

## **EXPLANATORY MEMORANDUM**

### **THE SOCIAL SECURITY (CONTRIBUTIONS CREDITS FOR PARENTS AND CARERS) REGULATIONS (NORTHERN IRELAND) 2010**

**S.R. 2010 No. 82**

#### **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 23A(3)(c), (4) and (9) and 171(1), (4) and (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (“the 1992 Act”) and is subject to the confirmatory procedure.

#### **2. Purpose**

- 2.1 The Regulations define who is engaged in caring for the purposes of section 23A of the 1992 Act. They also specify how applications can be made, the time limit for making them and what information and evidence will be needed to support them.
- 2.2 Part 1 makes general provision which includes defining phrases used throughout the Regulations. It also makes transitional provision.
- 2.3 Part 2 defines foster parent and engaged in caring for the purposes of section 23A. Regulation 4 provides that, subject to regulation 8, a foster parent is a person approved as a foster parent under the Foster Placement (Children) Regulations (Northern Ireland) 1996. Regulation 5 defines engaged in caring by providing that credits will be awarded to a person who—
  - is the partner of a person awarded child benefit in respect of a child under the age of 12; or
  - cares for at least 20 hours a week for one or more individuals who receive a qualifying disability benefit or in respect of whom the Department considers that level of care to be appropriate; or
  - is in receipt of income support and determined by the Department as regularly and substantially engaged in caring for a sick or disabled person.
- 2.4 Regulation 6 provides that the partner of a person in receipt of child benefit is not engaged in caring for the purposes of the Regulations if the child benefit recipient’s earnings factor does not exceed the qualifying earnings factor for the year in question.
- 2.5 Regulation 7 provides for an individual to be treated as engaged in caring for breaks in care of up to 12 weeks to cover periods of sickness, respite

care and holidays. It also provides that a person is not engaged in caring where they are credited with a Class 1 contribution because they are in receipt of a carer's allowance.

- 2.6 Regulation 8 provides that a person is not a foster parent or engaged in caring during any period they are not ordinarily resident in Northern Ireland or when they are in prison.
- 2.7 Part 3 sets out the application process. Regulation 9 provides that foster parents and the partner of a person in receipt of child benefit will not be entitled to be credited with a Class 3 contribution unless they apply to Her Majesty's Revenue and Customs to be so credited. Regulation 10 provides that a person caring for 20 hours or more per week will similarly be required to make an application to the Department.
- 2.8 Regulation 11 provides that a person engaged in caring for 20 hours or more per week must provide specified information in support of their application. This includes a declaration signed by an appropriate person relating to the level of care provided in circumstances where a qualifying disability benefit is not in payment.
- 2.9 Regulation 12 specifies that the time limit for making an application is the end of the tax year following the tax year which is the subject of the application. There is discretion for the Department or the Commissioners for Her Majesty's Revenue and Customs to accept an application outside this time limit depending on the circumstances of the case.

### **3. Background**

- 3.1 At present, a person who is not working because they are caring for someone at home can be awarded Home Responsibilities Protection to help them qualify for a basic state pension and bereavement benefits. Home Responsibilities Protection works by reducing the number of qualifying years a person needs in order to get these benefits. At present to qualify for a full basic state pension a man needs 44 qualifying years and a woman 39 but from April 2010 this will be reduced to 30 for both men and women.
- 3.2 From 6 April 2010, as part of the reform of the state pension enacted in the Pensions Act (Northern Ireland) 2008, Home Responsibilities Protection will be replaced with a more flexible system of weekly credits for parents and carers.
- 3.3 The new credit will ensure that caring counts for state pension and bereavement benefit purposes by crediting the parent or carer with Class 3 contributions for each week they spend caring. Therefore, a full year spent caring will provide one qualifying year towards basic state pension entitlement. Additionally, part years spent parenting or caring can be combined with a period spent working and earning in that same year to provide a qualifying year.

- 3.4 Under section 23A of the 1992 Act a Class 3 contribution will be credited for each week in which a person is either awarded child benefit for a child under 12, an approved foster parent or engaged in caring. The Regulations therefore define who is engaged in caring for the purposes of section 23A.

#### **4. Consultation**

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**

The Regulations are consequential on the Pensions Act (Northern Ireland) 2008 which was subject to a full Equality Impact Assessment published in October 2007.

#### **6. Regulatory Impact**

These Regulations do not require a Regulatory Impact Assessment as they do not impose a cost on business, charities, social enterprise or voluntary bodies.

#### **7. Financial Implications**

Costs associated with the Pensions Act (Northern Ireland) 2008 were addressed in the Regulatory Impact Assessment for that Act.

#### **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 corresponding Great Britain Regulations are the Social Security (Contributions Credits for Parents and Carers) Regulations 2010 which come into force on 6th April 2010.