserted by regulation 2(2)(b) of S.R. 1996 No. 430
(**20**) S.R. 1976 No. 223; to which there are amendments not relevant to these regulations
(**21**) S.R. 1977 No. 74; relevant amending regulations are S.R. 1980 No. 144, S.R. 1984 No. 373, S.R. 1987 No. 129, S.R. 1988 No. 138, S.R. 1989 No. 103 and S.R. 1992 No. 521
(**22**) Regulation 4B was inserted by regulation 2 of S.R. 1980 No. 144 and amended by S.R. 1984 No. 373, S.R. 1987 No. 129, S.R. 1988 No. 138 and S.R. 1989 No. 103
(**23**) The definition of "the Contributions and Benefits Act" was inserted by regulation 2(2) of S.R. 1992 No. 521

(c) section 80(**24**) (increase in benefit for beneficiary's dependent children);

(d) section 82(4) (short-term benefits — increase for adult dependants);

(e) section 85(2) (pension increase (person with care of children));

(f) section 90(**25**) (increase in benefits for beneficiaries under sections 68 and 70), and

(g) paragraphs 4(1) (unemployability supplement: increase for beneficiary's dependent children) and 6(1) (unemployability supplement: increase for dependent adults) of Schedule 7,

a person who is entitled to child benefit in respect of a child shall be treated as if he were not so entitled for the periods referred to in paragraph (2).

(2) The periods referred to in paragraph (1) are—

(a) any period throughout which—

(i) the person referred to in paragraph (1), not being a parent of the child, does not fall to be treated as responsible for the child under section 139(1)(*a*) of the Contributions and Benefits Act (meaning of "person responsible for child"), and

(ii) a parent of that child falls to be treated as responsible for the child under the said section 139(1)(*a*);

(b) any period throughout which—

(i) the person referred to in paragraph (1), not being a parent of that child, falls to be treated as responsible for the child under the said section 139(1)(*a*), and

(ii) a parent of that child also falls to be treated as responsible for the child under the said section 139(1)(*a*); or

(c) any day following the day on which that child died.

(3) Sub-paragraph (*b*) of paragraph (2) shall not apply in the case of a person who is wholly or mainly maintaining the child referred to in that sub-paragraph.

(4) For the purposes of the following provisions of the Contributions and Benefits Act—

(a) section 37(1) (entitlement to a widowed mother's allowance);

(b) section 39A(2) (entitlement to a widowed parent's allowance);

(c) section 56(1)(*b*);

(d) section 77(1);

(e) section 80;

(f) section 82(4);

(g) section 85(2);

(h) section 90, and

(i) paragraphs 4(1), 6(1) and 18(1)(*a*)(ii) of Schedule 7 (industrial death benefit: child of deceased's family),

a person who is entitled to child benefit in respect of a child shall be treated as if he were not so entitled for any period for which that benefit is not payable by virtue of any of the provisions referred to in paragraph (5).

(**24**) Section 80 was amended by Article 4(3) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)), Schedule 3 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I.15)) and is amended by paragraph 10 of Schedule 8 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 and Article 8 of S.R. 2001 No. 41

(**25**) Section 90 is amended by paragraph 25 of Schedule 8 to the Welfare Reform and Pensions (Northern Ireland) Order 1999

(5) The provisions referred to in paragraph (4) are—

(a) regulation 7 (circumstances in which a person who has ceased to receive full-time education is to continue to be treated as a child);

(b) regulation 8 (exclusion from benefit of children aged 16 but under the age of 19 who are receiving advanced education);

(c) regulation 9 (child receiving training under a relevant training scheme);

(d) regulation 9A (child receiving income support, income-based jobseeker's allowance or incapacity benefit); or

(e) regulation 9C (child receiving financial support for vocational training),

of the Child Benefit (General) Regulations (Northern Ireland) 1979(**26**) or any provision contained in regulations made under section 140(1) of the Contributions and Benefits Act (exclusion from child benefit) in so far as those regulations provide that child benefit is not to be payable by virtue of section 138(1)(*b*) of that Act (meaning of "child") and regulations made thereunder.".

Amendment of the Social Security Benefit (Persons Abroad) Regulations

6.—(1) The Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978(**27**) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2) (interpretation)—

(a) after the definition of "the Contributions Regulations"(**28**) there shall be inserted—

""bereavement allowance" means an allowance referred to in section 39B of the Contributions and Benefits Act(**29**);";

"bereavement benefit" means a benefit referred to in section 20(1)(*ea*) of the Contributions and Benefits Act;"???";

(b) after the definitions of " "widow's benefit" and "widow's pension" " there shall be inserted —

""widowed parent's allowance" means an allowance referred to in section 39A of the Contributions and Benefits Act;".

(3) In regulation 4 (modification of the Act in relation to widow's benefit, child's special allowance, guardian's allowance and retirement pension)—

(a) in the heading and in paragraph (1)(**30**) after "widow's benefit," there shall be inserted "bereavement benefit",

(b) after paragraph (2A)(**31**) there shall be inserted—

"(2B) In the case of a bereavement payment, paragraph (1) above shall apply only where—

(a) the deceased spouse was in Northern Ireland at the time of his or her death;

(b) sub-paragraph (*a*) above does not apply but the surviving spouse returned to Northern Ireland within 4 weeks of the deceased spouse's death; or

(**26**) S.R. 1979 No. 5; regulation 7 was substituted by regulation 3 of S.R. 1980 No. 261 and amended by regulation 2 of S.R. 1982 No. 114, regulation 4 of S.R. 1987 No. 130 and regulation 4 of S.R. 1988 No. 273; regulations 9 and 9A were substituted by regulation 2 of S.R. 2000 No. 361 and regulation 9C was inserted by regulation 3 of S.R. 1989 No. 102

(**27**) S.R. 1978 No. 114; relevant amending regulations are S.R. 1981 No. 278, S.R. 1988 No. 77, S.R. 1989 No. 373, S.R. 1990 No. 123 and S.R. 1992 Nos. 330 and 453

(**28**) The definition of "the Contributions Regulations" was substituted by regulation 3(2) of S.R. 1981 No. 278

(**29**) The definition of "the Contributions and Benefits Act" was inserted by regulation 3(2) of S.R. 1992 No. 453

(**30**) Paragraph (1) was amended by regulation 2 of S.R. 1992 No. 330

(**31**) Paragraph (2A) was inserted by regulation 2 of S.R. 1988 No. 77