

2018 No. 1085

SOCIAL SECURITY

**The Social Security (Updating of EU References) (Amendment)
(Northern Ireland) Regulations 2018**

<i>Made</i> - - - -	<i>15th October 2018</i>
<i>Laid before Parliament</i>	<i>17th October 2018</i>
<i>Coming into force</i> - -	<i>15th November 2018</i>

The Secretary of State is a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to social security.

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2, to the European Communities Act 1972, and it appears to the Secretary of State that it is expedient for certain references to provisions of Community instruments to be construed as references to those provisions as amended from time to time.

Citation and commencement

1. These Regulations may be cited as the Social Security (Updating of EU References) (Amendment) (Northern Ireland) Regulations 2018 and come into force on 15th November 2018.

Amendment of the Social Security Contributions and Benefits (Northern Ireland) Act 1992

2. In section 121(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(c) (interpretation)—

- (a) in the definition of “Regulation (EC) No 1408/71”(d), after “14 June 1971”, insert “, as amended from time to time,”;
- (b) in the definition of “Regulation (EC) No 883/2004”(e), after “29 April 2004”, insert “, as amended from time to time,”.

(a) See Article 3 of S.I. 2010/2473.
(b) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7).
(c) 1992 c. 7; the definitions of “Regulation (EC) No 1408/71” and “Regulation (EC) No 883/2004” were inserted by regulation 2(5) of S.R. 2011 No. 356.
(d) OJ No. L 149, 5.7.1971, p.2; Regulation (EC) No 1408/71 was repealed by Regulation (EC) No 883/2004 of the European Parliament and of the Council (OJ No. L 166, 30.4.2004, p.1) but saved for certain purposes. Regulation (EC) No 1408/71 has been amended by various EU instruments. It was restated in Part 1 of Annex A of Council Regulation (EC) No 118/97 of 2 December 1996 (OJ No. L 28, 30.1.1997, p.1) and has most recently been amended by Regulation (EC) No 592/2008 of the European Parliament and of the Council of 17 June 2008 (OJ No. L 177, 4.7.2008, p.1).
(e) OJ No. L 166, 30.4.2004, p.1; this EU Regulation has been amended by various EU instruments, most recently by Commission Regulation (EU) 2017/492 of 21 March 2017 (OJ No. L 76, 22.3.2017, p.13).

Amendment of the Welfare Reform (Northern Ireland) Order 2015

3. In Article 89(2) of the Welfare Reform (Northern Ireland) Order 2015(a) (no entitlement to daily living component where UK is not competent state)—

- (a) in sub-paragraph (a), after “14th June 1971”, insert “, as amended from time to time,”;
- (b) in sub-paragraph (b), after “29th April 2004”, insert “, as amended from time to time,”.

Amendments of secondary legislation

4. The Schedule which contains amendments of secondary legislation has effect.

Signed by authority of the Secretary of State for Work and Pensions

15th October 2018

Alok Sharma
Minister of State for Employment
Department for Work and Pensions

SCHEDULE

Regulation 4

Amendments of secondary legislation

The Social Security (Maternity Benefit) Regulations (Northern Ireland) 1975

1. In regulation 3B(c) of the Social Security (Maternity Benefit) Regulations (Northern Ireland) 1975(b) (temporary absences from Northern Ireland), after “1408/71/EEC”, insert “, as amended from time to time, or Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004, as amended from time to time, on the coordination of social security systems”.

The Statutory Sick Pay (Mariners, Airmen and Persons Abroad) Regulations (Northern Ireland) 1982

2. In regulation 4(b) of the Statutory Sick Pay (Mariners, Airmen and Persons Abroad) Regulations (Northern Ireland) 1982(c) (persons in other member States – meaning of “employee”), after “1408/71”, insert “, as amended from time to time, or Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004, as amended from time to time, on the coordination of social security systems”.

The Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations (Northern Ireland) 1984

3. In regulation 20 of the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations (Northern Ireland) 1984(d) (special provisions for certain persons who have been employed abroad)—

- (a) in paragraph (2)(b)(ii), at the end, add “, as amended from time to time, or Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004, as amended from time to time, on the coordination of social security systems”;
- (b) in paragraph (4)—

(a) S.I. 2015/2006 (N.I. 1).

(b) S.R. 1975 No. 107; regulation 3B was inserted by regulation 2(5) of S.R. 1981 No. 278.

(c) S.R. 1982 No. 306; to which there are amendments not relevant to these Regulations.

(d) S.R. 1984 No. 245; relevant amending Regulations are S.R. 1996 No. 289 and S.R. 2008 No. 413.

- (i) in sub-paragraph (a), after “1408/71/EEC”, insert “, as amended from time to time, or Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004, as amended from time to time”;
- (ii) in sub-paragraph (c), after “Council Regulation”, insert “or Regulation of the European Parliament and of the Council”;
- (iii) in the words after sub-paragraph (c), after “Council Regulation”, insert “or Regulation of the European Parliament and of the Council”.

The Social Security (Maternity Allowance) (Work Abroad) Regulations (Northern Ireland) 1987

4. In regulation 2 of the Social Security (Maternity Allowance) (Work Abroad) Regulations (Northern Ireland) 1987(a) (special provision for certain persons who have been employed abroad)—

- (a) in paragraph (2)(b)(ii)—
 - (i) after “EEC”, insert “, as amended from time to time,”;
 - (ii) at the end, add “or Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004, as amended from time to time, on the coordination of social security systems”;
- (b) in paragraph (4)—
 - (i) in sub-paragraph (a), after “EEC”, insert “, as amended from time to time, or Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004, as amended from time to time”;
 - (ii) in sub-paragraph (c), after “Council Regulation”, insert “or Regulation of the European Parliament and of the Council”;
 - (iii) in the words after sub-paragraph (c), after “Council Regulation”, insert “or Regulation of the European Parliament and of the Council”.

The Statutory Maternity Pay (Persons Abroad and Mariners) Regulations (Northern Ireland) 1987

5. In regulation 2(b) of the Statutory Maternity Pay (Persons Abroad and Mariners) Regulations (Northern Ireland) 1987(b) (persons in other member States – meaning of “employee”), after “1408/71”, insert “, as amended from time to time, or Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004, as amended from time to time, on the coordination of social security systems”.

The Income Support (General) Regulations (Northern Ireland) 1987

6. In regulation 21AA(3)(d) of the Income Support (General) Regulations (Northern Ireland) 1987(c) (special cases: supplemental – persons from abroad), for “Article 39 of the Treaty establishing the European Community”, substitute “Article 45 of the Treaty on the Functioning of the European Union”.

(a) S.R. 1987 No. 151; relevant amending Regulations are S.I. 2000/690 and S.R. 1994 No. 191.

(b) S.R. 1987 No. 171; to which there are amendments not relevant to these Regulations.

(c) S.R. 1987 No. 459; regulation 21AA was inserted by regulation 2(3) of S.R. 2006 No. 178 and paragraph (3)(d) was amended by regulation 2(c) of S.R. 2012 No. 380; there are other amending instruments but none is relevant.

The Social Security (Payments on account, Overpayments and Recovery) Regulations (Northern Ireland) 1988

7.—(1) In regulation 8(1)(g) of the Social Security (Payments on account, Overpayments and Recovery) Regulations (Northern Ireland) 1988(a) (duplication and prescribed payments)—

- (a) after “1408/71”, insert “, as amended from time to time,”;
- (b) after “the Community,”, insert “or in Article 3(1) of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004, as amended from time to time, on the coordination of social security systems,”;
- (c) for “that Regulation”, substitute “either Regulation, as amended from time to time”.

(2) The amendments made by sub-paragraph (1) also have effect in relation to regulation 8 as that regulation relates to child benefit and guardian’s allowance by virtue of the transitional provision in regulation 44 of the Child Benefit and Guardian’s Allowance (Administration) Regulations 2003(b) (transitional provisions).

