

1994 No. 269

SOCIAL SECURITY

**The Social Security Benefit (Persons Abroad)
(Amendment No. 2) Regulations (Northern Ireland) 1994**

Made 14th July 1994

Coming into operation 6th August 1994

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 113(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(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 Benefit (Persons Abroad) (Amendment No. 2) Regulations (Northern Ireland) 1994 and shall come into operation on 6th August 1994.

(2) In these regulations “the principal regulations” means the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978(b).

Amendment of regulation 2 of the principal regulations

2. In regulation 2 of the principal regulations(c) (modification of the Act in relation to sickness benefit, invalidity benefit, severe disablement allowance, unemployability supplement and maternity allowance) paragraph (5) shall be renumbered as paragraph (4).

Amendment of regulation 5 of the principal regulations

3.—(1) Regulation 5 of the principal regulations(d) (application of disqualification in respect of up-rating of benefit) shall be amended in accordance with paragraphs (2) to (4) of this regulation.

(2) At the beginning of paragraphs (3) and (5) there shall be inserted “Subject to paragraph (7) below and Schedule 1 to these regulations,”.

(3) After sub-paragraph (a) of paragraph (3) there shall be inserted the following sub-paragraph—

(a) 1992 c. 7. See section 35 of the National Insurance Act (Northern Ireland) 1966 (c. 6 (N.I.)) as continued in force by the Social Security (Graduated Retirement Benefit) (No. 2) Regulations (Northern Ireland) 1978 (S.R. 1978 No. 105) and which is to be construed in accordance with subsection (9) of that section

(b) S.R. 1978 No. 114; relevant amending regulations are S.R. 1979 No. 392, S.R. 1988 No. 77, S.R. 1989 No. 373, S.R. 1990 No. 123, S.R. 1992 No. 330 and S.R. 1994 No. 45

(c) Paragraph (5) was added by regulation 2(4) of S.R. 1994 No. 45

(d) Regulation 5 was amended by regulation 4 of S.R. 1979 No. 392, regulation 3 of S.R. 1988 No. 77, regulation 6 of S.R. 1989 No. 373, regulation 2 of S.R. 1990 No. 123 and regulation 3 of S.R. 1992 No. 330

“(aa) in the case of a married woman, any additional Category B retirement pension if immediately before the appointed date her husband was entitled to a Category A retirement pension and was not ordinarily resident in Northern Ireland (whether or not she was married to him immediately before that date);”.

(4) After paragraph (6) there shall be added the following paragraph—

“(7) Schedule 1 to these regulations shall have effect in relation to the disqualification of persons for receiving additional benefit in the circumstances specified in that Schedule (being certain cases in which a person was awarded a widow’s benefit or a retirement pension or a higher rate of retirement pension between 1st September 1985 and 7th August 1991).”.

Amendment of regulation 18 of the principal regulations

4. In regulation 18(1) of the principal regulations (revocations) for “the Schedule” there shall be substituted “Schedule 2”.

Insertion of Schedule 1 to the principal regulations

5. The Schedule to the principal regulations shall be numbered as Schedule 2 and before it there shall be inserted Schedule 1 as set out in the Schedule to these regulations.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 14th July 1994.

(L.S.)

W. F. T. Green

Assistant Secretary

**Up-rating in respect of certain awards made between 1st September 1985
and 7th August 1991**

1. A person referred to in a case set out in column (1) shall not be disqualified by reason of being absent from Northern Ireland for receiving any additional widow's benefit or retirement pension which became payable by virtue of an up-rating order which came into operation on or before the date referred to in column (3) if—

- (a) the award referred to in column (1) was made during the period specified in column (2); and
- (b) immediately before 6th August 1994 that person was being paid a widow's benefit or a retirement pension (as the case may be) at the rate current at the date referred to in column (3).

Column (1) <i>Case</i>	Column (2) <i>Period in which award was made</i>	Column (3) <i>Date after which disqualification to take effect</i>
1. A woman who was awarded a widow's benefit	After 30th May 1988 but not later than 19th February 1990	The date on which she became entitled to a widow's benefit
2. A woman who had been receiving a Category B retirement pension and was awarded that pension at a higher rate after her husband's death	After 13th September 1988 but not later than 6th August 1991	The date of her husband's death
3. A woman who was first awarded a Category B retirement pension on the death of her husband after she attained the age of 60	After 31st January 1990 but not later than 6th August 1991	The date on which she became entitled to a Category B retirement pension
4. A man who had been receiving a Category A retirement pension and was awarded a Category B retirement pension after his wife's death	After 16th November 1986 but not later than 6th August 1991	The date on which he became entitled to a Category B retirement pension
5. A woman who had been receiving a Category B retirement pension and was awarded a Category A retirement pension	After 1st September 1985 but not later than 6th August 1991	The date on which she became entitled to a Category A retirement pension
6. A person who was awarded a Category A retirement pension determined by taking into account the contributions of his or her former spouse under regulation 8 of the Widow's Benefit and Retirement Pensions Regulations	After 16th November 1986 but not later than 6th August 1991	The date on which that person first became entitled to a Category A retirement pension

2. In paragraph 1 “up-rating order” means an order which was made under section 120 of the Act(a) or Article 64 of the Social Security (Northern Ireland) Order 1986(b).”.

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- (a) Section 120 was repealed in part by Schedule 10 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)) and replaced, for up-rating purposes, by Article 64 of that Order. It was repealed so far as it remained in force by Schedule 1 to the Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9)
- (b) Article 64 was repealed by Schedule 1 to the Social Security (Consequential Provisions) (Northern Ireland) Act 1992 and re-enacted as section 132 of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations further amend the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978 (“the principal regulations”) in the following respects:

- (a) they modify, by an amendment to regulation 5 of the principal regulations, the extent to which a married woman who is not ordinarily resident in Northern Ireland is disqualified for up-rating of her Category B retirement pension (regulation 3(3)); and
- (b) they provide for regulation 5(3) and (5) of the principal regulations to be subject to a new paragraph (7) and a new Schedule 1 specifying the date after which disqualification for up-rating, during absence from Northern Ireland, is to take effect in respect of certain awards of widow’s benefit and retirement pension made between 1st September 1985 and 7th August 1991 (regulations 3(2) and (4) and 5).

The regulations make a consequential amendment to regulation 18 of the principal regulations (regulation 4).

The regulations also correct a drafting error which occurred in regulation 2(4) of the Social Security Benefit (Persons Abroad) (Amendment) Regulations (Northern Ireland) 1994 (regulation 2).

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 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.