

2009 No. 409

SOCIAL SECURITY

**The Social Security (Miscellaneous Amendments No. 5)
Regulations (Northern Ireland) 2009**

Made - - - - *10th December 2009*

Coming into operation - *6th April 2010*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 5(1)(j), (l) and (m) and 165(1) and (4) to (6) of the Social Security Administration (Northern Ireland) Act 1992(a), and now vested in it(b), and section 19(2) of, and paragraph 13(1) of Schedule 1 to, the State Pension Credit Act (Northern Ireland) 2002(c).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments No. 5) Regulations (Northern Ireland) 2009 and shall come into operation on 6th April 2010.

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

Amendment of the Social Security (Claims and Payments) Regulations

2.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(e) are amended in accordance with paragraphs (2) to (8).

(2) In regulation 2(1) (interpretation), after the definition of “widowed parent’s allowance”(f) add—

““working age benefit” means any of the following—

- (a) bereavement allowance;
- (b) an employment and support allowance;
- (c) incapacity benefit;
- (d) income support;
- (e) a jobseeker’s allowance;
- (f) widowed mother’s allowance;

(a) 1992 c. 8; section 165(1) was amended by paragraph 49(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) and subsection (6) was amended by Schedule 7 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10))

(b) See Article 8(b) of S.R. 1999 No. 481

(c) 2002 c. 14 (N.I.)

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

(e) S.R. 1987 No. 465; relevant amending Regulations are S.R. 1988 No. 141, S.R. 1992 No. 7, S.R. 1994 No. 456, S.R. 1996 No. 354, S.R. 1999 No. 365, S.R. 2000 No. 404, S.R. 2001 No. 108, S.R. 2002 No. 297, S.R. 2003 No. 191, S.R. 2006 No. 168, S.R. 2008 Nos. 286 and 417 and S.R. 2009 No. 107

(f) The definition of “widowed parent’s allowance” was added by regulation 10(2)(c) of S.R. 2001 No. 108

- (g) widowed parent's allowance;
- (h) widow's pension.”.

(3) In regulation 16 (date of entitlement under an award for the purpose of determining the day from which benefit is to be payable and effective date of change of rate)—

(a) after paragraph (1C)(a) insert—

“(1D) Except in a case where regulation 22D(1) or (2) applies, for the purpose only of determining the day from which retirement pension payable in arrears under regulation 22C is to become payable, where entitlement would otherwise begin on a day which is not the first day of the benefit week, entitlement shall begin on the first day of the benefit week next following.”;

(b) after paragraph (2C)(b) insert—

“(2D) Where a retirement pension is paid in arrears under regulation 22C and the award is terminated due to the death of the beneficiary, the termination shall take effect on the first day of the benefit week next following the date of death.

(2E) Except in a case where regulation 22D(2) applies, where a retirement pension is paid in arrears under regulation 22C and there is a change in the rate of that benefit, the change, if it would otherwise take effect on a day which is not the first day of the benefit week, shall take effect from the start of the benefit week in which the change occurs.”;

(c) in paragraph (3)(c)(ii)(c) for “regulation 22 or 22A” substitute “regulation 22, 22A or 22C”;

(d) in paragraph (4)(d) after “widowed parent's allowance” insert “, retirement pension payable in arrears under regulation 22C”.

(4) In regulation 22(1)(e) (long term benefits), for “regulations 22A and 25(1)” substitute “regulations 22A, 22C and 25(1)”.

(5) After regulation 22B(f) insert—

“Retirement pension

22C.—(1) This regulation applies in relation to payment of a retirement pension to persons who reach pensionable age on or after 6th April 2010, other than to a person to whom paragraph (7) applies.

(2) Subject to paragraphs (4) to (6), a retirement pension shall be paid weekly, fortnightly or four weekly (as the Department may in any case determine) in arrears on the day of the week specified in paragraph (3).

(3) The day specified for the purposes of paragraph (2) is the day in column (2) which corresponds to the series of numbers in column (1) which includes the last 2 digits of the person's national insurance number—

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- (a) Paragraph (1C) was added by regulation 9(c) of S.R. 1992 No. 7
 - (b) Paragraph (2C) was inserted by regulation 2(2)(b) of S.R. 2009 No. 107
 - (c) Paragraph (3) was substituted by regulation 3(b) of S.R. 1988 No. 141 and sub-paragraph (c) was substituted by regulation 2(2)(c) of S.R. 2009 No. 107
 - (d) Paragraph (4) was amended by regulation 3(c) of S.R. 1988 No. 141, regulation 2(7) of S.R. 1994 No. 456, regulation 2(9) of S.R. 1996 No. 354, regulation 7(1) of S.R. 2003 No. 191, regulation 13(11) of S.R. 2008 No. 286 and regulation 2(2)(d) of S.R. 2009 No. 107
 - (e) Regulation 22(1) was substituted by regulation 2(3) of S.R. 2002 No. 297 and amended by regulation 2(5) of S.R. 2008 No. 417 and regulation 2(3) of S.R. 2009 No. 107
 - (f) Regulation 22B was inserted by regulation 2(4) of S.R. 2009 No. 107

