

**2010 No. 103**

**HOUSING; RATES; SOCIAL SECURITY**

**The Social Security (Equalisation of State Pension Age)  
Regulations (Northern Ireland) 2010**

*Made* - - - - *12th March 2010*

*Coming into operation* - *6th April 2010*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 122(1)(a) and (d), 129A(2) and (3), 131(1), 132(3) and (4)(b), 134(2) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a), sections 5(1)(a) to (d), (j) and (q) and 165(1), (4) and (5) of the Social Security Administration (Northern Ireland) Act 1992(b), Articles 6(1), (5) and (7) and 14(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994(c), Articles 6(5), 7(3), 14(1) and (4)(b) and 36(2) of, and paragraph 8A(1) of Schedule 1 to, the Jobseekers (Northern Ireland) Order 1995(d), and now vested in it(e), sections 15(6)(b) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002(f) and sections 17(1) and (3)(b), 18 and 25(2) of the Welfare Reform Act (Northern Ireland) 2007(g).

Regulations 8 to 10 are made with the consent of the Department of Finance and Personnel(h).

The Social Security Advisory Committee has agreed that the proposals in respect of regulations 8 to 10 should not be referred to it(i).

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security (Equalisation of State Pension Age) Regulations (Northern Ireland) 2010 and shall come into operation on 6th April 2010.

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

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- (a) 1992 c. 7; section 129A was inserted by section 30(2) of the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.)) and section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)
- (b) 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)
- (c) S.I. 1994/1898 (N.I. 12)
- (d) S.I. 1995/2705 (N.I. 15); Article 36(2) was amended by paragraph 55 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 and paragraph 8A of Schedule 1 was inserted by paragraph 16(2) of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))
- (e) See Article 8(b) of S.R. 1999 No. 481
- (f) 2002 c. 14 (N.I.)
- (g) 2007 c. 2 (N.I.)
- (h) 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)); see also Article 6(b) of S.R. 1999 No. 481
- (i) See section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992
- (j) 1954 c. 33 (N.I.)

## **Amendment of the Income Support (General) Regulations**

2.—(1) The Income Support (General) Regulations (Northern Ireland) 1987(a) are amended in accordance with paragraphs (2) and (3).

(2) In Schedule 2 (applicable amounts)—

- (a) in paragraph 9(b) (pensioner premium for persons under 75), for “not less than 60” substitute “not less than the qualifying age for state pension credit”;
- (b) in paragraph 10 (higher pensioner premium)—
  - (i) in sub-paragraph (1)(b)(c) for “not less than 60” substitute “not less than the qualifying age for state pension credit”;
  - (ii) in sub-paragraphs (1)(b)(ii)(aa) and (3)(b)(d) for “his partner’s 60th birthday” substitute “the day his partner attained the qualifying age for state pension credit”,
  - (iii) in sub-paragraph (1)(b)(ii)(bb) for “the age of 60” substitute “the qualifying age for state pension credit”;
- (c) in paragraph 11(1)(b)(ii)(e) (disability premium), for “is aged less than 60” substitute “has not attained the qualifying age for state pension credit”;
- (d) in paragraph 13A(1)(b)(f) (enhanced disability premium), for “is aged less than 60” substitute “has not attained the qualifying age for state pension credit”.

(3) In Schedule 10 (capital to be disregarded), in paragraph 4(a)(g) for “is aged 60 or over” substitute “has attained the qualifying age for state pension credit”.

## **Amendment of the Social Security (Claims and Payments) Regulations**

3. In regulation 35(2) of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(h) (payment to a partner as alternative payee) for “the other person has not yet attained the age of 60 in the qualifying week” substitute “in the qualifying week the other person has not yet attained the qualifying age”.

## **Amendment of the Social Security (Incapacity Benefit) (Transitional) Regulations**

4. In regulation 1(2) of the Social Security (Incapacity Benefit) (Transitional) Regulations (Northern Ireland) 1995(i) (interpretation), for the definition of “pensionable age” substitute—

““pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995(j);”.

