

**2010 No. 110**

**SOCIAL SECURITY**

**The Social Security Benefit (Persons Abroad) (Amendment)  
Regulations (Northern Ireland) 2010**

*Made* - - - - *16th 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 113(1)(a) and 171(1) and (3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) and now vested in it(b).

**Citation and commencement**

1. These Regulations may be cited as the Social Security Benefit (Persons Abroad) (Amendment) Regulations (Northern Ireland) 2010 and shall come into operation on 6th April 2010.

**Amendment of the Social Security Benefit (Persons Abroad) Regulations**

2.—(1) The Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978(c) are amended in accordance with paragraphs (2) to (4).

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

““the other party” in the case of a person who has been married or in a civil partnership more than once, refers to the person by virtue of whose contributions that person is entitled to the benefit in question;”.

(3) In regulation 4 (modification of the Act in relation to widow’s benefit, bereavement benefit, child’s special allowance, guardian’s allowance and retirement pension)—

- (a) in the heading for “the Act” substitute “the Contributions and Benefits Act”;
- (b) in paragraphs (2)(b)(d) and (2A)(c)(e) for “the Act” substitute “the Contributions and Benefits Act”;
- (c) in paragraph (3)(f)—

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(a) 1992 c. 7; section 113(1) was amended by paragraph 92 of Schedule 24 to the Civil Partnership Act 2004 (c. 33) and section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)

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

(c) S.R. 1978 No. 114; relevant amending provisions are S.R. 1979 No. 392, S.I. 1986/1888 (N.I. 18), S.R. 1988 No. 77, S.R. 1989 No. 373, S.R. 1994 No. 269 and S.R. 2005 No. 536

(d) Sub-paragraph (b) was amended by regulation 3(a) of S.R. 1979 No. 392

(e) Paragraph (2A) was inserted by regulation 2 of S.R. 1988 No. 77

(f) Paragraph (3) was inserted by regulation 3(b) of S.R. 1979 No. 392 and amended by Article 19(1)(a) of the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)) and regulation 6(2) of S.R. 1989 No. 373

- (i) for the words from “Article 11(2)” to “married women)” substitute “section 51A(2) or 52(2) of the Contributions and Benefits Act(a) (special provision for married people and for surviving spouses)”,
- (ii) for “Article 8(1)(a) of the Social Security Pensions (Northern Ireland) Order 1975” substitute “section 44(4) of the Contributions and Benefits Act”(b), and
- (iii) for “paragraph 9 of Part I of Schedule 4 to the Act” substitute “paragraph 5 of Part I of Schedule 4 to the Contributions and Benefits Act”;
- (d) in paragraph (4)(c)—
  - (i) for “Article 11(3) of the Social Security Pensions (Northern Ireland) Order 1975” substitute “section 52(3) of the Contributions and Benefits Act”, and
  - (ii) for the words from “regulation 2” to “1979” substitute “regulation 2 of the Social Security (Maximum Additional Pension) Regulations (Northern Ireland) 2010”(d).
- (4) In regulation 5 (application of disqualification in respect of up-rating of benefit)—
  - (a) in paragraph (1)(e) for the words from “Article 64” to “pensions)” substitute “section 132 (annual up-rating of benefits) or 132A (annual up-rating of basic pension etc. and standard minimum guarantee) of the Social Security Administration (Northern Ireland) Act 1992”(f);
  - (b) in paragraph (3)(g)—
    - (i) in sub-paragraph (a)(h)—
      - (aa) for “a woman” substitute “a person”,
      - (bb) for “married woman” substitute “married person or a civil partner”, and
      - (cc) for “her husband” substitute “the other party to the marriage or civil partnership”,
    - (ii) in sub-paragraph (aa)(i)—
      - (aa) for “married woman” substitute “married person or a civil partner”,
      - (bb) for “her husband” substitute “the other party to the marriage or civil partnership”, and
      - (cc) for “she was married to him” substitute “they were married to each other or were civil partners of each other”,
    - (iii) after sub-paragraph (b) insert—
      - “(ba) in the case of a married person or civil partner entitled to a Category B retirement pension under section 48A of the Contributions and Benefits Act(j) (Category B retirement pension for married persons or civil partners), other than a case that

