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STATUTORY RULES OF NORTHERN IRELAND

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**2015 No. 315**

**The State Pension Regulations (Northern Ireland) 2015**

**PART 3 N.I.**

**Deferral of State Pension**

**When a choice of lump sum or survivor's pension may be made N.I.**

4.—(1) Where a person falls within section 8(1) of the Act (choice of lump sum or survivor's pension under section 9 in certain cases), paragraphs (2) and (3) set out the period within which that person is to make any choice under section 8(2) of the Act to be paid—

- (a) a lump sum under section 8 of the Act; or
- (b) a state pension under section 9 of the Act (survivor's pension based on inheritance of deferred old state pension).

(2) Where the Department has issued a notice which confirms that the person may make the choice, the period is three months starting on the date in that notice (or, where there is more than one notice which confirms that the person may make that choice, the date in the most recent such notice).

(3) Where the person makes the choice before the Department has issued any such notice, the period—

- (a) starts on the later of the date—
  - (i) the person claims a state pension; or
  - (ii) the person's spouse or civil partner died; and
- (b) ends on the date the person makes the choice.

(4) A person may make a late choice after the period set out in this regulation in circumstances where—

- (a) the Department considers it is reasonable in any particular case; and
- (b) any amount paid by way of (or on account of) a lump sum under section 8(4) of the Act has been repaid to the Department—
  - (i) in full; and
  - (ii) in the currency in which that amount was originally paid.

(5) The amount of any lump sum to be paid to the person under section 8(4) is reduced to nil where the person makes a late choice under paragraph (4) to be paid a state pension under section 9 of the Act.

**How a choice of lump sum or survivor's pension may be made N.I.**

5.—(1) Where a person falls within section 8(1) of the Act, this regulation sets out the manner in which that person is to make any choice under section 8(2) of the Act to be paid—

- (a) a lump sum under section 8 of the Act; or

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*Changes to legislation: There are currently no known outstanding effects for the The State Pension Regulations (Northern Ireland) 2015, PART 3. (See end of Document for details)*

- (b) a state pension under section 9 of the Act.
- (2) The manner is—
  - (a) in writing to an office which is specified to the person in writing by the Department as accepting any such choice; or
  - (b) by telephone to a telephone number which is specified to the person in writing by the Department as accepting any such choice.
- (3) The person must use the manner set out in paragraph (2)(a) where the Department directs in any particular case that that manner must be used.

### **Changing a choice of lump sum or survivor's pension** N.I.

- 6.—(1) Any choice under section 8(2) of the Act to be paid—
- (a) a lump sum under section 8 of the Act; or
  - (b) a state pension under section 9 of the Act,
- may be altered in the circumstances specified in paragraph (2).
- (2) The circumstances referred to in paragraph (1) are—
- (a) the person who made the choice has not subsequently died;
  - (b) an application is made to alter the choice;
  - (c) the application is made within—
    - (i) the period of three months starting on the date in the notification issued by the Department which confirms the choice that has been made; or
    - (ii) such longer period as the Department considers reasonable in any particular case;
  - (d) the application is made in the manner set out in—
    - (i) regulation 5(2)(a), where the Department directs in any particular case that the manner in regulation 5(2)(a) must be used; or
    - (ii) regulation 5(2)(a) or (b), in all other cases;
  - (e) where the application is to alter the choice so that it becomes a choice to be paid a state pension under section 9 of the Act, any amount paid by way of (or on account of) a lump sum under section 8 of the Act has been repaid to the Department—
    - (i) in full;
    - (ii) within the period mentioned in sub-paragraph (c); and
    - (iii) in the currency in which that amount was originally paid;
  - (f) where the application is to alter the choice so that it becomes a choice to be paid a lump sum under section 8 of the Act, any amount paid by way of (or on account of) a state pension under section 9 of the Act would be less than the amount which would be paid as a lump sum under section 8 of the Act;
  - (g) no previous alteration has been made under this regulation in respect of the same deferral mentioned in section 8(1)(c) of the Act; and
  - (h) the choice has not been treated as made under regulation 30(5G) [<sup>F1</sup>or (5H)] of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 <sup>M1</sup> (payments on death).
- (3) Where the circumstance in paragraph (2)(f) applies, any amount paid by way of (or on account of) a state pension under section 9 of the Act in respect of the deferral mentioned in section 8(1)(c) of the Act for which the choice was originally made is to be treated as having been paid on account of the lump sum to be paid under section 8 of the Act.

