

## **EXPLANATORY MEMORANDUM**

### **THE SOCIAL SECURITY (CREDITS) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2010**

**S.R. 2010 No. 109**

#### **1. Introduction**

- 1.1 This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the above Statutory Rule which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under by sections 22(5) and 171(1) and (3) to (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and is subject to the negative resolution procedure.

#### **2. Purpose**

- 2.1 The Regulations amend the Social Security (Credits) Regulations (Northern Ireland) 1975 (“the Credits Regulations”). They provide for the crediting of a Class 1 National Insurance contribution to the spouse or civil partner of a member of the armed forces where they are accompanying that member on an assignment outside the United Kingdom and where they need the credit in order to maintain their National Insurance contribution record.
- 2.2 The Regulations also amend the Credits Regulations to align provisions for a credit for limited capability for work in respect of Employment and Support Allowance with those for a credit for incapacity for work.
- 2.3 Regulation 1 provides for citation and commencement of the Regulations. It provides that the Regulations come into operation on 6 April 2010.
- 2.4 Paragraph (2) of regulation 2 amends regulation 8B of the Credits Regulations to provide a credit for a week where each day is either a day of limited capability for work in respect of employment and support allowance or a day of incapacity for work for the purposes of statutory sick pay. This aligns the rules on limited capability for work with those that apply to incapacity for work.
- 2.5 Paragraph (3) adds regulation 9E to the Credits Regulations to provide for the award of a Class 1 National Insurance credit to the spouses or civil of a member of Her Majesty’s forces while they are accompanying that member on assignment outside the United Kingdom.
- 2.6 Paragraph (3) of inserted regulation 9E provides that a person will not be entitled to be credited under that regulation unless an application is made to the Department. Paragraphs (4) to (7) set out the application process.

- 2.7 Paragraph (4) provides that a properly completed application must be accompanied by a statement from the Defence Council or someone working on their behalf confirming that the application is valid. Paragraphs (5) and (6) specify that the spouse or civil partner will have to apply for the credit once the end date for the accompanied assignment has been confirmed but the Department has discretion to accept earlier or later applications depending on the circumstances of a case.
- 2.8 Paragraph (7) provides that where the Department has accepted an early application in accordance with paragraph 5(b), any subsequent award of credits under the regulation can only be made if a further application is made.
- 2.9 Paragraph (8) provides that a credit cannot be awarded in respect of any week—
- where a person is entitled to a credit for Carers Allowance, unemployment or limited capability or incapacity for work in respect of the same week;
  - where a woman has elected to pay reduced rate National Insurance contributions under regulations made under section 19(4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
  - before 6th April 2010.
- 2.10 Regulation 3 makes consequential revocations.

### **3. Background**

- 3.1 Spouses and civil partners of service personnel often face difficulties in securing and maintaining employment while accompanying their partner on an assignment outside the United Kingdom. This can lead to deficiencies in their National Insurance record and affect their future entitlement to contributory social security benefits including State Pension.
- 3.2 In certain circumstances, people may get credits on their National Insurance record. This means they do not actually pay National Insurance contributions, but are credited with them. Currently, people will get these credits added to their National Insurance record if they satisfy certain conditions, for example, if they are incapable of work through illness or disability, unemployed and available for, and actively seeking, work or in receipt of specified benefits.
- 3.3 The Regulations therefore provide for the award of a Class 1 National Insurance credit to the accompanying spouse or civil partner of a member of Her Majesty's forces who is on an assignment outside the United Kingdom, and the spouse or civil partner is not entitled to an equivalent credit through other National Insurance crediting arrangements or building a qualifying year through contributions from earnings.

- 3.4 There is also currently no provision to provide for a credit to be awarded for a mixed week in which each day is either a day of limited capability for work or a day of incapacity for work for statutory sick pay purposes.
- 3.5 Consequently these regulations make two technical amendments to the Social Security (Credits) Regulations (Northern Ireland) 1975 to align provisions for a credit for limited capability for work in respect of employment and support allowance with those for a credit for incapacity for work.

#### **4. Consultation**

As the Regulations make, in relation to Northern Ireland, only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain they do not have to be submitted to the Social Security Advisory Committee.

#### **5. Equality Impact**

A screening exercise has been conducted on the legislative proposals and as they address an existing disadvantage, the Department has concluded that they do not have significant implications for equality of opportunity. In light of this, the Department considers that an Equality Impact Assessment is not necessary.

#### **6. Regulatory Impact**

These Regulations do not require a Regulatory Impact Assessment as they do not impose any new costs on business, charities, social enterprise or voluntary bodies.

#### **7. Financial Implications**

Additional benefit costs for Northern Ireland will arise through future contributory benefit and State Pension entitlements. These will be met from the Annually Managed Expenditure (AME) budget.

#### **8. Section 24 of the Northern Ireland Act 1998**

The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the Rule is not incompatible with any of the Convention rights, is not incompatible with Community law, does not discriminate against a person or class of person on the ground of religious belief or political opinion and does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

#### **9. EU Implications**

Not applicable.

## **10. Parity or Replicatory Measure**

The corresponding Great Britain Regulations are the Social Security (Credits) (Amendment) Regulations 2010 which come into force on 6th April 2010. Parity of timing and substance is an integral part of the maintenance of single systems of social security, pensions and child support provided for in section 87 of the Northern Ireland Act 1998.