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- (a) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1989 No. 139, S.R. 1990 No. 346, S.R. 2000 No. 367, S.R. 2003 Nos. 191, 195 and 413 and S.R. 2007 No. 154
  - (b) Paragraph 9 was amended by regulation 5(a) of S.R. 1989 No. 139 and regulation 24(5)(a) of S.R. 2003 No. 191
  - (c) Sub-paragraph (1) was substituted by regulation 24(5)(c)(i) of S.R. 2003 No. 191 and amended by regulation 2(a) of S.R. 2003 No. 413 and regulation 2(7)(b)(i) of S.R. 2007 No. 154
  - (d) Sub-paragraph (3)(b) was amended by regulation 24(5)(c)(ii) of S.R. 2003 No. 191
  - (e) Head (b)(ii) was amended by regulation 2(b)(ii) of S.R. 2003 No. 413
  - (f) Paragraph 13A was inserted by regulation 2(c)(ii) of S.R. 2000 No. 367 and sub-paragraph (1)(b) was substituted by regulation 24(5)(f) of S.R. 2003 No. 191 and amended by paragraph 20(c)(i) of Schedule 1 to S.R. 2003 No. 195
  - (g) Paragraph 4(a) was amended by regulation 9(a) of S.R. 1990 No. 346
  - (h) S.R. 1987 No. 465; paragraph (2) was added by regulation 2(3) of S.R. 2002 No. 327 and amended by paragraph 15(8) of Schedule 3 to S.R. 2005 No. 536 and regulation 13(15) of S.R. 2008 No. 286
  - (i) S.R. 1995 No. 35
  - (j) S.I. 1995/3213 (N.I. 22); paragraph 1 of Schedule 2 was amended by paragraph 28 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)), paragraph 8 of Schedule 3 to the Welfare Reform Act (Northern Ireland) 2007 and paragraphs 3 and 4 of Schedule 3 to the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.))

## **Amendment of the Jobseeker's Allowance Regulations**

5.—(1) The Jobseeker's Allowance Regulations (Northern Ireland) 1996(a) are amended in accordance with paragraphs (2) to (9).

(2) In regulation 1(2) (interpretation), after the definition of “public authority(b)” insert—

““qualifying age for state pension credit” means—

- (a) in the case of a woman, pensionable age; or
- (b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;”.

(3) In regulation 49(1)(b) (person approaching retirement and the jobseeking period), for “the age of 60” substitute “the qualifying age for state pension credit”.

(4) In Schedule A1(c) (categories of members of a joint-claim couple who are not required to satisfy the conditions in Article 3(2B)(b) of the Order), for paragraph 13 and the heading preceding it, substitute—

### **“Members who have attained the qualifying age for state pension credit**

**13.** A member who has attained the qualifying age for state pension credit.”.

(5) In Schedule 1 (applicable amounts)—

- (a) in paragraph 10 (pensioner premium for persons over 60)—
  - (i) in the heading for “over 60” substitute “over the qualifying age for state pension credit”,
  - (ii) for “the age of 60”, in each place where it occurs, substitute “the qualifying age for state pension credit”;
- (b) in paragraph 12 (higher pensioner premium)—
  - (i) in sub-paragraph (1)(d) for “the age of 60”, in each place where it occurs, substitute “the qualifying age for state pension credit”,
  - (ii) in sub-paragraphs (1)(a)(ii) and (2)(b), for “his 60th birthday” substitute “the date he attained the qualifying age for state pension credit”;
- (c) in paragraph 13(1)(e) (disability premium), for “the age of 60”, in each place where it occurs, substitute “the qualifying age for state pension credit”;
- (d) in paragraph 15A(1)(f) (enhanced disability premium), for “is aged less than 60” substitute “has not attained the qualifying age for state pension credit”;
- (e) in paragraph 20(2) (weekly amounts of premiums specified in Part III) for “aged over 60” substitute “who have attained the qualifying age for state pension credit”;
- (f) in paragraph 20E(g) (pensioner premium where one member of a joint-claim couple has attained the age of 60) and the heading preceding it for “the age of 60” substitute “the qualifying age for state pension credit”;

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(a) S.R. 1996 No. 198; relevant amending Regulations are S.R. 1996 No. 503, S.R. 2000 Nos. 350 and 367, S.R. 2003 No. 195, S.R. 2007 No. 154, S.R. 2008 No. 286 and S.R. 2009 No. 338

