
STATUTORY RULES OF NORTHERN IRELAND

2010 No. 56

The Social Security (State Pension and National Insurance Credits) Regulations (Northern Ireland) 2010

PART 3

State pension reform – amendment of secondary legislation

Amendment of the Social Security (Widow’s Benefit and Retirement Pensions) Regulations

3.—(1) The Social Security (Widow’s Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979⁽¹⁾ are amended in accordance with paragraphs (2) to (14).

(2) In regulation 1(2) (interpretation), omit the definitions of “home responsibilities year” and “qualifying year”.

(3) The amendment in paragraph (2) does not apply where the person concerned attained pensionable age or died before 6th April 2010.

(4) In regulation 2 (election to be treated as not having retired)—

(a) for paragraph (2) substitute—

“(2) Paragraph (1) shall not apply to a person who has previously made such an election.”;

(b) in paragraph (3)(2) omit “or consent”;

(c) in paragraph (4) for “paragraphs (5) and (6)” substitute “paragraph (6)”; and

(d) omit paragraph (5).

(5) In regulation 3⁽³⁾ (provisions applying after election)—

(a) in paragraph (a) omit from “and no Category B retirement pension” to “his contributions”;

(b) at the end of paragraph (b) omit “and”; and

(c) omit paragraph (c).

(6) In regulation 4(1)(a)⁽⁴⁾ (days to be treated as days of increment), omit from “or, in the case of a married woman” to “a Category B retirement pension,”.

(7) In regulation 6 (benefit at reduced rates for those who do not satisfy the contribution conditions in full)—

(a) for the heading substitute—

(1) [S.R. 1979 No. 243](#); relevant amending provisions are [S.I. 1986/1888 \(N.I. 18\)](#), [S.R. 1989 No. 373](#), [S.R. 1990 No. 452](#) and [S.R. 2005 Nos. 120, 299 and 536](#)

(2) Paragraphs (3) and (4) were substituted by regulation 4(3)(b) of [S.R. 2005 No. 120](#)

(3) Regulation 3 was amended by regulation 8(4) of [S.R. 1989 No. 373](#) and regulation 5(4) of [S.R. 2005 No. 299](#)

(4) Sub-paragraph (a) was substituted by regulation 8(5)(b) of [S.R. 1989 No. 373](#)

“Rate of benefit where the second contribution condition in paragraph 5 of Schedule 3 to the Contributions and Benefits Act is not satisfied”.

- (b) in paragraph (3B)(5) for “Subject to paragraph (4), the” substitute “The”;
- (c) omit paragraph (4); and
- (d) after paragraph (5) add—

“(6) For the purposes of this regulation, “qualifying year” means a year for which a person’s earnings factor is sufficient to satisfy paragraph 5(3)(b) of Schedule 3 to the Contributions and Benefits Act and includes a year which is treated as such a year by virtue of regulation 8(4).”.

(8) The amendments in paragraph (7) do not apply where the contributor concerned attained pensionable age or died before 6th April 2010.

- (9) After regulation 6 insert—

“Proportion of retirement pension where the contribution condition in paragraph 5A of Schedule 3 to the Contributions and Benefits Act is not satisfied

6A.—(1) This regulation applies where the contribution condition in paragraph 5A of Schedule 3 to the Contributions and Benefits Act(6) (contribution condition for entitlement to benefit) is not satisfied in relation to a benefit to which that paragraph applies.

(2) The amount of such a benefit to which a person is nevertheless entitled shall be—

- (a) 1/30th of the weekly rate of basic pension in that benefit for each year in the contributor’s working life in relation to which the requirements of paragraph 5A(2) of Schedule 3 to the Contributions and Benefits Act are satisfied; and
- (b) any additional pension in that benefit arising from one or more surpluses in the contributor’s earnings factors for the relevant years.

(3) For the purposes of paragraph (2)(a), satisfaction of the requirements of paragraph 5A(2) of Schedule 3 to the Contributions and Benefits Act in relation to a year includes satisfaction of those requirements by virtue of regulation 8.

