

1990 No. 452

SOCIAL SECURITY

The Social Security (Widow's Benefit and Retirement Pensions) (Amendment) Regulations (Northern Ireland) 1990

Made 28th December 1990

Coming into operation 29th January 1991

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 33 of the Social Security (Northern Ireland) Act 1975(a) 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 (Widow's Benefit and Retirement Pensions) (Amendment) Regulations (Northern Ireland) 1990 and shall come into operation on 29th January 1991.

(2) In these regulations "the principal regulations" means the Social Security (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979(b).

Amendment of regulation 6 of the principal regulations

2.—(1) Regulation 6 of the principal regulations (benefit at reduced rates for those who do not satisfy the contribution conditions in full) shall be amended in accordance with paragraphs (2) to (4).

(2) For paragraphs (1) to (3) there shall be substituted the following paragraphs—

"(1) Subject to paragraph (2), where the second contribution condition specified in paragraph 5(3) of Schedule 3 to the Act(c) is not satisfied a person shall be entitled to—

- (a) widowed mother's allowance; or
- (b) widow's pension; or
- (c) Category A retirement pension; or
- (d) Category B retirement pension,

(a) 1975 c. 15; section 33 was amended by Article 21(5) of, and paragraph 28 of Schedule 5 to, the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)), Article 19(1) of, and Schedule 10 to, the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)) and paragraph 1(1) of Schedule 6 to the Social Security (Northern Ireland) Order 1990 (S.I. 1990/1511 (N.I. 15))

(b) S.R. 1979 No. 243; relevant amending provision is Article 19(1) of the Social Security (Northern Ireland) Order 1986

(c) Paragraph 5(3)(b) was substituted by paragraph 2(6) of Schedule 8 to the Social Security (Northern Ireland) Order 1986

provided the percentage of the number of qualifying years in the working life of that person calculated in accordance with paragraph (3B) is 25 per cent. or more.

(2) Where a person to whom paragraph (1) would otherwise apply is not entitled to benefit under that paragraph because the percentage of the number of qualifying years in his working life, calculated in accordance with paragraph (3B), is less than 25 per cent. but there are one or more surpluses in that person's earnings factors for the relevant years, that person shall be entitled to—

- (a) widowed mother's allowance; or
- (b) widow's pension; or
- (c) Category A retirement pension; or
- (d) Category B retirement pension,

consisting only of the additional pension in that benefit.

(3) Where a person is entitled to benefit under paragraph (1) the benefit payable shall be—

- (a) the basic pension in that benefit at a reduced rate calculated in accordance with paragraph (3B) as a percentage of the higher of the sums specified in Article 8(1)(a) of the Pensions Order(a); and
- (b) any additional pension arising from one or more surpluses in the pensioner's earnings factors for the relevant years; and
- (c) any increase of benefit to which he may be entitled under sections 41, 45, 45A, or 46 of the Act(b)—
 - (i) in respect of an adult dependant calculated in accordance with paragraph (3B) as a percentage of the appropriate increase specified in Part IV of Schedule 4 to the Act; and
 - (ii) in the case of a child dependant, by the appropriate increase specified in Part IV of Schedule 4 to the Act(c).

(3A) Where a person is entitled to benefit under paragraph (2), the benefit payable shall be only the additional pension in that benefit.

(a) Article 8(1)(a) was amended by Article 4(2) of S.R. 1990 No. 70

(b) Section 41 was amended by paragraph 14 of Schedule 4 to the Child Benefit (Northern Ireland) Order 1975 (S.I. 1975/1504 (N.I. 16)), Schedule 4 to the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)), paragraph 2 of Schedule 3 to, and Schedule 6 to, the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8)), Schedule 10 to the Social Security (Northern Ireland) Order 1986, Schedule 9 to the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13)) and Article 11 of S.R. 1990 No. 70. Section 45 was amended by paragraph 18 of Schedule 4 to the Child Benefit (Northern Ireland) Order 1975, Article 15(1) of, and Schedule 6 to, the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)), paragraph 4(a) of Schedule 4 to, and Schedule 5 to, the Social Security (Northern Ireland) Order 1988 (S.I. 1988/594 (N.I. 2)). Section 45A was inserted by Article 6 of the Health and Social Security (Northern Ireland) Order 1984 and amended by Article 15(2) of the Social Security (Northern Ireland) Order 1985, paragraph 5(a) of Schedule 4 to, and Schedule 5 to, the Social Security (Northern Ireland) Order 1988. Section 46 was amended by paragraph 19 of Schedule 4 to the Child Benefit (Northern Ireland) Order 1975, paragraph 4(b) of Schedule 1 to the Social Security (Northern Ireland) Order 1980, Article 15(3) of the Social Security (Northern Ireland) Order 1985 and Schedule 5 to the Social Security (Northern Ireland) Order 1988

(c) See Schedule 1 to S.R. 1990 No. 70

(3B) Subject to paragraph (4), the percentage referred to in paragraphs (1), (2), (3)(a) and (3)(c)(i) shall be ascertained by taking the number of qualifying years in the working life of the contributor concerned, expressing that number as a percentage of the requisite number of years specified for that working life in paragraph 5(4) of Schedule 3 to the Act and rounding up that percentage to the next whole number.”

(3) In paragraph (4) for “paragraph (3)” there shall be substituted “paragraph (3B)”.

(4) In paragraph (5)—

- (a) in sub-paragraph (a)(i) for “sum” there shall be substituted “higher of the sums”; and
- (b) in sub-paragraph (b) for “specified in section 23(1)(b) of the Social Security Pensions Act 1975” there shall be substituted “which are the additional pensions in the rates of long-term benefits”.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 28th December 1990.

(L.S.)

A. N. Burns

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations correspond to provision contained in regulations made by the Secretary of State for Social Security in relation to Great Britain and accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980 (c. 30), are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee.

These regulations amend regulation 6 of the Social Security (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979. That regulation makes provision for those who do not satisfy the second contribution condition in full to be paid benefit at a reduced rate in certain circumstances.

These regulations provide that a person shall be entitled to a widowed mother's allowance, widow's pension, Category A retirement pension or a Category B retirement pension although the second contribution condition necessary for the benefit is not satisfied provided the percentage of the number of qualifying years in that person's working life exceeds 25 per cent. of the total requirement specified in the Social Security (Northern Ireland) Act 1975. Benefit consisting of basic pension and, where appropriate, additional pension is then payable together with any dependency increase to which the beneficiary may be entitled. The amount of additional pension and child dependency increase is payable in full. The amount of basic pension and any adult dependency increase is calculated by reference to the number of qualifying years in a person's working life.

A person who has no entitlement to basic pension under these regulations shall still be entitled to an additional pension in a widowed mother's allowance, widow's pension, Category A retirement pension or a Category B retirement pension provided there are one or more surpluses in that person's earnings factors for the relevant years.

These regulations also make minor amendments of a drafting nature.