

EXPLANATORY MEMORANDUM

THE SOCIAL SECURITY (MISCELLANEOUS AMENDMENTS NO. 5) REGULATIONS (NORTHERN IRELAND) 2009 S.R. 2009 No. 409

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the above Statutory Rule which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under sections 5(1)(j), (l) and (m) and 165(1) and (4) to (6) of the Social Security Administration (Northern Ireland) Act 1992 and section 19(2) of, and paragraph 13(1) of Schedule 1 to, the State Pension Credit Act (Northern Ireland) 2002 and is subject to the negative resolution procedure.

2. Purpose

- 2.1 The 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”). They change the existing rules for making payments of Retirement Pension and State Pension Credit for people who reach State Pension age on or after 6 April 2010. They align the payment arrangements for Retirement Pension and State Pension Credit with the changes to the payment arrangements for working age benefits which came into operation on 6th April 2009.
- 2.2 The Regulations provide that Retirement Pension and State Pension Credit will be paid in arrears, on a day determined by a person’s National Insurance number. They provide that payments of those benefits may be made weekly, fortnightly or 4 weekly and introduce part-week payments of Retirement Pension where a gap in benefit entitlement would otherwise occur when a person moves from a working age benefit to a pension age benefit. They also change the State Pension Credit income rules to take account of the introduction of part-week payments.
- 2.3 Regulation 1 provides for citation, commencement and interpretation of the Regulations. It provides that the Regulations come into operation on 6 April 2010.
- 2.4 Regulation 2(2) adds a definition of “working age benefit” to the interpretation provisions in the Claims and Payments Regulations. Regulation 2(3) amends regulation 16 of those Regulations to specify the day from which Retirement Pension becomes payable for people paid in arrears. It also makes provision relating to the treatment of terminations of awards and changes to the rate of benefit where the change does not take place at the start of a person’s benefit week.

- 2.5 Regulation 2(5) inserts regulations 22C and 22D into the Claims and Payments Regulations. Regulation 22C provides that Retirement Pension is to be paid weekly, fortnightly, 4 weekly, 13 weekly or annually in arrears where the person has reached State Pension age on or after 6 April 2010 and provides that a person's payday is to be determined in accordance with the last two digits of their national insurance number. It also provides that the changes do not apply to a man in receipt of State Pension Credit before 6 April 2010 but who reaches State Pension age after that date.
- 2.6 Regulation 22D provides for Retirement Pension to be paid at a daily rate where specified conditions are satisfied. It allows the payment of Retirement Pension for a part-week where a person moves from a working age benefit, payment of which ceases the day before they reach State Pension age or where they are an adult dependant and have now reached State Pension age.
- 2.7 Regulation 2(7) inserts regulation 26BA into the Claims and Payments Regulations to enable State Pension Credit to be paid weekly, fortnightly, 4 weekly and 13 weekly in arrears and provides that a person's payday is to be determined in accordance with their national insurance number. These provisions mirror those for Retirement Pension for people who reach State Pension age on or after 6 April 2010.
- 2.8 Regulation 3 amends 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 a part-week payment of State Pension Credit.
- 2.9 Regulation 4 makes a consequential revocation.

3. Background

- 3.1 Changes which were put in place from April 2009 made working age benefits payable in arrears and on a payday determined by a person's National Insurance number – spread over Monday to Friday. Previously, some benefits were paid in advance and some in arrears and different paydays applied. The April 2009 changes applied to all new claims with existing claims being changed over a two year period.
- 3.2 At present both State Pension and Pension Credit are paid in advance and the payday is generally a Monday. Entitlement to working age benefits ceases when a person reaches State Pension age. However State Pension is not payable until the payday following that date so, for example, a person reaching State Pension age on Wednesday in a given week will, under current rules, receive their State Pension from the following Monday.

- 3.3 The current system means that some people moving from a working-age benefit to State Pension may see a gap of up to six days between reaching State Pension age and the first payment of their State Pension. Those moving from an income-related benefit to Pension Credit are already protected under existing legislation.
- 3.4 These Regulations make changes in line with those for working-age benefits for claims to State Pension or Pension Credit from April 2010. The arrangements already in place for existing customers will be unaffected. From April 2010 new claimants will:
- be paid in arrears, in line with working-age benefits;
 - have paydays determined by their National Insurance number;
 - have a choice around how frequently they are paid;
 - receive a part-week payment of State Pension if the move from a working age benefit results in a gap in their income.
- 3.5 People in receipt of working-age benefits who would experience a gap in payment between the last day of entitlement to their working age benefit and the first payday of State Pension, will receive a part-week payment of State Pension. Current rules already provide for a part-week payment of Pension Credit for those moving from an income-related benefit to Pension Credit. Part-week payments will ensure that there is a seamless transition from a working-age to a pension age benefit.

4. Consultation

- 4.1 As the 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 they do not have to be submitted to the Social Security Advisory Committee.

5. Equality Impact

- 5.1 A screening exercise has been conducted on the legislative proposals and as they merely rationalise periods of benefit payments and paydays the Department has concluded that they do not have significant implications for equality of opportunity. In light of this, the Department considers that an Equality Impact Assessment is not necessary.

6. Regulatory Impact

- 6.1 These Regulations do not require a Regulatory Impact Assessment as they do not impose any new costs on business, charities, social enterprise or voluntary bodies.

7. Financial Implications

7.1 It is estimated that the annual cost of making part-week payments will be around £131,000 in 2010/11 and 2011/12. Thereafter savings from not having overpayments at the end of a claim will exceed costs.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the Rule—

- (a) is not incompatible with any of the Convention rights,
- (b) is not incompatible with Community law,
- (c) does not discriminate against a person or class of person on the ground of religious belief or political opinion, and
- (d) does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1 Not applicable.

10. Parity or Replicatory Measure

10.1 The corresponding Great Britain Regulations are the Social Security (Miscellaneous Amendments) (No.6) Regulations 2009 which come into force on 6th April 2010. Parity of timing and substance is an integral part of the maintenance of single systems of social security, pensions and child support provided for in section 87 of the Northern Ireland Act 1998.