(4) Regulation 6(5)(7) applies to entitlement to a Category A retirement pension by virtue of this regulation as it does to such entitlement by virtue of that regulation.

Regulations 6 and 6A: supplemental

6B. In regulations 6 and 6A, “basic pension” includes the weekly rate of Category B retirement pension specified in paragraph 5 of Part 1 of Schedule 4 to the Contributions and Benefits Act (rates of benefit, etc.).”.

(10) In regulation 8 (substitution of former spouse’s or former civil partner’s contribution record to give entitlement to a Category A retirement pension)—

- (a) in paragraph (1)(c)(8) after “any person” insert “, other than one to whom regulation 8A applies,”;

(5) Paragraph (3B) was inserted by regulation 2(2) of [S.R. 1990 No. 452](#)

(6) Paragraph 5A was inserted by section 1(3) of the Pensions Act (Northern Ireland) 2008

(7) Regulation 6(5) was amended by Article 19(1) of Social Security (Northern Ireland) Order 1986 ([S.I. 1986/1888 \(N.I. 18\)](#)) and regulation 2(3) of [S.R. 1990 No. 452](#)

(8) Paragraph (1)(c) was amended by paragraph 10(3)(b)(iv) of Schedule 3 to [S.R. 2005 No. 536](#)

- (b) in paragraph (2)(9) for “to the Act” substitute “to the Contributions and Benefits Act or the contribution condition for such a pension specified in paragraph 5A of that Schedule (contribution condition for entitlement to benefit)”;
- (c) for paragraph (3) substitute—
 - “(3) The beneficiary shall be treated as satisfying the first contribution condition specified in paragraph 5 of Schedule 3 to the Contributions and Benefits Act if his former spouse or former civil partner—
 - (a) had satisfied that condition; or
 - (b) would have satisfied that condition had paragraph 5A of that Schedule not been applicable,as respects any year of his working life up to and including the year in which the marriage or civil partnership terminated.”;
 - (d) in paragraph (4) after “the second contribution condition” insert “specified in paragraph 5 of Schedule 3 to the Contributions and Benefits Act or the contribution condition specified in paragraph 5A of that Schedule”;
 - (e) in paragraph (5)(10) after “regulation 6” insert “or 6A”, and
 - (f) omit paragraph (6).
- (11) The amendment in paragraph (10)(f) does not apply where the person concerned attained pensionable age before 6th April 2010.
- (12) After regulation 8 insert—
 - “**8A.**—(1) This regulation applies to a person—
 - (a) whose marriage or civil partnership terminated otherwise than by the death of that person’s spouse or civil partner;
 - (b) whose marriage or civil partnership terminated after—
 - (i) that person, and
 - (ii) that person’s former spouse or former civil partner, attained pensionable age;
 - (c) who attained pensionable age on or after 6th April 2010;
 - (d) whose former spouse or former civil partner attained pensionable age on or after 6th April 2010; and
 - (e) whose former spouse or former civil partner satisfied the contribution condition specified in paragraph 5A(2) of Schedule 3 to the Contributions and Benefits Act.
 - (2) Where a person to whom this regulation applies does not satisfy the contribution condition specified in paragraph 5A(2) of Schedule 3 to the Contributions and Benefits Act, that person shall be treated as having satisfied that condition by virtue of the contributions of the former spouse or former civil partner.”.
- (13) In Schedule 1 (method of treating former spouse’s or former civil partner’s contributions as those of the beneficiary so as to entitle him to a Category A retirement pension), after paragraph 1(b) insert—
 - “; and
 - (c) “qualifying year” means a year for which the former spouse’s or former civil partner’s earnings factor is sufficient to satisfy—

(9) Paragraph (2) was amended by paragraph 10(3)(c) of Schedule 3 to [S.R. 2005 No. 536](#)

(10) Paragraph (5) was amended by Article 19(1) of the Social Security (Northern Ireland) Order 1986

- (i) paragraph 5(3)(b), or
- (ii) paragraph 5A(2)(b),

of Schedule 3 to the Contributions and Benefits Act and does not include a year which is treated as such a year by virtue of regulation 8(4)”.

