

EXPLANATORY MEMORANDUM

THE SOCIAL SECURITY (EQUALISATION OF STATE PENSION AGE) REGULATIONS (NORTHERN IRELAND) 2010

S.R. 2010 No. 103

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Social Development (“the Department”) to accompany the above Statutory Rule which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under 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, sections 5(1)(a) to (d), (j) and (q) and 165(1), (4) and (5) of the Social Security Administration (Northern Ireland) Act 1992, Articles 6(1), (5) and (7) and 14(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994, 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, sections 15(6)(b) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002 and sections 17(1) and (3)(b), 18 and 25(2) of the Welfare Reform Act (Northern Ireland) 2007 and is subject to the negative resolution procedure. The Rule is made with the consent of the Department of Finance and Personnel in respect of regulations 8 to 10.

2. Purpose

- 2.1 The Regulations amend a number of provisions in subordinate legislation currently linked to women’s State Pension age by reference to age 60. The amendments mean that references to age 60 will be replaced with references to the qualifying age for state pension credit. They reflect the increase in women’s State Pension age from 60-65 between 2010 and 2020 and the extension of the State Pension age for both men and women to 68 by 2046.
- 2.2 Regulation 1 provides for citation and commencement of the Regulations. It provides that the Regulations come into operation on 6 April 2010.
- 2.3 Regulation 2(2) amends Schedule 2 to the Income Support (General) Regulations (Northern Ireland) 1987 to provide that a pensioner or higher pensioner premium will be awarded to person who is not less than the qualifying age for state pension credit. It also provides that disability and enhanced disability premiums will be paid up to that age. Paragraph (3) amends Schedule 10 to provide that the rules regarding the disregard of the value of a property occupied by a relative will apply where that relative has attained the qualifying age for state pension credit or has a disability.

- 2.4 Regulation 3 amends regulation 35(2) of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 to replace the reference to age 60 with a reference to the qualifying age for state pension credit.
- 2.5 Regulation 4 amends the definition of pensionable age in the Social Security (Incapacity Benefit) (Transitional) Regulations (Northern Ireland) 1995 which provide for awards of Invalidity Benefit preserved on the introduction of long-term Incapacity Benefit to cease at “pensionable age” – currently defined as 65 for men and 60 for women. The new definition reflects the increase in women’s State Pension age.
- 2.7 Regulation 5 amends the Jobseeker’s Allowance Regulations (Northern Ireland) 1996. Paragraph (3) amends regulation 49(1)(b) days in a tax year in which a person has reached the qualifying age for state pension credit but is under State Pension age may be treated as days in a jobseeking period even though that person has not been actively seeking or available for work.
- 2.8 Paragraph (4) amends Schedule A1 to provide that members of a joint-claim couple will continue to be subject to the conditions of entitlement for Jobseeker’s Allowance until one has reached the qualifying age for state pension credit. Paragraph (5) provides that a pensioner or higher pensioner premium will be awarded to person who is not less than the qualifying age for state pension credit. It also provides that disability and enhanced disability premiums will be paid up to that age and that those provisions apply to joint claim couples.
- 2.9 Paragraph (6) amends paragraph 8(1)(a) of Schedule 2 to provide that the qualifying age for exemption from the 13-week waiting period required before support for mortgage interest can be paid in income-based Jobseeker’s Allowance will be the qualifying age for state pension credit. Paragraphs (7) and (8) amend Schedule 5 and 5A to provide that the qualifying age for the higher earnings disregard will be the qualifying age for state pension credit.
- 2.10 Paragraph (9) changes the minimum age that a relative, living in a property owned but not occupied by the recipient of an income-related benefit must have reached before its value is disregarded, to the qualifying age for state pension credit.
- 2.11 Regulation 6 amends the Social Fund Winter Fuel Payment Regulations (Northern Ireland) 2000 to change the qualifying age for a Winter Fuel Payment to the qualifying age for state pension credit.
- 2.12 Regulation 7 amends Schedule 5 to the State Pension Credit Regulations (Northern Ireland) 2003 in respect of the income from capital rules.
- 2.8 Regulation 8(2) amends the Housing Benefit Regulations (Northern Ireland) 2006 to provide that an advance claim can be made up to 17

