
STATUTORY RULES OF NORTHERN IRELAND

2005 No. 120

The Social Security (Deferral of Retirement Pensions) Regulations (Northern Ireland) 2005

Amount of retirement pension not included in the calculation of the lump sum

3.—(1) For the purposes of the calculation of the lump sum under paragraphs 3B and 7B of Schedule 5 to the Contributions and Benefits Act, the amount of retirement pension to which the person (“the deferrer”) would have been entitled for the accrual period if his entitlement had not been deferred shall not include any such pension where, for the entire accrual period –

- (a) the deferrer has received any of the following benefits –
 - (i) any benefit under Parts II and III of the Contributions and Benefits Act other than child’s special allowance, attendance allowance, disability living allowance and guardian’s allowance;
 - (ii) any severe disablement allowance under sections 68 and 69 of the Contributions and Benefits Act as in force before 6th April 2001⁽¹⁾;
 - (iii) any unemployability supplement within the extended meaning in regulation 2(1) of the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979⁽²⁾ and including benefit corresponding to an unemployability supplement by virtue of regulations under paragraph 4(2) of Schedule 8 to the Contributions and Benefits Act;
- (b) an increase of any of the benefits specified in sub-paragraph (a) is being paid to a married man in respect of his wife where the wife is a deferrer whose period of deferment began before 6th April 2005 and who would have been entitled to a Category B retirement pension or to an increase under section 51A(2) of the Contributions and Benefits Act⁽³⁾;
- (c) an increase of any of the benefits specified in sub-paragraph (a) is being paid to any person in respect of a deferrer whose period of deferment began on or after 6th April 2005 except where that deferrer is neither married to, nor residing with, that person;
- (d) the deferrer would have been disqualified for receiving retirement pension by reason of imprisonment or detention in legal custody.

(2) Where any of the benefits referred to in paragraph (1)(a) or an increase referred to in paragraph (1)(b) or (c) has been received for part only of an accrual period, the amount of retirement pension not included by paragraph (1) shall be reduced by 1/7th for each day of the accrual period in respect of which the benefit or increase has not been received.

(3) Where the deferrer would have been disqualified for receiving retirement pension as specified in paragraph (1)(d) for part only of an accrual period, the amount of retirement pension not included by paragraph (1) shall be reduced by 1/7th for each day of the accrual period for which he would not have been so disqualified.

(1) Sections 68 and 69 were repealed by Schedule 10 to the Welfare Reform and Pensions (Northern Ireland) Order 1999; *see* Article 4 of the Welfare Reform and Pensions (1999 Order) (Commencement No. 6 and Transitional and Savings Provisions) Order (Northern Ireland) 2000 (S.R. 2000 No. 332 (C. 14))

(2) S.R. 1979 No. 242, to which there are amendments not relevant to these Regulations

(3) Section 51A was inserted by paragraph 18(6) of Schedule 2 to the Pensions (Northern Ireland) Order 1995

(4) Subject to paragraph (5), where –

- (a) a person has, in respect of any day in an accrual period, received one or more of the benefits referred to in paragraph (1)(a) or increases referred to in paragraph (1)(b) and (c) or both;
- (b) the determining authority has determined that in respect of that day, he was not entitled to the benefit or increase; and
- (c) the whole of the benefit or increase in respect of that day has been repaid or, as the case may be, recovered on or before the relevant date,

that day shall be treated as a day in respect of which he did not receive that benefit or increase or both.

(5) Where the benefit or increase in respect of a day to which paragraph (4)(a) and (b) applies is repaid or, as the case may be, recovered on or after the relevant date, that day shall only be treated as a day in respect of which that person did not receive that benefit or increase once the benefit or increase has been repaid in respect of all the days to which those sub-paragraphs relate and which fall within the period of deferment.

(6) In paragraph (4), “the determining authority” means as the case may require, the Department, an appeal tribunal constituted under Chapter I of Part II of the Social Security (Northern Ireland) Order 1998⁽⁴⁾ or a Commissioner, or a tribunal consisting of two or more such Commissioners constituted in accordance with Article 16(7) of that Order.

(7) In paragraphs (4) and (5), “relevant date” means –

- (a) the last day of the period of deferment; or
- (b) where entitlement to a lump sum arises under paragraph 7A of Schedule 5 to the Contributions and Benefits Act⁽⁵⁾, the date of S’s death.

(8) Any amount of retirement pension not included in the calculation of the lump sum in accordance with this regulation must be rounded to the nearest penny, taking any $\frac{1}{2}$ p as nearest to the next whole penny above.

(4) [S.I. 1998/1506 \(N.I. 10\)](#)

(5) Paragraph 7A was inserted by paragraph 10 of Schedule 9 to the Pensions (Northern Ireland) Order 2005