(14) The amendment in paragraph (13) does not apply so as to include in the definition of “qualifying year” any years credited by virtue of section 23A(5) of the Contributions and Benefits Act(11) where the marriage or civil partnership terminated before 6th April 2010.

Amendment of the Additional Pension and Social Security Pensions (Home Responsibilities) (Amendment) Regulations

4.—(1) The Additional Pension and Social Security Pensions (Home Responsibilities) (Amendment) Regulations (Northern Ireland) 2001(12) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2) (interpretation)—

(a) after the definition of “the Pensions Act” insert—

““the Welfare Reform Act” means the Welfare Reform Act (Northern Ireland) 2007(13);”; and

(b) in the definition of “contracted-out employment”, after “means” insert “, subject to regulation 3(5).”.

(3) In regulation 2 (calculation of additional pension where contributions equivalent premium paid or treated as paid)—

(a) after “section 45(2)(c)” insert “or (d)(14)”; and

(b) after “Schedule 4A” insert “or, as the case may be, Parts 1 and 2 of Schedule 4B(15)”.

(4) In regulation 3 (calculation of additional pension: earnings partly from employment with contracted-out scheme membership)—

(a) in paragraph (2) after “Schedule 4A” insert “or, as the case may be, in paragraph 1(1) of Schedule 4B”;

(b) in paragraph (3) after “Schedule 4A” insert “or, as the case may be, paragraphs 8 and 9 of Schedule 4B”;

(c) in paragraph (4)(d) after “Schedule 4A” insert “or, as the case may be, in paragraph 10(1) (c) of Schedule 4B”; and

(d) after paragraph (4) add—

“(5) In so far as paragraphs (1) to (4) apply in respect of the calculation of additional pension under Schedule 4B to the Contributions and Benefits Act, the definition of “contracted-out employment” in regulation 1(2) has effect as if from “or a money purchase contracted-out scheme” to the end were omitted.”.

(5) After regulation 5 insert—

(11) Section 23A was inserted by section 3(1) of the Pensions Act (Northern Ireland) 2008

(12) S.R. 2001 No. 440

(13) 2007 c. 2 (N.I.)

(14) Paragraph (d) was inserted by section 9(2) of the Pensions Act (Northern Ireland) 2008

(15) Schedule 4B was inserted by Schedule 2 of the Pensions Act (Northern Ireland) 2008

“Earnings factor credits eligibility for pensioners to whom employment and support allowance was payable

5A.—(1) For the purposes of section 44C(3) of the Contributions and Benefits Act(16) (earnings factor credits), a pensioner is eligible for earnings factor enhancement in respect of a week if that pensioner satisfies one or more of the conditions in paragraph (2) and was—

- (a) a person to whom employment and support allowance was payable for any part of that week;
- (b) a person to whom that allowance would have been payable but for the fact that the person did not satisfy the contribution condition in paragraph 1 or 2 of Schedule 1 to the Welfare Reform Act (conditions relating to national insurance); or
- (c) a person to whom that allowance would have been payable but for the fact that under regulations the amount was reduced to nil because of—
 - (i) receipt of other benefits, or
 - (ii) receipt of payments from an occupational pension scheme or personal pension scheme.

(2) The conditions are—

- (a) immediately prior to that week, employment and support allowance was payable or would have been payable for—
 - (i) a continuous period of 52 weeks, or
 - (ii) a period of 52 weeks treated as continuous by virtue of regulations made under paragraph 4 of Schedule 2 to the Welfare Reform Act (linking periods);
- (b) that allowance included or would have included the support component under section 2(2) of the Welfare Reform Act (amount of contributory allowance); or
- (c) immediately prior to that week, in the case of—
 - (i) a man born in the period beginning with and including 6th April 1946 and ending on 5th April 1947, or
 - (ii) a woman born in the period beginning with and including 6th October 1950 and ending on 5th April 1951,

that allowance was payable or would have been payable for a continuous period of 13 weeks immediately following a period throughout which statutory sick pay was payable.

(3) In this regulation, “employment and support allowance” means an employment and support allowance under Part 1 of the Welfare Reform Act (employment and support allowance).”.