#### Textual Amendments

- F1** Words in reg. 6(2)(h) inserted (6.4.2016) by [The Pensions \(2015 Act\) \(Consequential, Supplementary and Incidental Amendments\) Order \(Northern Ireland\) 2015](#) (S.R. 2015/411), arts. 1(b), **28**

#### Marginal Citations

- M1** S.R. [1987 No. 465](#); paragraphs (5A) to (5G) were substituted for paragraphs (5A) to (5F) by regulation 3(b) of S.R. [2005 No. 541](#)

### How entitlement to a state pension may be suspended **N.I.**

7.—(1) A person (“P”) who has become entitled to a state pension under Part 1 of the Act may opt to suspend P’s entitlement if P gives notice to the Department.

(2) The manner in which the notice must be given is—

- (a) in writing to an office which is specified to the person in writing by the Department as accepting any such notice; or
- (b) by telephone to a telephone number which is specified to the person in writing by the Department as accepting any such notice.

(3) But the person must use the manner set out in paragraph (2)(a) where the Department directs in any particular case that that manner must be used.

### Date from which a suspension of a state pension begins **N.I.**

8.—(1) Where a person (“P”) exercises P’s option to suspend P’s entitlement to a state pension under Part 1 of the Act, the suspension takes effect from the date set out in this regulation.

(2) The date is any date which the person specifies that is—

- (a) not before the date on which the option was exercised; and
- (b) not after 28 days starting with the date on which the option was exercised.

(3) Where the person does not specify a date in accordance with paragraph (2), the date is the date on which the option was exercised.

### cancelling a suspension of a state pension **N.I.**

9.—(1) Where a person has opted to suspend their entitlement to a state pension under Part 1 of the Act, the person may cancel the exercise of that option in relation to the whole of, or part of, a past period referred to in paragraph (3).

(2) The person cancels the suspension by making a claim for their state pension whilst their state pension is suspended.

(3) The past period mentioned in paragraph (1) is any period of up to 12 months before the date on which the person cancels the suspension.

### Percentage for the weekly rate of increases resulting from deferral of state pension **N.I.**

10. For the purposes of section 17(4) of the Act (effect of pensioner postponing or suspending state pension), the specified percentage is one-ninth of 1 per cent.

**Days which are not included in determining the period of deferral** **N.I.**

**11.**—(1) In the circumstances set out in paragraph (2), a day does not count in determining a number of whole weeks for the purposes of section 17(3) of the Act.

(2) The circumstances mentioned in paragraph (1) are where the day is—

- (a) a day on which the person whose entitlement to a state pension under Part 1 of the Act is deferred has received any of the following benefits—
- (i) an unemployability supplement within the meaning in regulation 2(1) of the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979 <sup>M2</sup> (interpretation);
  - (ii) incapacity benefit under section 30A of the Contributions and Benefits Act <sup>M3</sup> (incapacity benefit: entitlement);
  - (iii) a widowed mother's allowance under section 37 of the Contributions and Benefits Act <sup>M4</sup> (widowed mother's allowance);
  - (iv) a widow's pension under section 39 of the Contributions and Benefits Act <sup>M5</sup> (rate of widowed mother's allowance and widow's pension);
  - (v) severe disablement allowance under section 68 of the Contributions and Benefits Act <sup>M6</sup> (entitlement and rate of severe disablement allowance);
  - (vi) a carer's allowance under section 70 of the Contributions and Benefits Act <sup>M7</sup> (carer's allowance);
  - (vii) income support under section 123 of the Contributions and Benefits Act <sup>M8</sup> (income support);
  - (viii) state pension credit under section 1 of the State Pension Credit Act (Northern Ireland) 2002 <sup>M9</sup> (entitlement);
  - (ix) an income-based jobseeker's allowance within the meaning in Article 3(4) of the Jobseekers (Northern Ireland) Order 1995 <sup>M10</sup> (the jobseeker's allowance);
  - (x) an income-related employment and support allowance (which means an income-related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 <sup>M11</sup> (employment and support allowance);
- (b) a day on which a person—
- (i) has received an increase of any of the benefits mentioned in sub-paragraph (a) in respect of the person whose entitlement to a state pension under Part 1 of the Act is deferred; and
  - (ii) is married to, in a civil partnership with or residing with the person whose entitlement to a state pension under Part 1 of the 2015 Act is deferred; or
- (c) a day on which the person (“P”) whose entitlement to a state pension under Part 1 of the Act is deferred would not, if P's entitlement were not deferred, be paid that state pension because P was a prisoner (see section 19 of the Act (prisoners) and regulations 2 and 3).

