

2005 No. 123

SOCIAL SECURITY

The Social Security (Retirement Pensions etc.) (Transitional Provisions) Regulations (Northern Ireland) 2005

Made - - - - - *16th March 2005*

Coming into operation *6th April 2005*

The Department for Social Development, in exercise of the powers conferred by paragraph 22 of Schedule 9 to the Pensions (Northern Ireland) Order 2005(a), and now vested in it(b), 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 (Retirement Pensions etc.) (Transitional Provisions) Regulations (Northern Ireland) 2005 and shall come into operation on 6th April 2005.

(2) In these Regulations –

“period of deferment” shall be construed in accordance with section 55(3) or, as the case may be, section 55C(3) of the Contributions and Benefits Act(c);

“transitional case” means a case where a person’s entitlement to retirement pension or shared additional pension is deferred and the period of deferment begins before 6th April 2005 and continues on or after that day.

Modification of Schedule 5 to the Act

2.—(1) Schedule 5 to the Contributions and Benefits Act(d) (pension increase or lump sum where entitlement to retirement pension is deferred) shall be modified in relation to transitional cases in accordance with paragraphs (2) to (6).

(2) In paragraph A1(1) (choice between increase of pension and lump sum where pensioner’s entitlement is deferred) –

(a) after “12 months” there shall be inserted “and at least 12 months of that period fall after 5th April 2005”;

(b) for paragraph (b) there shall be substituted the following paragraph –

“(b) that paragraph 1 is to apply in relation to so much of the period of deferment as falls before the first day of the first accrual period (as defined by paragraph 3B(2)) beginning on or after 6th April 2005 and that paragraph 3A (lump sum where pensioner’s entitlement is deferred) is to apply in relation to the remainder of the period of deferment.”.

(a) S.I. 2005/255 (N.I. 1)

(b) See Article 8(b) of S.R. 1999 No. 481

(c) 1992 c. 7; sections 55 and 55C are substituted by Article 273(1) and (2) of the Pensions (Northern Ireland) Order 2005 respectively

(d) The provisions of Schedule 5 being modified are inserted by Schedule 9 to the Pensions (Northern Ireland) Order 2005

(3) In paragraph 1(2) (increase of pension where pensioner's entitlement is deferred) for the words from "that amount" to the end there shall be substituted –

“–

- (a) there are at least 7 incremental periods in the period of deferment;
- (b) there are at least 5 incremental periods in the period of deferment and the amount of the increment for at least one of those periods is calculated in accordance with paragraph 2(3) as in force in relation to incremental periods beginning on or after 6th April 2005; or
- (c) the person has made (or is treated as having made) an election under paragraph A1(1)(b) and there is at least one incremental period before the first day of the first accrual period (as defined by paragraph 3B(2)) beginning on or after 6th April 2005.”.

(4) In paragraph 3B (calculation of lump sum) –

- (a) at the end of sub-paragraph (1) there shall be added “or, if greater, the amount equal to the total amount of Category A or Category B retirement pension which would have been payable to the person during the period of 12 months ending with the last day of the period of deferment if his entitlement had not been deferred”;
- (b) in sub-paragraph (2) in the definition of “accrual period” for “a prescribed day of the week” there shall be substituted “the day of the week on which the person's retirement pension would have been payable had his entitlement not been deferred”;

(5) In paragraph 3C (choice between increase of pension and lump sum where pensioner's deceased spouse has deferred entitlement) –

- (a) at the end of sub-paragraph (1)(d) there shall be added “and throughout the period of 12 months beginning with 6th April 2005”;
- (b) for sub-paragraph (2)(b) there shall be substituted the following sub-paragraph –
“(b) that paragraph 4 is to apply in relation to so much of S's period of deferment as falls before the first day of the first accrual period (as defined by paragraph 7B(2)) beginning on or after 6th April 2005 and that paragraph 7A (entitlement to lump sum where pensioner's deceased spouse has deferred entitlement) is to apply in relation to the remainder of that period of deferment.”.

(6) In paragraph 7B (calculation of widowed person's lump sum) –

- (a) at the end of sub-paragraph (1) there shall be added “or, if greater, the amount equal to the total amount of Category A or Category B retirement pension which would have been payable to S during the period of 12 months ending with the day before his death if his entitlement had not been deferred”;
- (b) in sub-paragraph (2) in the definition of “accrual period” for “a prescribed day of the week” there shall be substituted “the day of the week on which S's retirement pension would have been payable had his entitlement not been deferred”.