The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999

8.—(1) In Schedule 1 to the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(c) (decisions against which no appeal lies), in paragraph 8 (European Community regulations), after “1408/71”, insert “, as amended from time to time,”.

(2) The amendments made by sub-paragraph (1) also have effect in relation to paragraph 8 of Schedule 1 as that paragraph relates to child benefit and guardian’s allowance by virtue of the transitional provision in regulation 35 of the Child Benefit and Guardian’s Allowance (Decisions and Appeals) Regulations 2003(d) (transitional provisions).

The Social Fund Winter Fuel Payment Regulations (Northern Ireland) 2000

9. In regulation 2(4)(a) of the Social Fund Winter Fuel Payment Regulations (Northern Ireland) 2000(e) (winter fuel payments)—

- (a) after “1408/71”, insert “, as amended from time to time,”;
- (b) after “883/2004”, insert “, as amended from time to time,”.

The Housing Benefit Regulations (Northern Ireland) 2006

10. In regulation 102 of the Housing Benefit Regulations (Northern Ireland) 2006(f) (recovery of overpayments from prescribed benefits)—

- (a) in paragraph (1)(c)—
 - (i) after “1408/71”, insert “, as amended from time to time,”;
 - (ii) after “the Community,”, insert “or in Article 3(1) of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004, as amended from time to time, on the coordination of social security systems,”;
 - (iii) for “that Regulation”, substitute “either Regulation, as amended from time to time”;

(a) S.R. 1988 No. 142; the Regulations are revoked in so far as they relate to child benefit or guardian’s allowance by regulation 43 of, and Part 2 of Schedule 3 to, S.I. 2003/492; regulation 44 of those Regulations sets out transitional provisions.

(b) S.I. 2003/492.

(c) S.R. 1999 No. 162; Schedule 1 was revoked in so far as it relates to Child Benefit or Guardian’s Allowance by regulation 34(b) of S.I. 2003/916; regulation 35 of those Regulations sets out transitional provisions; there are other amending instruments but none is relevant.

(d) S.I. 2003/916.

(e) S.R. 2000 No. 91; regulation 2 was substituted by regulation 2 of S.R. 2003 No. 349; paragraph (4) was added by regulation 2(2)(b) of S.R. 2013 No. 191 and amended by regulation 4(3) of S.R. 2015 No. 34.

(f) S.R. 2006 No. 405; relevant amending Regulations are S.R. 2008 No. 504.

(b) in paragraph (2), after “21st June 1999”, insert “(as amended from time to time)”.

The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006

11. In regulation 83 of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(a) (recovery of overpayments from prescribed benefits)—

- (a) in paragraph (1)(c)—
 - (i) after “1408/71”, insert “, as amended from time to time,”;
 - (ii) after “the Community,”, insert “or in Article 3(1) of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004, as amended from time to time, on the coordination of social security systems,”;
 - (iii) for “that Regulation”, substitute “either Regulation, as amended from time to time”;
- (b) in paragraph (2), after “21st June 1999”, insert “(as amended from time to time)”.

The Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations (Northern Ireland) 2016

12. In Schedule 3 to the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations (Northern Ireland) 2016(b) (decisions against which no appeal lies), in paragraph 14 (European Community regulations), after “1408/71”, insert “, as amended from time to time,”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations update cross-references to EU legislation in social security legislation in Northern Ireland in advance of exit day. This ensures those cross-references are up to date at exit day, and ensures those cross-references will capture any amendments to the EU legislation before exit day and, to the extent that they apply to the United Kingdom, any amendments to EU legislation made after exit day.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

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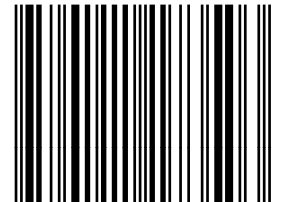
(a) S.R. 2006 No. 406; relevant amending Regulations are S.R. 2008 No. 504.
(b) S.R. 2016 No. 221; to which there are amendments not relevant to these Regulations.

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