

2006 No. 113

SOCIAL SECURITY

**The Social Security (Deferral of Retirement Pensions etc.)
Regulations (Northern Ireland) 2006**

Made - - - - - *10th March 2006*

Coming into operation - - - - - *6th April 2006*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by section 171(3) of, and paragraph 2(2) of Schedule 5 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) and sections 69(6)(b) and 165(1) and (4) of the Social Security Administration (Northern Ireland) Act 1992(b) and now vested in it(c), and paragraph 22 of Schedule 9 to the Pensions (Northern Ireland) Order 2005(d).

Citation and commencement

1. These Regulations may be cited as the Social Security (Deferral of Retirement Pensions etc.) Regulations (Northern Ireland) 2006 and shall come into operation on 6th April 2006.

Amendment of the Social Security (Widow's Benefit and Retirement Pensions) Regulations

2. In regulation 4(1)(b) of the Social Security (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979(e) (days to be treated as days of increment), for head (ii) there shall be substituted the following heads—

- “(ii) graduated retirement benefit where that person's period of deferment ended on or before 5th April 2006; or
- (iii) an unemployability supplement; and”.

Amendment of the Social Security (Payments on account, Overpayments and Recovery) Regulations

3. In regulation 5 of the Social Security (Payments on account, Overpayments and Recovery) Regulations (Northern Ireland) 1988(f) (offsetting prior payment against subsequent award)—

- (a) in paragraph (1), after “Subject to” there shall be inserted “paragraph (6) and”; and
- (b) after paragraph (5), there shall be added the following paragraph—

(a) 1992 c. 7; paragraph 2(2) was amended by paragraph 6(2)(a) of Schedule 2 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)); *see also* Article 273(3) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))

(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.I. 2005/255 (N.I. 1)

(e) S.R. 1979 No. 243; regulation 4(1) was amended by regulation 8(5) of S.R. 1989 No. 373, regulation 6 of S.R. 1992 No. 6 and regulation 4(4) of S.R. 2005 No. 120

(f) S.R. 1988 No. 142; to which there are amendments not relevant to these Regulations

“(6) Subject to regulation 6, any sums under—

- (a) Schedule 5 or 5A to the Contributions and Benefits Act^(a) (pension increases or lump sum where entitlement to retirement pension or shared additional pension is deferred); or
- (b) Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations (Northern Ireland) 2005^(b) (increases or lump sum where entitlement to graduated retirement benefit is deferred),

paid pursuant to a decision which is subsequently revised under Article 10 of the 1998 Order^(c) (revision of decisions), superseded under Article 11 of that Order^(d) (superseding earlier decisions) or overturned on appeal, shall be offset against any sums due under the subsequent determination and, except to the extent that the sum exceeds the amount now due, shall be treated as properly paid on account of it.”.

Amendment of the Social Security (Retirement Pensions etc.) (Transitional Provisions) Regulations

4. In regulation 2(4)(a) of the Social Security (Retirement Pensions etc.) (Transitional Provisions) Regulations (Northern Ireland) 2005^(e) (modification of Schedule 5 to the Act), after “retirement pension” there shall be inserted “(excluding any increase under section 83, 84 or 85)”.

Revocation

5. The Social Security (Widow’s Benefit and Retirement Pensions) (Amendment) Regulations (Northern Ireland) 1992^(f) are hereby revoked.

Sealed with the Official Seal of the Department for Social Development on 10th March 2006.



John O’Neill

A senior officer of the Department for Social Development

(a) Relevant amendments to Schedule 5 were made by paragraphs 2 to 13 of Schedule 9 to the Pensions (Northern Ireland) Order 2005 and paragraph 6 of the Schedule to S.R. 2005 No. 434. Schedule 5A was inserted by paragraph 14 of Schedule 9 to the Pensions (Northern Ireland) Order 2005

(b) S.R. 2005 No. 121; relevant amending regulations are S.R. 2005 No. 541 and S.R. 2006 No. 104. Schedule 1 has effect by virtue of section 35(4) of the National Insurance Act (Northern Ireland) 1966 (c. 6 (N.I.)). Sections 35 and 36 were repealed by the Social Security Act 1973 (c. 38) but are continued in force by regulation 2 of the Social Security (Graduated Retirement Benefit) (No. 2) Regulations (Northern Ireland) 1978 (S.R. 1978 No. 105)

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

(d) Article 11 was amended by paragraph 17 of Schedule 6 and Part I of Schedule 9 to the Social Security (Transfer of Functions, etc.) (Northern Ireland) Order 1999

(e) S.R. 2005 No. 123

(f) S.R. 1992 No. 318

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply in relation to the deferral of retirement pensions, shared additional pension and graduated retirement benefit.

Regulation 1 provides for citation and commencement.

Regulation 2 ensures that in the provision relating to which days are days of increment, increments may, in respect of periods of deferment ending on or after 6th April 2006, accrue in respect of days where a person is both deferring entitlement to his Category A or Category B retirement pension and receiving graduated retirement benefit. It also removes a redundant reference to injury benefit in that provision.

Regulation 3 amends regulation 5 of the Social Security (Payments on account, Overpayments and Recovery) Regulations (Northern Ireland) 1988 so that sums paid following deferral of entitlement to retirement pension, shared additional pension or graduated retirement benefit and which are made under a decision which is subsequently revised, superseded or overturned on appeal, must be offset against such payments as are due under the subsequent determination.

Regulation 4 provides that in calculating the amount of a lump sum payable to a person whose period of deferment spans 6th April 2005, in all cases, the amount of any increase of retirement pension payable under section 83, 84 or 85 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 in respect of an adult dependant, shall be excluded when determining the total amount of retirement pension which would have been payable to the person in the previous 12 months if his entitlement had not been deferred.

Regulation 5 makes a consequential revocation.

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.