STATUTORY RULES OF NORTHERN IRELAND

# 1996 No. 188

# SOCIAL SECURITY

## The Social Security (Additional Pension) (Contributions Paid in Error) Regulations (Northern Ireland) 1996

| | |
|---|---|
| *Made - - - -* | *8th May 1996* |
| *Coming into operation* | *4th June 1996* |

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 61A of, and paragraph 8(1)(*m*) of Schedule 1 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) 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 (Additional Pension) (Contributions Paid in Error) Regulations (Northern Ireland) 1996 and shall come into operation on 4th June 1996.

(2) In these Regulations "the Act" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

### Prescribed conditions for the application of section 61A of the Act

**2.**—(1) The prescribed conditions for the application, in the case of an individual, of section 61A of the Act (cases where primary Class 1 contributions have been paid in error) are that—

(a) the Department is satisfied that the error was not made with the individual's consent or connivance or attributable to any negligence on the individual's part;

(b) none of the contributions in question have been returned to the individual in accordance with regulation 32 of the Social Security (Contributions) Regulations (Northern Ireland) 1979(**2**) (return of contributions paid in error or overpaid), and

(**1**) 1992 c. 7; section 61A was inserted by Article 130 of the Pensions (Northern Ireland) Order 1995 (S.I.1995/3213 (N.I. 22))
(**2**) S.R. 1979 No. 186; regulation 32 was amended by S.R. 1984 No. 43, S.R. 1985 No. 260, S.R. 1987 No. 468, S.R. 1988 No. 204, S.R. 1989 No. 384 and S.R. 1992 No. 41

(c) by the date on which the individual reaches pensionable age(**3**), or such later date as the Department considers reasonable in a particular case, the Department has not received written notification from the individual in accordance with paragraph (2) of this regulation.

(2) The written notification referred to in paragraph (1)(*c*) of this regulation is a notice stating that the individual does not wish regulation 3 of these Regulations to apply in his case.

(3) Except in paragraph (1)(*a*) of this regulation, in a case where the individual in question has died, a reference to the individual in this regulation shall include a reference to his surviving spouse.

**Purposes for which primary Class 1 contributions paid in error are to be treated as properly paid**

**3.**—(1) Where section 61A of the Act applies in the case of an individual and the Department is of the opinion that it is appropriate for this regulation to apply—

(a) the entitlement of the individual to, and the amount of, additional pension shall be determined as if the individual had been an employed earner and, accordingly, all of the primary Class 1 contributions in question had been properly paid;

(b) in the case of an individual who is entitled to a transitional award of incapacity benefit, regulations made by virtue of Article 6(8) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994(**4**) (provision during transition from invalidity benefit to incapacity benefit for incapacity benefit to include the additional pension element of invalidity pension) shall have effect as if, in relation to the provisions in force before the commencement of that Article with respect to that additional pension element, the individual had been an employed earner and, accordingly, all of the primary Class 1 contributions in question had been properly paid, and

(c) where any amount calculated by reference to the contributions in question has been paid in respect of the individual by way of minimum contributions under section 39 of the Pension Schemes (Northern Ireland) Act 1993(**5**) (payment of minimum contributions to personal pension schemes), the individual shall be treated for the purposes of that Act as if he had been an employed earner and, accordingly, the amount had been properly paid.

(2) The reference in paragraph (1)(*a*) of this regulation to additional pension is to additional pension for the individual or the individual's spouse falling to be calculated under section 45 of the Act (the additional pension in a Category A retirement pension) for the purposes of—

(a) Category A retirement pension;

(b) Category B retirement pension for widows or widowers;

(c) widowed mother's allowance and widow's pension, and

(d) incapacity benefit (except in transitional cases).

**Amendment of regulation 32 of the Social Security (Contributions) Regulations**

**4.** In regulation 32 of the Social Security (Contributions) Regulations (Northern Ireland) 1979 (return of contributions paid in error or overpaid) after paragraph (1) there shall be inserted the following paragraph—

"(1A) Nothing in this regulation shall require the return of any primary Class 1 contributions where regulation 3 of the Social Security (Additional Pension) (Contributions Paid in Error) Regulations (Northern Ireland) 1996 (purposes for which primary Class 1

(**3**) *See* Article 123 of, and Part I of Schedule 2 to, the Pensions (Northern Ireland) Order 1995, which provide for the progessive equalisation of pension age for men and women from 6th April 2010
(**4**) S.I. 1994/1898 (N.I. 12)
(**5**) 1993 c. 49