

2010 No. 119

SOCIAL SECURITY

**The Social Security Benefits Up-rating Regulations
(Northern Ireland) 2010**

Made - - - - - *19th March 2010*

Coming into operation - - - - - *12th April 2010*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 90, 113(1)(a) and 171(1) and (3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) and sections 5(1)(q), 135(3) and 165(1) and (4) of the Social Security Administration (Northern Ireland) Act 1992(b) and now vested in it(c)

These Regulations contain only provisions in consequence of an order(d) under sections 132 and 132A of the Social Security Administration (Northern Ireland) Act 1992(e).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security Benefits Up-rating Regulations (Northern Ireland) 2010 and shall come into operation on 12th April 2010.

(2) In these Regulations “the Up-rating Order” means the Social Security Benefits Up-rating Order (Northern Ireland) 2010(d).

Exceptions relating to payment of additional benefit by virtue of the Up-rating Order

2. Section 135(3) of the Social Security Administration (Northern Ireland) Act 1992 (effect of alteration of rates of benefit under Parts II to V of the Contributions and Benefits Act) shall not apply if a question arises as to either—

- (a) the weekly rate at which the benefit is payable by virtue of the Up-rating Order; or
- (b) whether the conditions for receipt of the benefit at the altered rate are satisfied,

until that question has been determined in accordance with the provisions of the Social Security (Northern Ireland) Order 1998(f).

(a) 1992 c. 7; section 90 was amended by paragraph 25 of Schedule 8 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)), Article 2(2) of S.R. 2002 No. 321 and Schedule 6 to the Tax Credits Act 2002 (c. 21) (*see also* Article 2 of S.R. 2003 No. 212), 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

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

(d) S.R. 2010 No. 118

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

(f) S.I. 1998/1506 (N.I. 10)

Persons not ordinarily resident in Northern Ireland

3. Regulation 5 of the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978(a) (application of disqualification in respect of up-rating of benefit) shall apply to any additional benefit payable by virtue of the Up-rating Order.

Amendment of the Social Security Benefit (Dependency) Regulations

4. In paragraph 2B of Schedule 2 to the Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977(b) (prescribed circumstances for increase of a carer's allowance) for "£195", in both places where it occurs, substitute "£200".

Amendment of the Social Security (Claims and Payments) Regulations

5. In paragraph 4(2A) of Schedule 8A to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(c) (deductions from benefits and direct payment to third parties) for "£21·90", in each place where it occurs, substitute "£22·30".

Revocations

6. Regulations 2, 3, 4(a), 5 and 6 of the Social Security Benefits Up-rating Regulations (Northern Ireland) 2009(d) are revoked.

Sealed with the Official Seal of the Department for Social Development on 19th March 2010

(L.S.)

B McGahan
A senior officer of the Department for Social Development

(a) S.R. 1978 No. 114; relevant amending Regulations are S.R. 1979 No. 392, S.R. 1988 No. 77, S.R. 1989 No. 373, S.R. 1990 No. 123, S.R. 1992 No. 330, S.R. 1994 No. 269, S.R. 2001 No. 108, S.R. 2005 Nos. 299 and 536 and S.R. 2010 No. 110
(b) S.R. 1977 No. 74; relevant amending Regulations are S.R. 1984 No. 382, S.R. 2001 No. 106, S.R. 2002 No. 323 and S.R. 2009 No. 100
(c) S.R. 1987 No. 465; relevant amending Regulations are S.R. 1988 No.67, S.R. 2003 No. 412 and S.R. 2009 No. 100
(d) S.R. 2009 No. 100

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations contain only provisions in consequence of an order under sections 132 and 132A of the Social Security Administration (Northern Ireland) Act 1992 and accordingly, by virtue of section 149(3) of, and paragraph 3 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.

Regulation 2 provides that where a question has arisen about the effect of the Social Security Benefits Up-rating Order (Northern Ireland) 2010 (“the Up-rating Order”) on a benefit already in payment the altered rate will not apply until that question is determined.

Regulation 3 applies the provisions of regulation 5 of the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978 so as to restrict the application of the increases specified in the Up-rating Order in cases where the beneficiary lives abroad.

Regulation 4 raises from £195 to £200 one of the earnings limits for child dependency increases payable with a carer’s allowance. These increases were abolished by sections 1(3)(e) and 60 of, and Schedule 6 to, the Tax Credits Act 2002 but are saved for transitional cases by virtue of Article 2 of the Tax Credits Act 2002 (Transitional Provisions and Savings) Order (Northern Ireland) 2003 (S.R. 2003 No. 212).

Regulation 5 increases from £21·90 to £22·30 the amount allowed for personal expenses where a person is in accommodation for which part of his benefit is paid direct to the person to whom charges in respect of that accommodation are payable.

Regulation 6 makes consequential revocations.

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