(b) The definition of “public authority” was inserted by regulation 4(2)(a) of S.R. 2009 No. 338

(c) Schedule A1 was inserted by Schedule 1 to S.R. 2000 No. 350

(d) Paragraph 12(1) was amended by regulation 2(17)(b) of S.R. 1996 No. 503 and regulation 3(8)(b)(i) of S.R. 2007 No. 154

(e) Paragraph 13(1) was amended by regulation 3(8)(c) of S.R. 2007 No. 154

(f) Paragraph 15A was inserted by regulation 4(c)(ii) of S.R. 2000 No. 367 and sub-paragraph (1) was amended by paragraph 20(c)(i) of Schedule 2 to S.R. 2003 No. 195

(g) Paragraphs 20A to 20M were inserted by paragraph 53(4) of Schedule 2 to S.R. 2000 No. 350

- (g) in paragraph 20F (higher pensioner premium)—
    - (i) in sub-paragraph (1)(a) and (b)(a) for “the age of 60” substitute “the qualifying age for state pension credit”;
    - (ii) in sub-paragraph (1)(b)(i) for “his 60th birthday” substitute “the date he attained the qualifying age for state pension credit”,
    - (iii) in sub-paragraphs (1)(b)(ii) and (2)(b) for “the 60th birthday of either member of that couple” substitute “the date either member of that couple attained the qualifying age for state pension credit”;
  - (h) in paragraph 20G(1)(b) (disability premium), for “the age of 60” substitute “the qualifying age for state pension credit”;
  - (i) in paragraph 20IA(1)(c) (enhanced disability premium), for “is aged less than 60” substitute “has not attained the qualifying age for state pension credit”;
  - (j) in paragraph 20M(1) (weekly amounts of premiums specified in Part IVA) for “is aged over 60” substitute “has attained the qualifying age for state pension credit”.
- (6) In Schedule 2 (housing costs), in paragraph 8(1)(a)(d) (general exclusions from paragraphs 6 and 7), for “is aged 60 or over” substitute “has attained the qualifying age for state pension credit”.
- (7) In Schedule 5 (sums to be disregarded in the calculation of earnings), in paragraph 5—
- (a) in sub-paragraph (3)(b) for “is under the age of 60” substitute “has not attained the qualifying age for state pension credit”;
  - (b) in sub-paragraphs (4)(b) and (7)(a)(i)(e), (b) and (c) for “the age of 60” substitute “the qualifying age for state pension credit”.
- (8) In Schedule 5A(f) (sums to be disregarded in the calculation of earnings of members of joint-claim couples), in paragraph 1—
- (a) in sub-paragraph (3)(b), for “is under the age of 60” substitute “has not attained the qualifying age for state pension credit”;
  - (b) in sub-paragraphs (4)(b) and (5)(a)(i)(g), (b) and (c) for “the age of 60” substitute “the qualifying age for state pension credit”.
- (9) In Schedule 7 (capital to be disregarded), in paragraph 4(a) for “is aged 60 or over” substitute “has attained the qualifying age for state pension credit”.

### **Amendment of the Social Fund Winter Fuel Payment Regulations**

6.—(1) The Social Fund Winter Fuel Payment Regulations (Northern Ireland) 2000(h) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation), after the definition of “partner” insert—

““qualifying age for state pension credit” means—

- (a) in the case of a woman, pensionable age, or
- (b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;”.

(3) In regulation 2(1)(i) (social fund winter fuel payments), for sub-paragraph (b) substitute—

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- (a) Paragraph 20F(1) was amended by regulation 3(8)(h)(i) of S.R. 2007 No. 154
  - (b) Paragraph 20G was amended by regulation 3(8)(i) of S.R. 2007 No. 154
  - (c) Paragraph 20IA was inserted by regulation 4(c)(v) of S.R. 2000 No. 367
  - (d) Paragraph 8(1)(a) was amended by paragraph 54(7) of Schedule 2 to S.R. 2000 No. 350
  - (e) Sub-paragraph (7)(a)(i) was amended by regulation 19(26) of S.R. 2008 No. 286
  - (f) Schedule 5A was inserted by paragraph 58 of Schedule 2 to S.R. 2000 No. 350
  - (g) Sub-paragraph (5)(a)(i) was amended by regulation 19(27) of S.R. 2008 No. 286
  - (h) S.R. 2000 No. 91; relevant amending Regulations are S.R. 2000 No. 321, S.R. 2003 No. 349, S.R. 2004 No. 354 and S.R. 2008 No. 286
  - (i) Regulation 2 was substituted by regulation 2 of S.R. 2003 No. 349 and paragraph (1) was amended by regulation 2(3) of S.R. 2004 No. 354 and regulation 24(3) of S.R. 2008 No. 286