**Marginal Citations**

**M2** S.R. 1979 No. 242, to which there are amendments not relevant to these Regulations

**M3** Section 30A was inserted by Article 3(1) of the [Social Security \(Incapacity for Work\) \(Northern Ireland\) Order 1994 \(S.I. 1994/1898 \(N.I. 12\)\)](#) and amended by Article 61 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 and paragraph 68 of Schedule 24 to the Civil Partnership Act 2004 and is modified by [S.I. 2003/735](#)

- M4** Section 37 was amended by paragraph 28 of Schedule 1 to the [Child Benefit Act 2005 \(c. 6\)](#), [Schedule 8](#) to, the [Welfare Reform Act \(Northern Ireland\) 2007 \(c. 2 \(N.I.\)\)](#) and paragraph 72(2) and (3) of Schedule 24 and Schedule 30 to the Civil Partnership Act 2004
- M5** Section 39 was amended by paragraph 7 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999, paragraph 39 of Schedule 3 to the [Tax Credits Act 2002 \(c. 21\)](#), [paragraph 3\(a\)](#) of Schedule 2 and Schedule 6 to the [Pensions Act \(Northern Ireland\) 2008 \(c. 1 \(N.I.\)\)](#) and section 6(1) of, and paragraph 3 of Schedule 3 to, the Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13 (N.I.))
- M6** Section 68 was repealed by Schedule 10 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (but has effect by virtue of Article 4 of S.R. 2000 No. 332 (C. 14))
- M7** Section 70 was amended by regulation 2(3)(c) of S.R. No 1994 No. 370, [Articles 2\(2\)](#) and 3(2) and (3) of S.R. 2002 No. 321, [regulation 2\(3\)](#) of S.R. 2011 No. 356 and Article 2(2) of S.I. 2013/3233
- M8** Section 123 was amended by paragraph 13 of Schedule 2 to the [Jobseekers \(Northern Ireland\) Order 1995 \(S.I. 1995/2705 \(N.I. 15\)\)](#), [paragraph 26](#) of Schedule 8 to the Welfare Reform and Pensions (Northern Ireland) Order 1999, paragraph 2 of Schedule 2 and Schedule 3 to the [State Pension Credit Act \(Northern Ireland\) 2002 \(c. 14 \(N.I.\)\)](#), [paragraph 96](#) of Schedule 24 to the Civil Partnership Act 2004, paragraph 3(9) and (10) of Schedule 3 and Schedule 8 to the Welfare Reform Act (Northern Ireland) 2007 and section 3(1) of the [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\(N.I.\)\)](#)
- M9** [2002 c. 14 \(N.I.\)](#)
- M10** [S.I. 1995/2705 \(N.I. 15\)](#); the definition of “an income-based jobseeker’s allowance” was amended by paragraph 3(4)(a) of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999
- M11** [2007 c. 2 \(N.I.\)](#)

#### **Part weeks treated as whole weeks in determining the amount of entitlement during deferral** **N.I.**

**12.**—(1) In the circumstances set out in paragraph (2), a part of a week is to be treated as a whole week for the purposes of section 17(3) of the Act.

(2) The circumstances mentioned in paragraph (1) are where there is a part of a week in the total period during which the person’s entitlement to a state pension was deferred, after any days have been discounted under regulation 11.

#### **[<sup>F2</sup>Modification of the amount of an increment for other cases during deferral** **N.I.**

**12A.**—(1) Subject to regulation 23, this regulation applies in cases where, at any time in the deferral period, the weekly rate of the person’s state pension, had the person’s entitlement not been deferred, would have changed otherwise than because of an up-rating increase (“a non-uprating change”).

(2) Section 17(4) of the Act (amount of an increment for pensioner postponing or suspending state pension) is modified to provide that the amount of an increment for each modification period is equal to a percentage specified in regulations of the weekly rate of the state pension to which the person, if their entitlement had not been deferred, would have been entitled immediately before the end of the modification period.

(3) The first modification period begins at the start of the deferral period and ends immediately before the date of the first or only non-uprating change.

(4) Further modification periods begin on the date of the most recent or only non-uprating change and end—

- (a) immediately before the end of the deferral period, where there is no subsequent non-uprating change; or
- (b) immediately before the date of the subsequent non-uprating change, where there is a subsequent non-uprating change.]

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**Status:** Point in time view as at 12/04/2021.

**Changes to legislation:** There are currently no known outstanding effects for the The State Pension Regulations (Northern Ireland) 2015, PART 3. (See end of Document for details)

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**Textual Amendments**

- F2** Reg. 12A inserted (6.4.2016) by [The State Pension \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/80\)](#), regs. 1, **2(3)**

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**Changes to legislation:**

There are currently no known outstanding effects for the The State Pension Regulations (Northern Ireland) 2015, PART 3.