STATUTORY RULES OF NORTHERN IRELAND

2010 No. 82

The Social Security (Contributions Credits for Parents and Carers) Regulations (Northern Ireland) 2010

PART 1

General provisions

Citation and commencement

1. These Regulations may be cited as the Social Security (Contributions Credits for Parents and Carers) Regulations (Northern Ireland) 2010 and shall come into operation on 6th April 2010.

Interpretation

2.—(1) In these Regulations—

"partner" means the person with whom another person—

(a) resides; and

(b) shares responsibility for a child under the age of 12;

"relevant benefit" means—

(a) attendance allowance in accordance with section 64 (entitlement);

(b) the care component of disability living allowance in accordance with section 72 (the care component), at the middle or highest rate prescribed in accordance with subsection (3) of that section;

(c) an increase in the rate of disablement pension in accordance with section 104 (increase where constant attendance needed);

(d) any benefit by virtue of—

(i) the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1983(**1**), or

(ii) regulations made under paragraph 4(2) of Schedule 8 (industrial injuries and diseases (old cases)),

which is payable as if the injury or disease were one in respect of which a disablement pension were for the time being payable in respect of an assessment of 100 per cent.;

(e) a constant attendance allowance payable by virtue of—

(i) article 14 of the Personal Injuries (Civilians) Scheme 1983(**2**) (constant attendance allowance), or

(**1**) S.I. 1983/136

(**2**) S.I. 1983/686; article 14 was substituted by paragraph 3 of Schedule 1 to S.I. 2001/420

(ii) article 8 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006(**3**) (constant attendance allowance).

(2) In these Regulations, a reference to a section or Schedule by number alone is a reference to the section or Schedule so numbered in the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

Transitional provision

3. For the period of 12 weeks from the date on which these Regulations come into operation, regulation 7(1)(a) has effect as if the reference in regulation 7(1) to 12 weeks were a reference to the number of complete weeks since these Regulations came into operation.

PART 2

Meaning of "foster parent" and "engaged in caring"

Meaning of "foster parent"

4.—(1) For the purposes of section 23A(3)(b) (contributions credits for relevant parents and carers), a foster parent is a person approved as a foster parent in accordance with Part 2 of the Foster Placement (Children) Regulations (Northern Ireland) 1996(**4**) (approvals and placements).

(2) Paragraph (1) is subject to regulation 8.

Meaning of "engaged in caring"

5.—(1) For the purposes of section 23A(3)(c), a person is engaged in caring in a week—

(a) if that person is the partner of a person who is awarded child benefit for any part of that week in respect of a child under the age of 12;

(b) if that person is caring for another person or persons for a total of 20 or more hours in that week and—

(i) that other person is, or each of the persons cared for are, entitled to a relevant benefit for that week, or

(ii) the Department considers that level of care to be appropriate; or

(c) if that person is one to whom any of paragraphs 4 to 6 of Schedule 1B to the Income Support (General) Regulations (Northern Ireland) 1987(**5**) (prescribed categories of person - persons caring for another person) applies.

(2) Paragraph (1) is subject to regulations 6 to 8.

Limit on the period in respect of partners of persons awarded child benefit

6.—(1) Regulation 5(1)(a) does not apply to any week which falls within a tax year in respect of which the person awarded child benefit satisfies the following condition.

(**3**) S.I. 2006/606; article 8 was amended by article 3 of S.I. 2006/1455 and article 3 of S.I. 2009/706
(**4**) S.R. 1996 No. 467
(**5**) S.R. 1987 No. 459; Schedule 1B was inserted by regulation 22 of S.R. 1996 No. 199; paragraph 4 was amended by regulation 33 of S.R. 1996 No. 358, regulation 4(1) of S.R. 2000 No. 74, regulation 3(3) of S.R. 2002 No. 80 and paragraph 1(g) of the Schedule to S.R. 2002 No. 323

(2) The condition is that the person's earnings factor for the purposes of section 45(**6**) (additional pension in a Category A retirement pension) does not exceed the qualifying earnings factor for that year.

(3) In calculating a person's earnings factor for the purposes of paragraph (2), no account is to be taken of any earnings factor derived from contributions credited by virtue of that person being a relevant carer due to an award of child benefit.