“(b) in or before the qualifying week has attained the qualifying age for state pension credit,”.

(4) In regulation 3(1)(a) (persons not entitled to a social fund winter fuel payment), for head (i)(a) substitute—

“(i) a partner of, and living with, a person who attained the qualifying age for state pension credit in or before the qualifying week and to whom state pension credit, an income-based jobseeker’s allowance or an income-related employment and support allowance has been, or falls to be, paid in respect of the qualifying week;”.

### **Amendment of the State Pension Credit Regulations**

7. In Schedule 5 to the State Pension Credit Regulations (Northern Ireland) 2003(b) (income from capital), in paragraph 4(a) for “is either aged 60 or over or incapacitated” substitute “has attained the qualifying age or is incapacitated”.

### **Amendment of the Housing Benefit Regulations**

8.—(1) The Housing Benefit Regulations (Northern Ireland) 2006(c) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 81(11) (time and manner in which claims are to be made), for “the age of 59 years and 35 weeks” substitute “the age which is 17 weeks younger than the qualifying age for state pension credit”.

(3) In Schedule 4 (applicable amounts)—

(a) in paragraph 12 (disability premium), for “is aged less than 60”, in each place where it occurs, substitute “has not attained the qualifying age for state pension credit”;

(b) in paragraph 15(1)(b)(d) (enhanced disability premium), for “is aged less than 60” substitute “has not attained the qualifying age for state pension credit”.

(4) In Schedule 5 (sums to be disregarded in the calculation of earnings), in paragraph 3(3)(b)(e) for “is under the age of 60” substitute “has not attained the qualifying age for state pension credit”.

(5) In Schedule 7 (capital to be disregarded), in paragraph 4(a) for “where that person is either aged 60 or over or incapacitated” substitute “where that person has attained the qualifying age for state pension credit or is incapacitated”.

### **Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations**

9.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(f) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 62(12) (time and manner in which claims are to be made), for “the age of 59 years and 35 weeks” substitute “the age which is 17 weeks younger than the qualifying age for state pension credit”.

(3) In Schedule 7 (capital to be disregarded), in paragraph 4(a) for “where that person is either aged 60 or over or incapacitated” substitute “where that person has attained the qualifying age for state pension credit or is incapacitated”.

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(a) Head (i) was amended by regulation 2(3) of S.R. 2000 No. 321, regulation 2(4) of S.R. 2004 No. 354 and regulation 24(4) of S.R. 2008 No. 286

(b) S.R. 2003 No. 28; paragraph 4(a) of Schedule 5 was amended by regulation 6(6) of S.R. 2004 No. 394

(c) S.R. 2006 No. 405; relevant amending Regulations are S.R. 2008 Nos. 179 and 378

(d) Paragraph 15(1) was substituted by regulation 3(17)(c) of S.R. 2008 No. 378

(e) Paragraph 3(3) was amended by regulation 3(9)(a)(i) of S.R. 2008 No. 179

(f) S.R. 2006 No. 406 to which there are amendments not relevant to these Regulations

### **Amendment of the Housing Benefit (Consequential Provisions) Regulations**

**10.** In Schedule 3 to the Housing Benefit (Consequential Provisions) Regulations (Northern Ireland) 2006(a) (transitional and savings provisions), in paragraph 5(2), in regulation 14(3) (restrictions on unreasonable payments) as set out in that paragraph, for sub-paragraph (a) substitute—

“(a) has attained the qualifying age for state pension credit;”.

### **Amendment of the Employment and Support Allowance Regulations**

**11.**—(1) The Employment and Support Allowance Regulations (Northern Ireland) 2008(b) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2(1) (interpretation), after the definition “public authority”(c) insert—

““qualifying age for state pension credit” means—

(a) in the case of a woman, pensionable age; or

(b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;”.

