

2010 No. 337

SOCIAL SECURITY

**The Social Security (Claims and Payments) (Amendment No. 2)
Regulations (Northern Ireland) 2010**

Made - - - - - *29th September 2010*

Coming into operation - - - - - *2nd November 2010*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 1(1), 5(1)(a) and 165(1) and (4) to (6) of the Social Security Administration (Northern Ireland) Act 1992(a) and now vested in it(b).

Citation and commencement

1. These Regulations may be cited as the Social Security (Claims and Payments) (Amendment No. 2) Regulations (Northern Ireland) 2010 and shall come into operation on 2nd November 2010.

Amendment of the Social Security (Claims and Payments) Regulations

2.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(c) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 3 (claims not required for entitlement to benefit in certain cases) before paragraph (a) insert—

“(za) in the case of a Category A or B retirement pension where the beneficiary is a person to whom regulation 3A applies;”.

(3) After regulation 3 insert—

“Notification that claim not required for entitlement to a Category A or B retirement pension

3A.—(1) Subject to paragraph (4), this regulation applies to a beneficiary who has received, on or before the day provided for in paragraph (2), a written notification from the Department that no claim is required for a Category A or B retirement pension.

(2) The day referred to in paragraph (1) is—

(a) the day which falls 2 weeks before the day on which the beneficiary reaches pensionable age; or

(b) such later day as the Department may consider reasonable in any particular case or class of case.

(a) 1992 c. 8; section 165(1) was amended by paragraph 49(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)

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

(c) S.R. 1987 No. 465; relevant amending Regulations are S.R. 2005 Nos. 14 and 299

(3) The Department may give a notification under paragraph (1) only in a case where, on the day which falls 8 weeks before the day on which the beneficiary reaches pensionable age, the beneficiary—

- (a) is in receipt of an exempt benefit, or would be in receipt of it but for that benefit not being payable as a result of the application of any of the provisions listed in paragraph (7); and
- (b) is neither entitled to, nor awaiting the determination of a claim for, a non-exempt benefit.

(4) Receipt of a written notification under paragraph (1) does not affect the requirement that beneficiaries who—

- (a) before reaching pensionable age, inform the Department that they want their entitlement to a Category A or B retirement pension to be deferred in accordance with section 55(3)(a) of the Contributions and Benefits Act(a); or
- (b) after reaching pensionable age, elect to be treated as not having become entitled to either a Category A or B retirement pension in accordance with regulation 2 of the Social Security (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979(b),

must make a claim in order subsequently to be entitled to a Category A or B retirement pension.

(5) For the purposes of paragraph (3)(a), a beneficiary who is in receipt of an exempt benefit includes a beneficiary who—

- (a) has been awarded such a benefit on or before the day which falls 8 weeks before the day on which the beneficiary reaches pensionable age; and
- (b) has not yet received the first payment of that benefit.

(6) For the purposes of this regulation—

“exempt benefit” means any of the following—

- (a) an employment and support allowance;
- (b) income support;
- (c) a jobseeker's allowance;
- (d) long-term incapacity benefit;
- (e) state pension credit;

“non-exempt benefit” means any of the following—

- (a) carer's allowance;
- (b) short-term incapacity benefit;
- (c) severe disablement allowance;
- (d) widowed mother's allowance;
- (e) widow's pension.

(a) Section 55 was substituted by Article 273(1) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) and subsection (3)(a) was substituted by paragraph 7 of Schedule 1 to the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.))

(b) S.R. 1979 No. 243; regulation 2 was amended by regulation 8(3) of S.R. 1989 No. 373, regulation 4(3) of S.R. 2005 No. 120, regulation 5(3) of S.R. 2005 No. 299 and regulation 3(4) of S.R. 2010 No. 56

- (7) The provisions referred to in paragraph (3)(a) are—
- (a) Article 21 of the Jobseekers Order^(a) (circumstances in which a jobseeker’s allowance is not payable);
 - (b) Article 22A of that Order^(b) (denial or reduction of joint-claim jobseeker’s allowance);
 - (c) regulations made by virtue of—
 - (i) Article 10(2)^(c) (attendance, information and evidence),
 - (ii) Article 19A(5)(d)^(d) (schemes for assisting persons to obtain employment: “work for your benefit” schemes etc.),
 of that Order;
 - (d) regulation 18 of the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995^(e) (disqualification for misconduct, etc.); and
 - (e) regulation 157 of the Employment and Support Allowance Regulations (disqualification for misconduct, etc.).”.
- (4) In regulation 4(11)^(f) (making a claim for benefit)—
- (a) for “or retirement pension” substitute “, a retirement pension, a bereavement benefit or a social fund payment for funeral expenses”; and
 - (b) for “the telephone number specified by the Department” substitute “a telephone number specified by the Department for the purpose of the benefit for which the claim is made”.

Sealed with the Official Seal of the Department for Social Development on 29th September 2010

(L.S.)

Anne McCleary
A senior officer of the Department for Social Development

(a) Article 21 was amended by Schedule 1 to the Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16)), paragraph 110 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and paragraph 13 of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))

(b) Article 22A was inserted by paragraph 14 of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999

(c) Article 10(2) was amended by paragraph 8(4) to (7) of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999

(d) Article 19A was inserted by section 1(2) of the Welfare Reform Act (Northern Ireland) 2010 (c. 13 (N.I.))

(e) S.R. 1995 No. 41; regulation 18 was amended by regulation 4(7) of S.R. 1995 No. 149, regulation 4(5) of S.R. 1996 No. 601 and Article 11(3) of S.R. 1999 No. 371 (C. 28)

(f) Regulation 4(11) was added by regulation 2(2)(b) of S.R. 2005 No. 14 and amended by regulation 2(4)(b) of S.R. 2005 No. 299

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 2(2) and (3) amends the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 (“the Claims and Payments Regulations”) to provide that a person will not need to make a claim for a Category A or B retirement pension where they have received a notification from the Department for Social Development (“the Department”) that no claim is required, except where the person defers entitlement to such a pension or elects to be treated as having not retired.

This exemption from making a claim only applies where such a notification is received by the day falling 2 weeks before the day on which the person reaches pensionable age, or by such later date as the Department considers reasonable in any particular case or class of case.

A notification may only be given where on the day which falls 8 weeks before the day on which the person reaches pensionable age, that person is—

in receipt of an employment and support allowance, income support, a jobseeker’s allowance, long-term incapacity benefit or state pension credit (or would be in receipt of any of those benefits but for the application of any of the provisions listed in regulation 3A(7) of the Claims and Payments Regulations); and

not entitled to, or awaiting the determination of a claim for, carer’s allowance, short-term incapacity benefit, severe disablement allowance, widowed mother’s allowance or widow’s pension.

Regulation 2(4) amends regulation 4(11) of the Claims and Payments Regulations to allow a claim for a bereavement benefit (bereavement payment, widowed parent’s allowance or bereavement allowance) or a social fund payment for funeral expenses to be made by telephone call to a number specified by the Department.

These 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 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.

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