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(a) Section 51A was inserted by paragraph 18(6) of Schedule 2 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and amended by paragraph 83 of Schedule 24 to the Civil Partnership Act 2004

(b) Subsection (4) was substituted by Article 64 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and amended by Article 4(3) of S.R. 2009 No. 89

(c) Paragraph (4) was inserted by regulation 3(b) of S.R. 1979 No. 392 and amended by Article 19(1)(b) of the Social Security (Northern Ireland) Order 1986 and paragraph 8(3)(b) of Schedule 3 to S.R. 2005 No. 536

(d) S.R. 2010 No. 62

(e) Paragraph (1) was amended by regulation 3 of S.R. 1988 No.77

(f) 1992 c. 8; section 132 was amended by paragraph 9 of Schedule 4 to the Tax Credits Act 2002 and paragraph 41 of Schedule 7 to the Pension Schemes (Northern Ireland) Act 1993 (c. 49); section 132A was inserted by section 5(1) of the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.))

(g) Paragraph (3) was amended by regulation 3(2) of S.R. 1994 No. 269

(h) Sub-paragraph (a) was amended by regulation 6(3)(a)(i) of S.R. 1989 No. 373

(i) Sub-paragraph (aa) was inserted by regulation 3(3) of S.R. 1994 No. 269

(j) 1992 c. 7; section 48A was substituted by paragraph 3(1) of Schedule 2 to the Pensions (Northern Ireland) Order 1995 and amended by paragraph 31 of Schedule 8 and paragraph 9 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)), section 33(9) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)), paragraph 79 of Schedule 24 to the Civil Partnership Act 2004 and section 2(2) and (3) of, and paragraph 2 of Schedule 1, paragraph 7 of Schedule 2 and Part 1 of Schedule 6 to, the Pensions Act (Northern Ireland) 2008; *see also* paragraph 3(2) of Schedule 2 to the Pensions (Northern Ireland) Order 1995, S.R. 2001 No. 441 and paragraph 79(6) of Schedule 24 to the Civil Partnership Act 2004

falls within sub-paragraphs (a) to (b) above, any additional Category B retirement pension where immediately before the appointed date that person's spouse or civil partner was not ordinarily resident in Northern Ireland;".

Sealed with the Official Seal of the Department for Social Development on 16th March 2010

(L.S.)

*Anne McCleary*  
A senior officer of the Department for Social Development

## EXPLANATORY NOTE

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

These Regulations amend the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978 (“the Persons Abroad Regulations”).

In regulation 2—

paragraph (2) inserts a definition of “the other party” into regulation 1 of the Persons Abroad Regulations. The definition is relevant to the amendment of regulation 5(3) of those Regulations;

paragraphs (3) and (4)(a) amend regulations 4 and 5 of the Persons Abroad Regulations to update a number of legislative references;

paragraph (4)(b) amends regulation 5(3) of the Persons Abroad Regulations in consequence of the amendment to section 48A of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 by section 2 of the Pensions Act (Northern Ireland) 2008 which removed the condition that a person is only entitled to a Category B retirement pension under that section once their spouse has become entitled to a Category A retirement pension;

paragraph (4)(b)(i) and (ii) amends regulation 5(3)(a) and (aa) of the Persons Abroad Regulations to extend those provisions to married men and civil partners. Paragraph (4)(b)(iii) inserts a new sub-paragraph (ba) to provide that, in cases other than those where sub-paragraphs (a) to (b) apply, a person entitled to a Category B retirement pension does not receive any additional benefit payable by virtue of an up-rating order if that person and that person’s spouse or civil partner were not ordinarily resident in Northern Ireland immediately before that order came into operation.

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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