Additional period in respect of entitlement to carer's allowance and relevant benefits

7.—(1) A person is engaged in caring for a period of 12 weeks—

(a) prior to the date on which that person becomes entitled to carer's allowance by virtue of subsection (1) of section 70(**7**);

(b) subject to paragraph (2), following the end of the week in which that person ceases to be entitled to carer's allowance by virtue of that subsection;

(c) following the end of a week in which regulation 5(1)(b) ceases to be satisfied.

(2) For the purposes of paragraph (1)(b), a person is not engaged in caring in a week in respect of which that person is entitled, under regulations made under section 22(5)(**8**) (earnings factors), to be credited with contributions by virtue of being entitled to an allowance under section 70.

Disqualification due to residence or imprisonment

8. A person is not a foster parent or engaged in caring for the purposes of section 23A during any period in respect of which that person is—

(a) not ordinarily resident in Northern Ireland; or

(b) undergoing imprisonment or detention in legal custody.

PART 3

Applications

Applications: foster parents and partners of persons awarded child benefit

9. A person shall not be entitled to be credited with Class 3 contributions under—

(a) section 23A(3)(b) (foster parent); or

(b) subsection (3)(c) of that section (person engaged in caring) by virtue of regulation 5(1)(a),

unless an application to be so credited is received by the Commissioners for Her Majesty's Revenue and Customs.

Applications: carers for 20 or more hours per week

10.—(1) A person shall not be entitled to be credited with Class 3 contributions under section 23A(3)(c) by virtue of regulation 5(1)(b) unless an application to be so credited is received by the Department.

(**6**) Section 45 was amended by sections 30(1) and (2) and 33(8) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2002 (c. 4 (N.I.)) and section 9(2) and (3) of the Pensions Act (Northern Ireland) 2008

(**7**) Section 70 was amended by regulation 2(3) of S.R. 1994 No. 370 and Articles 2(2)(a)(iii) and 3 of S.R. 2002 No. 321

(**8**) Section 22(5) was amended by paragraph 5 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 N.I. 15)) and paragraph 3(3)(b) of Schedule 3 to the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.))

(2) Paragraph (1) does not apply where that person is a married woman who is not entitled to be credited with contributions under paragraph (1) of regulation 7A of the Social Security (Credits) Regulations (Northern Ireland) 1975(**9**) (credits for carer's allowance) by virtue of paragraph (2)(b) of that regulation (reduced contribution rate election under regulations under section 19(4)).

Provision of information: carers for 20 or more hours per week

11.—(1) With respect to an application to which regulation 10(1) applies, the application must include—

(a) a declaration by the applicant that the applicant cares for a person or persons for 20 or more hours per week;

(b) the name and, where known, the national insurance number of each person cared for;

(c) where applicable, which relevant benefit each person cared for is entitled to; and

(d) where requested by the Department, a declaration signed by an appropriate person as to the level of care which is required for each person cared for.

(2) For the purposes of paragraph (1)(d), an appropriate person is a person who is—

(a) involved in the health care or social care of the person cared for; and

(b) considered by the Department as appropriate to make a declaration as to the level of care required.

Time limit for applications

12. An application under regulation 9 or 10 must be received—

(a) before the end of the tax year following the tax year in which a week, which is the subject of the application, falls; or

(b) within such further time as the Department or the Commissioners for Her Majesty's Revenue and Customs, as the case may be, consider reasonable in the circumstances.

Sealed with the Official Seal of the Department for Social Development on 9th March 2010

(L.S.)

Anne McCleary
A senior officer of the Department for Social Development

(**9**) S.R. 1975 No. 113; regulation 7A was inserted by regulation 19 of S.R. 1976 No. 99 and amended by regulation 2(2) of S.R. 1978 No. 77, regulation 6 of S.R. 1987 No. 153, regulation 2(5)(c) of S.R. 1988 No. 326, regulation 2(4) of S.R. 1996 No. 430, regulation 3(5)(b) of S.R. 2001 No. 108, regulation 2(3) of S.R. 2002 No. 80, paragraph 1(a) of the Schedule to S.R. 2002 No. 323 and paragraph 4(2) of Schedule 3 to S.R. 2005 No. 536