

2016 No. 78

SOCIAL SECURITY

The Pensions (2015 Act) (Consequential and Supplementary Amendments) Order (Northern Ireland) 2016

Made - - - - - *26th February 2016*

Coming into operation - - - - - *6th April 2016*

Approved by resolution of the Assembly on 28th June 2016

The Department for Social Development makes the following Order in exercise of the powers conferred by section 50 of the Pensions Act (Northern Ireland) 2015(a).

Citation and commencement

1. This Order may be cited as the Pensions (2015 Act) (Consequential and Supplementary Amendments) Order (Northern Ireland) 2016 and shall come into operation on 6th April 2016 immediately after Part 1 of the Pensions Act (Northern Ireland) 2015 comes into operation in accordance with section 53(3) of that Act.

Amendment of the Contributions and Benefits Act

2.—(1) The Contributions and Benefits Act is amended in accordance with paragraphs (2) to (5).

(2) After section 23A(8)(b) (contributions credits for relevant parents and carers) insert—

“(8A) Where this section, or regulations made under it, have the effect that the contributor concerned is credited, on or after 6th April 2016, with contributions for a tax year starting before that date, the contributions are to be treated for the purposes of calculating the rate under paragraph 3 of Schedule 1 to the Pensions Act (Northern Ireland) 2015 as having been credited before 6th April 2016.”.

(3) After section 48B(8)(c) (Category B retirement pension for widows and widowers) add—

“(9) Subsection (10) applies in the case of a pensioner entitled to a Category B retirement pension by virtue of subsection (1) or (1A)(d) whose spouse or civil partner—

- (a) attained pensionable age on or after 6th April 2016, and
- (b) died after attaining pensionable age.

(a) 2015 (c. 5 (N.I.))
(b) Section 23A was inserted by section 3(1) of the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.)) and amended by Article 5 of S.I. 2010/242 and paragraph 50 of Schedule 12 to the Pensions Act (Northern Ireland) 2015
(c) Sections 48A, 48B and 48C were substituted for sections 49 and 50 by paragraph 3 of Schedule 2 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)); subsection (8) was added by paragraph 5 of Schedule 8 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))
(d) Subsection (1A) was inserted by paragraph 80(2) of Schedule 24 to the Civil Partnership Act 2004 (c. 33); subsections (1) to (1B) are substituted for subsections (1) to (1A) by paragraph 53(2) of Schedule 12 to the Pensions Act (Northern Ireland) 2015

(10) Where this subsection applies, the amount determined in accordance with subsection (2)(a) as the weekly rate of the additional pension payable to the pensioner shall be increased by such percentage as equals the overall percentage by which, had the pension been in payment as from the date when the spouse or civil partner reached pensionable age until the spouse's or civil partner's death, that weekly rate would have increased during that period by virtue of orders under section 132 of the Administration Act(b) (annual uprating of benefits).”.

(4) In section 51(c) (Category B retirement pension for widowers and surviving civil partners who attained pensionable age before 6 April 2010)—

- (a) in subsection (6) for “Schedule 4A” substitute “Schedules 4A and 4B”;
- (b) after subsection (9) add—

“(10) Subsection (11) applies in the case of a pensioner whose spouse or civil partner—

- (a) attained pensionable age on or after 6 April 2016, and
- (b) died after attaining pensionable age.

(11) Where this subsection applies, the amount determined in accordance with this section as the weekly rate of the additional pension payable to the pensioner shall be increased by such percentage as equals the overall percentage by which, had the pension been in payment as from the date when the spouse or civil partner reached pensionable age until the spouse's or civil partner's death, that weekly rate would have increased during that period by virtue of orders under section 132 of the Administration Act (annual up-rating of benefits).”.

(5) In Schedule 4B(d) (additional pension: accrual rates for purposes of section 45(2)(d)—

- (a) in paragraph 4—
 - (i) the existing wording shall become sub-paragraph (1);
 - (ii) at the beginning of sub-paragraph (1) insert “Where the final relevant year is 2015-16 or an earlier tax year,”;
 - (iii) after sub-paragraph (1) add—

“(2) Otherwise, the flat rate amount is calculated by increasing the FRAA by the percentage by which earnings factors for 2015-16 are directed to be increased by the last order under section 130 of the Administration Act(e) to come into operation before the end of the final relevant year.”;

- (b) in paragraph 8—
 - (i) at the beginning of sub-paragraph (3) insert “Where the final relevant year is 2015-16 or an earlier tax year,”;
 - (ii) after sub-paragraph (3) add—

“(4) Otherwise, the flat rate amount is calculated by increasing the FRAA by the percentage by which earnings factors for 2015-16 are directed to be increased by the last order under section 130 of the Administration Act to come into operation before the end of the final relevant year.”;