(3) In regulation 158(3) (meaning of “person in hardship”), for sub-paragraph (e) substitute—

“(e) has attained the qualifying age for state pension credit.”.

(4) In Schedule 9 (capital to be disregarded), in paragraph 4(a) for “is aged 60 or over” substitute “has attained the qualifying age for state pension credit”.

Sealed with the Official Seal of the Department for Social Development on 12th March 2010

(L.S.)

*Anne McCleary*

A senior officer of the Department for Social Development

The Department of Finance and Personnel consents to regulations 8 to 10.

Sealed with the Official Seal of the Department of Finance and Personnel on 15th March 2010

(L.S.)

*Adrian Arbuthnot*

A senior officer of the Department of Finance and Personnel

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(a) S.R. 2006 No. 407 to which there are amendments not relevant to these Regulations

(b) S.R. 2008 No. 280; relevant amending Regulations are S.R. 2009 No. 338

(c) The definition of “public authority” was inserted by regulation 8(2)(a) of S.R. 2009 No. 338

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend various provisions in consequence of the equalisation of state pension age introduced by the Pensions (Northern Ireland) Order 1995 (“the 1995 Order”). The amendments provide that where benefit provision is aligned with the age at which women become eligible for state pension, that alignment will be maintained as women’s state pension age increases from 6th April 2010.

Regulation 2 amends the Income Support (General) Regulations (Northern Ireland) 1987 (“the Income Support Regulations”) with respect to—

- eligibility for the disability premium, enhanced disability premium, pensioner premium and higher pensioner premium;

- the disregard of the capital value of a property occupied by a relative.

Regulation 3 amends the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 to refer to the qualifying age for a winter fuel payment.

Regulation 4 amends the Social Security (Incapacity Benefit) (Transitional) Regulations (Northern Ireland) 1995 to substitute the definition of “pensionable age”.

Regulation 5 amends the Jobseeker’s Allowance Regulations (Northern Ireland) 1996 to —

- make, in relation to premiums and the disregard of capital, provision corresponding to that made in respect of the Income Support Regulations;

- phase out provision enabling men to have days treated as part of a jobseeking period when they are not actively seeking work;

- increase the age from which housing costs can be included without a waiting period;

- make changes to the conditions for eligibility for the higher disregard of earnings to correspond with those made to the disability and higher pensioner premiums.

Regulation 6 amends the Social Fund Winter Fuel Payment Regulations (Northern Ireland) 2000 to increase the qualifying age for entitlement to a winter fuel payment.

Regulation 7 amends the State Pension Credit Regulations (Northern Ireland) 2003 to make provision corresponding to that made to the Income Support Regulations with respect to the disregard of capital.

Regulation 8 amends the Housing Benefit Regulations (Northern Ireland) 2006 to—

- make, in relation to premiums and the disregard of capital, provision corresponding to that made in respect of the Income Support Regulations;

- enable an advance claim for benefit to be made up to 17 weeks before the claimant attains the qualifying age for state pension credit.

Regulation 9 amends the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006 to—

- enable an advance claim for benefit to be made up to 17 weeks before the claimant attains the qualifying age for state pension credit;

- disregard of the capital value of a property occupied by a relative.

Regulation 10 amends the Housing Benefit (Consequential Provisions) Regulations (Northern Ireland) 2006 in relation to the age at which restrictions on the amount of benefit payable in respect of rent are subject to additional conditions in the case of a person whose housing benefit is determined under rules in force at 1st April 1996.

Regulation 11 amends the Employment and Support Allowance Regulations (Northern Ireland) 2008 with respect to the age requirement for an exemption from disqualification for misconduct

and to make provision corresponding to that made in respect of the Income Support Regulations with respect to the disregard of capital.

In so far as these Regulations are required, for the purposes of regulations 8 to 10, to be referred to the Social Security Advisory Committee under section 149(2) of the Social Security Administration (Northern Ireland) Act 1992, after agreement by the Social Security Advisory Committee, they have not been so referred by virtue of section 150(1)(b) 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 Work and Pensions in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, that Act, 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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