<i>Column (1)</i>	<i>Column (2)</i>
00 to 19	Monday
20 to 39	Tuesday
40 to 59	Wednesday
60 to 79	Thursday
80 to 99	Friday.

(4) The Department may, in any particular case or class of case, arrange that retirement pension be paid on any other day of the week.

(5) The Department may, in any particular case or class of case, arrange that the beneficiary be paid in arrears at intervals of 13 weeks where the beneficiary agrees.

(6) Where the amount of a retirement pension payable is less than £5.00 per week the Department may direct that it shall be paid in arrears at such intervals, not exceeding 12 months, as may be specified in the direction.

(7) This paragraph applies to a man who—

- (a) was in receipt of state pension credit in respect of any day in the period beginning with the day 4 months and 4 days before the day on which he reaches pensionable age and ending on 5th April 2010; or
- (b) was in continuous receipt of state pension credit from 5th April 2010 until a day no earlier than the day 4 months and 4 days before the day on which he reaches pensionable age.

Payment of retirement pension at a daily rate

22D.—(1) Where the entitlement of a person (B) to a retirement pension begins on a day which is not the first day of the benefit week in the circumstances specified in paragraph (3), it shall be paid at a daily rate in respect of the period beginning with the day on which entitlement begins and ending on the day before the first day of the following benefit week.

(2) Where in respect of a retirement pension—

- (a) the circumstances specified in paragraph (3) apply;
- (b) B's entitlement to that benefit begins on a day which is not the first day of the benefit week; and
- (c) a change in the rate of that benefit takes effect under an order made under section 132 or 132A of the Administration Act^(a) (annual up-rating of benefits or basic pension etc.) on a day, in the same benefit week, subsequent to the day on which B's entitlement arose,

it shall be paid at a daily rate in respect of the period beginning with the day on which entitlement begins and ending on the day before the first day of the following benefit week.

(3) The circumstances referred to in paragraphs (1) and (2) are where—

- (a) the retirement pension is paid in arrears;
- (b) B has not opted to defer entitlement to a retirement pension under section 55 of the Contributions and Benefits Act^(b); and
- (c) B—
 - (i) was in receipt of a working age benefit in respect of any day in the period beginning with the day 8 weeks and a day before B reaches pensionable age and ending immediately before the day B reaches such age, or

^(a) Section 132A was inserted by section 5(1) of the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.))

^(b) 1992 c.7; section 55 was substituted by Article 273(1) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) and amended by paragraph 4 of the Schedule to S.R. 2005 No. 434 and paragraph 7 of Schedule 1 to the Pensions Act (Northern Ireland) 2008

- (ii) has reached pensionable age and is a dependent spouse of a person who is in receipt of an increase for an adult dependant under section 83 or 84 of the Contributions and Benefits Act(a).

(4) Where benefit is payable at a daily rate in the circumstances mentioned in this regulation, the daily rate which shall apply in respect of a particular day in the relevant period shall be 1/7th of the weekly rate which, if entitlement had begun on the first day of the benefit week, would have had effect on that particular day.

(5) In this regulation, “benefit week” means a period of 7 days which ends on the day on which, in B’s case, the benefit is payable in accordance with regulation 22C.”.

(6) In regulation 26B(b) (state pension credit)—

- (a) in paragraph (1) after “paragraph (2)” insert “or regulation 26BA”;
- (b) in paragraph (4) for “State pension credit” substitute “Subject to regulation 26BA, state pension credit”.

(7) After regulation 26B insert—

“Intervals for payment of state pension credit

26BA.—(1) Where state pension credit is payable to a person who reaches pensionable age on or after 6th April 2010, other than a person to whom regulation 22C(7) applies, it shall be paid weekly, fortnightly or four weekly (as the Department may in any case determine) in arrears on the day of the week specified in paragraph (2).

(2) The day specified for the purposes of paragraph (1) is the day in column (2) which corresponds to the series of numbers in column (1) which includes the last 2 digits of the person’s national insurance number—

<i>Column (1)</i>	<i>Column (2)</i>
00 to 19	Monday
20 to 39	Tuesday
40 to 59	Wednesday
60 to 79	Thursday
80 to 99	Friday.