- (c) in paragraph 9—

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- (a) Subsection (2) was amended by paragraph 10 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999, section 33(10) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2004 (c. 4 (N.I.)), paragraph 80(3) of Schedule 24 to the Civil Partnership Act 2004, paragraph 8 of Schedule 2 to the Pensions Act (Northern Ireland) 2008 and paragraph 8(b) of Schedule 3 to the Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13 (N.I.))
 - (b) Section 132 was amended by paragraph 41(a) to (c) of Schedule 7 to the Pension Schemes (Northern Ireland) Act 1993 (c. 49 (N.I.)), paragraph 9 of Schedule 4 to the Tax Credits Act 2002 (c. 21), regulation 2(2) of S.R. 2012 No. 120, section 3(1) to (3) of the Pensions Act (Northern Ireland) 2012 (c. 3(N.I.)) and is amended by paragraph 55 of Schedule 13 to the Pensions Act (Northern Ireland) 2015
 - (c) Section 51 is substituted by paragraph 56 of Schedule 12 to the Pensions Act (Northern Ireland) 2015
 - (d) Schedule 4B was inserted by paragraph 1 of Schedule 2 to the Pensions Act (Northern Ireland) 2008 and was amended by paragraph 12 of Schedule 3 to the Pensions (No. 2) Act (Northern Ireland) 2008
 - (e) Section 132 was amended by Article 125(3) of the Pensions (Northern Ireland) Order 1995

- (i) at the beginning of sub-paragraph (3) insert “Where the final relevant year is 2015-16 or an earlier tax year,”;
- (ii) after sub-paragraph (3) add—

“(4) Otherwise, the flat rate amount is calculated by increasing the FRAA by the percentage by which earnings factors for 2015-16 are directed to be increased by the last order under section 130 of the Administration Act to come into operation before the end of the final relevant year.”;
- (d) in paragraph 13—
 - (i) at the beginning of sub-paragraph (2) insert “Where the final relevant year is 2015-16 or an earlier tax year,”;
 - (ii) after sub-paragraph (2) add—

“(3) Otherwise, that amount is £93.60 for the flat rate introduction year and subsequent tax years.”.

Amendment of the 1995 Order

3. In Article 64(2) of the 1995 Order^(a) (equal treatment rule: exceptions) after “(state retirement pensions)” insert “or sections 2 to 12 of the Pensions Act (Northern Ireland) 2015 (state pension)”.

Amendment of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order

4. In Article 16(1)(b) of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999^(b) (arrangements for discharge of decision-making functions) after “section 22(5)” insert “or (5ZA)^(c)”.

Sealed with the Official Seal of the Department for Social Development on 26th February 2016

(L.S.)

Anne McCleary
A senior officer of the Department for Social Development

(a) S.I. 1995 No. 3213 (N.I. 22)

(b) S.I. 1999/671

(c) Subsection (5ZA) was inserted by paragraph 6(3) of Schedule 12 to the Pensions Act (Northern Ireland) 2015

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes amendments to primary legislation which are consequential on or supplementary to the introduction of the new state pension for people reaching pensionable age on or after 6th April 2016 by the Pensions Act (Northern Ireland) 2015.

Article 2 amends the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (“the Contributions and Benefits Act”).

Article 2(2) amends section 23A of the Contributions and Benefits Act to provide for the crediting of certain contributions in respect of periods of caring to be treated as if they were made before 6th April 2016 for the purposes of calculating the rate of transitional state pension.

Article 2(3) to (5), with the exception of paragraph (4)(a), makes consequential amendments to the Contributions and Benefits Act. These amendments apply where a person who has reached pensionable age under the old state pension scheme claims a Category B retirement pension which is based on the National Insurance contributions of their deceased spouse or civil partner who was in the new state pension scheme. The amendments ensure that the calculation of the additional state pension in the Category B retirement pension, which is based on the Category A retirement pension the deceased would have received if they had been in the old state pension scheme, reflects—

- (a) revaluation to reflect earnings growth in the period before the deceased reached pensionable age, and
- (b) uprating to take inflation into account after they reached pensionable age.

Article 2(4)(a) makes a supplementary amendment to section 51 of the Contributions and Benefits Act. Section 51 was substituted by the Pensions Act (Northern Ireland) 2015 as part of the amendments relating to the introduction of the new state pension. This amendment provides that Schedule 4B to the Contributions and Benefits Act is used to calculate the Category B retirement pension for certain people who attained pensionable age before 6th April 2010.

Article 3 amends Article 64(2) of the Pensions (Northern Ireland) Order 1995 (“the Order”). The principle of equal treatment in occupational pension schemes derives from Article 62 of the Order; Article 64 of the Order sets out exceptions to this principle. One permitted exception is where a man and a woman are eligible to receive different amounts by way of occupational pension and the difference is attributable only to differences between a man and a woman in the State retirement pension they are entitled to. This amendment extends this permitted exception to include the new State pension.

Article 4 amends Article 16(1)(b) of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 to enable the Department for Social Development to make arrangements for Her Majesty’s Revenue and Customs to make decisions as to whether a person should be awarded a National Insurance credit for the purposes of establishing entitlement to a new state pension.

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