weeks before the person concerned reaches the qualifying age for state pension credit. Paragraph (3) provides that a disability or enhanced disability premium will be paid up to that age. Paragraphs (4) and (5) amend provisions relating to the value of a property occupied by a relative and the threshold for the higher earnings disregard. Regulation 9 makes corresponding provision to that made by regulation 8(2) and (5) in relation to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006.

- 2.9 Regulation 10 amends Schedule 3 to the Housing Benefit (Consequential Provisions) Regulations (Northern Ireland) 2006 to provide that restrictions on unreasonable rent will apply to a person who has reached the qualifying age for state pension credit.
- 2.10 Regulation 11 exempts a person who has attained the qualifying age for state pension credit from disqualification for Employment and Support Allowance on the grounds of misconduct.

3. Background

- 3.1 The State Pension age for women is set to increase from 60 to 65, starting in April 2010. Under measures introduced by the Pensions (Northern Ireland) Order 1995, women born between 6 April 1950 and 5 April 1955 will have a State Pension age of between 60 and 65, depending on their date of birth. Women born before 6 April 1950 will continue to become eligible for their state pension at 60; those born on or after 6 April 1955 will have the same State Pension age as men.
- 3.2 As a consequence, other benefits which are payable up to “pensionable age” (as defined by the 1995 Order) and which therefore currently cease at 65 for men, will, by 2020, also be available to women aged 60 to 64
- 3.3 The Regulations therefore amend a number of provisions in subordinate legislation to change references to age 60 with a reference to the qualifying age for state pension credit. This is defined as, in the case of a woman, pensionable age and, 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. Under this formula, the qualifying age is set to increase in line with the increase in female State Pension age.

4. Consultation

As the Regulations make in relation to Northern Ireland provision corresponding to provision contained in regulations made by the Secretary of State for Work and Pensions in relation to Great Britain, the Social Security Advisory Committee has agreed that they do not have to be formally submitted.

5. Equality Impact

- 5.1 Consultation on the Equality Impact Assessment carried out in respect of the proposed regulations ended on 23 December 2009. Responses were received from the Committee and the Northern Ireland Council for Ethnic Minorities.
- 5.2 The Equality Impact Assessment concluded that the proposed regulations impact largely on grounds of age and that there is some evidence of differential impact in respect of religious belief, political opinion, marital status, gender, persons with a disability and persons without, and persons with dependants and persons without.
- 5.3 The regulations amend provisions in legislation linked to women's current State Pension age (age 60). A failure to take account of the increases to pension age would, in fact, introduce a new discrimination between people of different working ages - those aged 60 or over and those under age 60. Those affected by the proposals will benefit from the improvements to the state pension introduced by the Pensions Act (Northern Ireland) 2008.

6. Regulatory Impact

The Order does not require a Regulatory Impact Assessment as it does not impose a cost on business, charities, social enterprise or voluntary bodies.

7. Financial Implications

Department for Work and Pensions estimates indicate that the impact of not increasing the qualifying age for the winter fuel payment and the pensioner premium (the two most significant items in the package) would be additional spend estimated at around £2bn (2008/09 price terms) by 2020. Estimates for other, more minor, impacts have not been made.

8. Section 24 of the Northern Ireland Act 1998

The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the Rule is not incompatible with any of the Convention rights, is not incompatible with Community law, does not discriminate against a person or class of person on the ground of religious belief or political opinion, and does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

Not applicable.

10. Parity or Replicatory Measure

The provisions come into operation on 6th April 2010 at the same time as the corresponding Great Britain provisions. 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.