Modification of Schedule 5A to the Act

3.—(1) Schedule 5A to the Act^(a) (pension increase or lump sum where entitlement to shared additional pension is deferred) shall be modified in relation to transitional cases in accordance with paragraphs (2) to (4).

(2) In paragraph 1(1) (choice between pension increase and lump sum where entitlement to shared additional pension is deferred) –

- (a) after “12 months” there shall be inserted “and at least 12 months of that period fall after 5th April 2005”;
- (b) for head (b) there shall be substituted the following head –
“(b) that paragraph 2 is to apply in relation to so much of the period of deferment as falls before the first day of the first accrual period (as defined by paragraph 5(2)) beginning on or after 6th April 2005 and that paragraph 4 (lump sum where

^(a) Schedule 5A is inserted by paragraph 14 of Schedule 9 to the Pensions (Northern Ireland) Order 2005

entitlement to shared additional pension is deferred) is to apply in relation to the remainder of the period of deferment.”.

(3) In paragraph 2(2) (increase of pension where entitlement deferred) for the words from “that amount” to the end there shall be substituted –

“_

- (a) there are at least 7 incremental periods in the period of deferment;
 - (b) there are at least 5 incremental periods in the period of deferment and the amount of the increment for at least one of those periods is calculated in accordance with paragraph 3(2); or
 - (c) the person has made (or is treated as having made) an election under paragraph 1(1)(b) and there is at least one incremental period before the first day of the first accrual period (as defined by paragraph 5(2)) beginning on or after 6th April 2005.”.
- (4) In paragraph 5 (calculation of lump sum) –
- (a) at the end of sub-paragraph (1) there shall be added “or, if greater, the amount equal to the total amount of shared additional pension which would have been payable to the person during the period of 12 months ending with the last day of the period of deferment if his entitlement had not been deferred”;
 - (b) in sub-paragraph (2) in the definition of “accrual period” for “a prescribed day of the week” there shall be substituted “the day of the week on which the person’s shared additional pension would have been payable had his entitlement not been deferred”.

Sealed with the Official Seal of the Department for Social Development on 16th March 2005.

(L.S.)

John O’Neill

A senior officer of the Department for Social Development

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations modify the provisions relating to the deferral of entitlement to retirement pension that are inserted in Schedule 5 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (“the Contributions and Benefits Act”) by Schedule 9 to the Pensions (Northern Ireland) Order 2005 (“the 2005 Order”). They also modify the new Schedule 5A relating to the deferral of entitlement to shared additional pension that is inserted in the Contributions and Benefits Act by Schedule 9 to the 2005 Order.

In particular, they make transitional arrangements arising from a change in the incremental rate from $\frac{1}{7}$ th per cent. to $\frac{1}{5}$ th per cent. and from the introduction of an option to choose a lump sum when a person defers entitlement to his pension for at least 12 months.

Regulations 2(2) and 3(2) ensure that a person must have deferred his entitlement to retirement pension for at least 12 months after 5th April 2005 to be able to elect to receive a lump sum and they can either elect to receive increments in respect of their entire period of deferment or increments only in respect of the period up to 5th April 2005 and a lump sum in respect of the remainder of the period.

Regulations 2(3) and 3(3) allow a person to receive increments in certain circumstances, even if the amount of the aggregate of the increments is not enough to increase the rate of the pension by 1 per cent.

Regulations 2(4) and 3(4) provide that a lump sum can, if greater, consist of the total amount of pension a person would have received in the previous 12 months had his claim for retirement pension or shared additional pension commenced from that earlier date. This may arise for transitional cases because the increments accrued in respect of the period prior to 6th April 2005 (when no lump sum could be accrued) would necessarily form part of the weekly pension and hence be included in the calculation of pension arrears where a person claims from an earlier date. Regulations 2(4) and 3(4) also ensure that the lump sum starts to accrue from the first pension pay day following 5th April 2005.

Regulation 2(5) and (6) makes corresponding provision for calculating entitlement to a lump sum or increments for the surviving spouse when the deceased was deferring entitlement to retirement pension and his period of deferment spans 6th April 2005.

These Regulations do not impose a charge on business.

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