(3) The Department may, in any particular case or class of case, arrange that state pension credit be paid on any other day of the week.

(4) Where the amount of state pension credit payable is less than £1.00 per week the Department may direct that it shall be paid in arrears at such intervals, not exceeding 13 weeks, as may be specified in the direction.”.

(8) In paragraph 5 of Schedule 6 (days for payment of long term benefits), for “Retirement pension shall” substitute “Subject to regulation 22C, retirement pension shall”.

Amendment of the State Pension Credit Regulations

3.—(1) The State Pension Credit Regulations (Northern Ireland) 2003(c) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation), for the definition of “benefit week” substitute—

““benefit week” means—

(a) Sections 83 and 84 were amended respectively by paragraphs 20 and 21 of Schedule 1 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)) and are repealed by Schedule 6 to the Pensions Act (Northern Ireland) 2008 with effect from 6th April 2010 with a saving for qualifying persons; *see* section 4(5) to (7) of that Act

(b) Regulation 26B was inserted by regulation 9 of S.R. 2003 No. 191 and amended by regulation 2(13) of S.R. 2006 No. 168

(c) S.R. 2003 No. 28, relevant amending Regulations are S.R. 2003 No. 191 and S.R. 2008 No. 286

- (a) where state pension credit is paid in advance, the period of 7 days beginning on the day on which, in the claimant's case, that benefit is payable;
- (b) where state pension credit is paid in arrears, the period of 7 days ending on the day on which, in the claimant's case, that benefit is payable;”.

(3) In regulation 13A(a) (part-weeks)—

- (a) omit paragraph (2);
- (b) in paragraph (3)(a) omit “, taking into account the requirements of paragraph (2),”; and
- (c) in paragraph (3)(b) omit from “, any fraction” to the end.

(4) In regulation 13B(b) (date on which benefits are treated as paid), for paragraph (2) substitute—

“(2) All benefits except those mentioned in paragraph (1) shall be treated as paid—

- (a) where the benefit is paid in advance, on the first day of the benefit week in which the benefit is payable;
- (b) where the benefit is paid in arrears, on the last day of the benefit week in which the benefit is payable.”.

Revocation

4. Regulation 2(3) of the Social Security (Claims and Payments) (Amendment) Regulations (Northern Ireland) 2009(c) is revoked.

Sealed with the Official Seal of the Department for Social Development on 10th December 2009
(L.S.)

Anne McCleary

A senior officer of the Department for Social Development

(a) Regulation 13A was inserted by regulation 23(3) of S.R. 2003 No. 191 and amended by regulation 30 of S.R. 2008 No. 286
(b) Regulation 13B was inserted by regulation 23(3) of S.R. 2003 No. 191 and amended by regulation 30 of S.R. 2008 No. 286
(c) S.R. 2009 No. 107

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 (“the Claims and Payments Regulations”) and the State Pension Credit Regulations (Northern Ireland) 2003 (“the State Pension Credit Regulations”).

Regulation 2(2) inserts a definition of “working age benefit” into regulation 2(1) of the Claims and Payments Regulations (this term is used in new regulation 22D of those Regulations).

Regulation 2(5) inserts regulations 22C and 22D into the Claims and Payments Regulations. The effect of regulation 22C is to enable retirement pension to be paid weekly, fortnightly, 4 weekly, 13 weekly or annually in arrears and to enable a person’s payday to be determined in accordance with their national insurance number. The effect of regulation 22D is to enable retirement pension to be paid at a daily rate for part-weeks where specified conditions are satisfied.

Regulation 2(7) inserts regulation 26BA into the Claims and Payments Regulations to enable state pension credit to be paid weekly, fortnightly, 4 weekly or 13 weekly in arrears and to enable a person’s payday to be determined in accordance with their national insurance number.

The remaining provisions of regulation 2 make consequential amendments to the Claims and Payments Regulations.

Regulation 3(3) amends regulation 13A of the State Pension Credit Regulations to enable income to be taken into account for the purposes of determining the amount of the guarantee credit payable for part-week payment of state pension credit. It also removes the words in regulation 13A(3) which enable any fraction of a penny to be rounded up to the nearest penny. Calculations relating to fractions of a penny in respect of state pension credit will be determined in accordance with regulation 28 of the Claims and Payments Regulations. Regulation 3(2) and (4) make consequential amendments to State Pension Credit Regulations.

Regulation 4 makes a consequential revocation.

These Regulations make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

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