

1995 No. 410

HOUSING; RATES; SOCIAL SECURITY**The Income-Related Benefits (Miscellaneous Amendments No. 3) Regulations (Northern Ireland) 1995**

Made 27th October 1995

Coming into operation 28th October 1995

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 122(1) and 132(4)(a) and (b) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) and of all other powers enabling it in that behalf, with the consent of the Department of the Environment for Northern Ireland(b) in so far as relates to regulation 4 of these Regulations and without having referred any proposals on the matter to the Social Security Advisory Committee since it appears to the Department of Health and Social Services for Northern Ireland that by reason of the urgency of the matter it is inexpedient to do so(c), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Income-Related Benefits (Miscellaneous Amendments No. 3) Regulations (Northern Ireland) 1995 and shall come into operation on 28th October 1995.

(2) The Interpretation Act (Northern Ireland) 1954(d) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

Amendment of the Disability Working Allowance (General) Regulations

2. In Schedule 3 to the Disability Working Allowance (General) Regulations (Northern Ireland) 1992(e) (sums to be disregarded in the calculation of income other than earnings) for paragraph 14 there shall be substituted the following paragraph—

“**14.** Subject to paragraph 29, £10 of any of the following, namely—

(a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 6 or 7);

(b) a war widow's pension;

(a) 1992 c. 7

(b) See section 171(6A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as inserted by Article 3(3) of the Social Security (Amendment) (Northern Ireland) Order 1993 (S.I. 1993/1579 (N.I. 8))

(c) See section 150(1)(a) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)

(d) 1954 c. 33 (N.I.)

(e) S.R. 1992 No. 78; relevant amending regulations are S.R. 1993 No. 373

- (c) a pension payable to a person as a widow under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983(a) insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865(b), or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977(c) and any power of Her Majesty otherwise than under any statutory provision, to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
- (d) a payment made to compensate for the non-payment of such a pension as is mentioned in any of the preceding sub-paragraphs;
- (e) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions mentioned in sub-paragraphs (a) to (c);
- (f) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.”.

Amendment of the Family Credit (General) Regulations

3. In Schedule 2 to the Family Credit (General) Regulations (Northern Ireland) 1987(d) (sums to be disregarded in the calculation of income other than earnings) for paragraph 14 there shall be substituted the following paragraph—

- “14. Subject to paragraph 29, £10 of any of the following, namely—
- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 6 or 7);
 - (b) a war widow’s pension;
 - (c) a pension payable to a person as a widow under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and any power of Her Majesty otherwise than under any statutory provision, to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
 - (d) a payment made to compensate for the non-payment of such a pension as is mentioned in any of the preceding sub-paragraphs;

(a) S.I. 1983/883; relevant amending instruments are S.I. 1993/598 and 1994/1906. The Order needs to be read subject to the provisions of section 168 of the Pensions Act 1995 (c. 26), the effect of which is to disregard subsequent marriages which have been dissolved or been the subject of a decree of judicial separation, in determining a person’s entitlement to a widow’s pension

(b) 28 & 29 Vict. c. 73

(c) 1977 c. 5

(d) S.R. 1987 No. 463; relevant amending regulations are S.R. 1990 No. 138, S.R. 1991 No. 326 and S.R. 1993 No. 373

- (e) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions mentioned in sub-paragraphs (a) to (c);
- (f) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.”

Amendment of the Housing Benefit (General) Regulations

4.—(1) The Housing Benefit (General) Regulations (Northern Ireland) 1987(a) shall be amended in accordance with paragraph (2).

(2) In Schedule 4 (sums to be disregarded in the calculation of income other than earnings)—

(a) for paragraph 13 there shall be substituted the following paragraph—

“13. Any of the following, namely—

- (a) a war disablement pension;
- (b) a war widow’s pension;
- (c) a pension payable to a person as a widow under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and any power of Her Majesty otherwise than under any statutory provision, to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
- (d) a payment made to compensate for the non-payment of such a pension as is mentioned in any of the preceding sub-paragraphs.”;

(b) for paragraph 14 there shall be substituted the following paragraph—

“14. A pension paid by the government of a country outside Great Britain which is analogous to any pension to which paragraph 13(a) to (c) refers.”

Amendment of the Income Support (General) Regulations

5.—(1) The Income Support (General) Regulations (Northern Ireland) 1987(b) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 42 (notional income) in paragraph (4)(a)(i)(c) for “or a war widow’s pension,” there shall be substituted “, war widow’s pension or a pension payable to a person as a widow under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865,

(a) S.R. 1987 No. 461

(b) S.R. 1987 No. 459; relevant amending regulations are S.R. 1988 No. 318, S.R. 1990 Nos. 33 and 131, S.R. 1991 Nos. 204 and 338, S.R. 1992 No. 201, S.R. 1993 Nos. 195, 233 and 373 and S.R. 1994 No. 77

(c) Paragraph (4) was substituted by S.R. 1988 No. 318

or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and any power of Her Majesty otherwise than under any statutory provision, to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown.”.

(3) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings) for paragraph 16 there shall be substituted the following paragraph—

“16. Subject to paragraphs 36 and 37, £10 of any of the following, namely—

- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 8 or 9);
- (b) a war widow’s pension;
- (c) a pension payable to a person as a widow under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and any power of Her Majesty otherwise than under any statutory provision, to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
- (d) a payment made to compensate for the non-payment of such a pension as is mentioned in any of the preceding sub-paragraphs;
- (e) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions mentioned in sub-paragraphs (a) to (c);
- (f) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.”.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 27th October 1995.

(L.S.)

D. L. Ferguson

Assistant Secretary

The Department of the Environment for Northern Ireland hereby consents to regulation 4 of the foregoing Regulations.

Sealed with the Official Seal of the Department of the Environment for Northern Ireland on 30th October 1995.

(L.S.)

R. E. Aiken

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend the Disability Working Allowance (General) Regulations (Northern Ireland) 1992, the Family Credit (General) Regulations (Northern Ireland) 1987, the Housing Benefit (General) Regulations (Northern Ireland) 1987 and the Income Support (General) Regulations (Northern Ireland) 1987 concerning the treatment, in respect of those benefits, of pensions payable to women in respect of their being, or having been, widows of members of the Royal Navy, the Army or the Royal Air Force under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 (S.I. 1983/883) (regulations 2 to 5).

In so far as these regulations are required, for the purposes of regulation 4, to be referred to the Social Security Advisory Committee under section 149(2) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8), ("the 1992 Act"), they have not been so referred by virtue of section 150(1)(a) of that Act. Otherwise they make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Social Security in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the 1992 Act, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.