
STATUTORY INSTRUMENTS

1989 No. 1342

The Social Security (Northern Ireland) Order 1989

Benefits under the principal Act

Benefits for women widowed before 11th April 1988

Para. (1) rep. by 1992 c.9

^{F1}(2) The Social Security (Widow's Benefit and Retirement Pensions) (Amendment) Regulations (Northern Ireland) 1987^{F2} shall have effect, and be taken always to have had effect, with the addition at the end of regulation 3 (transitional provision for widowed mother's allowance where husband died before 11th April 1988) of the following paragraphs—

“(3) In determining whether a widow—

(a) whose late husband died on or after 7th October 1987 and before 11th April 1988, and

(b) who became entitled to a widow's allowance on his death,

is also entitled, after the cessation of that allowance, to a widowed mother's allowance for any period beginning on or after 11th April 1988, regulation 16(1) of the principal regulations shall apply as if regulation 2(6) above had not been made.

(4) In determining whether a widow—

(a) whose late husband died before 11th April 1988,

(b) who immediately before that date was entitled to a widowed mother's allowance otherwise than by virtue of regulation 16(1) of the principal regulations, and

(c) who would, apart from this paragraph, cease to be entitled to that allowance on or after that date,

is entitled to such an allowance for any period beginning on or after that date, that regulation shall apply as if regulation 2(6) above had not been made.”

(3) The Social Security Benefit (Dependency) (Amendment) Regulations (Northern Ireland) 1989^{F3} shall have effect, and be taken always to have had effect, with the insertion after regulation 3 (which made amendments concerning widowed mother's allowance to regulation 4B of the Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977^{F4}) of the following regulation—

“**3A.** The amendment made by regulation 3(a) above shall not have effect in relation to a widow whose late husband died before 11th April 1988.”

(4) In any case where—

(a) a claim for a widow's pension or a widowed mother's allowance is made, or treated as made, before the commencement of this Article, and

(b) the Department has made a payment to or for the claimant on the ground that, if the claim had been received immediately after the commencement of this Article, she would have been entitled to that pension or allowance, or entitled to it at a higher rate, for the period in respect of which the payment is made,

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the payment so made shall be treated as a payment of that pension or allowance; and, if and to the extent that an award of the pension or allowance, or an award at a higher rate, is made for the period in respect of which the payment was made, the payment shall be treated as made in accordance with that award.

(5) Where, apart from section 154A of the principal Act (making of claim a condition of entitlement), a widow falling within paragraph (1) would be entitled to a widow's pension for any period beginning on or after 11th April 1988, then, notwithstanding anything in that section, she shall be entitled to that pension for that period if she has made a claim for it before the end of the period of twelve months beginning with the commencement of this Article.

(6) Where a widow's late husband died on or after 7th October 1987 and before 11th April 1988 and, apart from section 154A of the principal Act, she would have become entitled to a widow's allowance on his death, then if either—

- (a) she was over the age of 40 but under the age of 55 at the time of his death, or
- (b) she would, apart from that section, have been entitled to a widowed mother's allowance on the cessation of her entitlement to the widow's allowance,

she shall, notwithstanding anything in that section, be entitled to the widow's allowance (and, accordingly, in a case falling within sub#paragraph (b), to the widowed mother's allowance) if she has made a claim, or is treated as having made a claim, for it before the end of the period of twelve months beginning with the commencement of this Article.

(7) Where in consequence of any of the amending provisions an adjudicating authority has decided before the commencement of this Article that a widow whose husband died before 11th April 1988 either—

- (a) is not entitled to a benefit under section 25 or 26 of the principal Act, or
- (b) is entitled to such a benefit at a particular rate,

an adjudication officer may review that decision, notwithstanding anything in^[F5] section 23 of the Social Security Administration (Northern Ireland) Act 1992].

(8) In any case where—

- (a) it is determined on such a review that the widow in question was entitled to a benefit under section 25 or 26 of the principal Act, or was entitled to such a benefit at a higher rate, and
- (b) the application for the review was made before the end of the period of twelve months beginning with the commencement of this Article,

the decision on the review may take effect on 11th April 1988 or any later date, notwithstanding any statutory provision restricting the payment of any benefit or increase of benefit to which a person would otherwise be entitled by reason of a review in respect of any period before the review.

(9) ^[F5]Section 26 of the Social Security Administration (Northern Ireland) Act 1992 (appeals from reviews)] shall apply in relation to a review under this Article as it applies in relation to a review under^[F5] section 23 of that Act].

(10) In this Article—

“adjudicating authority” means—

- (a) an adjudication officer;
- (b) a social security appeal tribunal;
- (c) a Commissioner; and

“the amending provisions” are—

- (a) Article 37(3) of the 1986 Order; and

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(b) regulation 2(6) of the Social Security (Widow's Benefit and Retirement Pensions) (Amendment) Regulations (Northern Ireland) 1987^{F6} (deemed entitlement to child allowance for purposes of widowed mother's allowance, etc.).

(11) The amendment by this Article of provisions contained in regulations shall not be taken to have prejudiced any power to make further regulations revoking or amending those provisions.

(12) Nothing in this Article shall be taken to prejudice section 28 or 29 of the Interpretation Act (Northern Ireland) 1954^{F7} (effect of repeals, substitutions, etc.).

F1	prosp.rep. by 1990 NI 15
F2	SR 1987 No. 404
F3	SR 1989 No. 103
F4	SR 1977 No. 74
F5	1992 c. 9
F6	SR 1987 No. 404
F7	1954 c. 33 (NI)

Abolition of earnings rule etc.

Paras.(1)#(5) rep. by 1992 c.9

(6) The statutory provisions mentioned in Schedule 1 shall have effect with the amendments there specified.

Art. 10 rep. by 1991 NI 17

Arts. 11#21 rep. by 1992 c.9

Art. 22 rep. by 1993 c.49

Art. 23 rep. by 1992 c.9

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Changes and effects yet to be applied to :

- power to am. (prosp.) by [1998 c. 47 s.87](#)