STATUTORY INSTRUMENTS

1999 No. 3147

The Welfare Reform and Pensions (Northern Ireland) Order 1999

PART VI

WELFARE

CHAPTER I

SOCIAL SECURITY BENEFITS

Additional pensions

Preservation of rights in respect of additional pensions

49.—(1) The Department may by regulations make such provision as is authorised by one or more of paragraphs (2) to (4).

(2) The regulations may provide for any prescribed provision of Part II of the Contributions and Benefits Act (contributory benefits) which relates to additional pension for widows or widowers to have effect, in relation to persons of any prescribed description, with such modifications as may be prescribed for securing—

(a) that any such additional pension, or

(b) in the case of any provision of Schedule 5 to that Act (increase of pension where entitlement is deferred), that any constituent element of an increase provided for by that Schedule,

is increased by such percentage as may be prescribed (which may be 100 per cent.).

(3) The regulations may amend (or further amend) any prescribed provision of Part II of the Contributions and Benefits Act falling within paragraph (2) by substituting for any reference to the year 2000 (or any year previously substituted by virtue of this paragraph) a reference to such later year as may be prescribed.

(4) The regulations may make provision for and in connection with—

(a) the establishment, for a prescribed period, of a scheme for dealing with claims made by persons on the grounds that, in reliance on any incorrect or incomplete information provided by a government department with respect to the SERPS reduction (however that information came to their knowledge), they—

(i) failed to take any, or any particular, relevant steps which they would have taken, or

(ii) took any steps which they would not have taken, had they instead received correct and complete information with respect to that reduction; and

(b) securing that, where persons have made successful claims under the scheme, surviving spouses of those persons (or, as the case may be, those persons themselves) will not be affected by the SERPS reduction.

(5) In paragraph (4) "relevant steps", in relation to a person, means steps towards safeguarding the financial position of that person's spouse in the event of the spouse becoming that person's surviving spouse or (as the case may be) towards safeguarding that person's own financial position in the event of that person becoming a surviving spouse (whether or not, in either case, that person was at any material time already married); and "the SERPS reduction" means—

(a) (in the context of paragraph (4)(a)) the operation of any of—

(i) the provisions of Article 20 of theSocial Security (Northern Ireland) Order 1986, or

(ii) the provisions of Part II of the Contributions and Benefits Act reproducing the effect of those provisions;

(b) (in the context of paragraph (4)(b)) the operation of any of the provisions of the Contributions and Benefits Act mentioned in sub-paragraph (a)(ii) or of section 39C(4) or 48BB(7) of that Act.

(6) Regulations under paragraph (4) may, in particular, make provision—

(a) with respect to the time within which, and the manner in which, claims under the scheme are to be made;

(b) for requiring claimants—

(i) to supply such information in connection with their claims as may be prescribed or reasonably requested by any person for the purpose of dealing with their claims,

(ii) to attend interviews at such time and place as may be reasonably specified by any person for that purpose;

(c) for a claim to be disallowed where the claimant fails to comply with a requirement imposed by virtue of sub-paragraph (a) or (b) and does not show within the prescribed period that he had good cause for that failure;

(d) prescribing—

(i) matters which are or are not to be taken into account in determining whether a person does or does not have good cause for any failure to comply with any such requirement, or

(ii) circumstances in which a person is or is not to be regarded as having or not having good cause for any such failure;

(e) prescribing the conditions which must be satisfied in relation to any claim in order for it to be a successful claim under the scheme;

(f) with respect to—

(i) the manner in which decisions under the scheme are to be made (which may include authorising decisions of any prescribed description to be made by a computer), and

(ii) the time within which, and the manner in which, such decisions are to be notified to claimants;

(g) for provisions of Chapter II of Part II of theSocial Security (Northern Ireland) Order 1998 (social security decisions and appeals) to apply in relation to decisions under the scheme with such modifications as may be prescribed;

(h) for provisions of Part II of the Contributions and Benefits Act to apply in relation to—

(i) surviving spouses of persons who have made successful claims under the scheme, or

(ii) persons who have themselves made such claims, with such modifications as may be prescribed.

(7) If no regulations under this Article are in operation on 6th April 2000, then until such time as any such regulations come into operation—

(a) any provisions of Part II of the Contributions and Benefits Act which (whether alone or together with other provisions) would otherwise result in a reduction of one-half in the amount payable by way of additional pension in cases where a person's spouse dies after 5th April 2000 shall be taken—

(i) as not applying, or

(ii) as providing for the full amount to be payable by way of additional pension, as the case may require; and

(b) in Schedule 5 to that Act—

(i) any provision which is expressed to apply in relation to deaths occurring after that date shall not apply, and

(ii) any provision which (with or without any other limitation) is expressed to apply in relation to deaths occurring before 6th April 2000 shall be taken as applying also in relation to deaths occurring on or after that date.

(8) Regulations made under this Article shall be laid before the Assembly after being made and shall take effect on such date as may be specified in the regulations, but shall (without prejudice to the validity of anything done thereunder or to the making of new regulations) cease to have effect upon the expiration of a period of six months from that date unless at some time before the expiration of that period the regulations have been approved by a resolution of the Assembly.

(9) In this Article "prescribed" means prescribed by regulations under paragraph (2), (3) or (4), as the case may be.