

1979 No. 392

SOCIAL SECURITY

**The Social Security Benefit (Persons Abroad) (Amendment No. 2)
Regulations (Northern Ireland) 1979**

Made 9th November 1979

Coming into operation 10th November 1979

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 126 of the Social Security (Northern Ireland) Act 1975(a) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security Benefit (Persons Abroad) (Amendment No. 2) Regulations (Northern Ireland) 1979 and shall come into operation on 10th November 1979.

(2) In these regulations “the principal regulations” means the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978(b).

Amendment of regulation 1 of the principal regulations

2. In regulation 1(2) of the principal regulations (interpretation) for the definitions “the Special Provisions Regulations” and “the Widow’s Benefit and Retirement Pensions Regulations” there shall be substituted the following definition—

“the Widow’s Benefit and Retirement Pensions Regulations” means the Social Security (Widow’s Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979(c);

Amendment of regulation 4 of the principal regulations

3. Regulation 4 of the principal regulations (modification of the Act in relation to widow’s benefit, child’s special allowance, guardian’s allowance and retirement pension) shall be amended as follows—

(a) in paragraph (2)(b) for “9 of the Special Provisions Regulations” there shall be substituted “6 of the Widow’s Benefit and Retirement Pensions Regulations”;

(b) after paragraph (2) there shall be inserted the following paragraphs—

“(3) In the case of a Category A retirement pension the basic component of which falls to be increased under the provisions of Article 11(2) or 12(2) of the Social Security Pensions (Northern Ireland) Order 1975(d) (special provisions for surviving spouses and for married women), the amount of the increase shall not exceed the sum which would be required to raise the basic component of that Category A retirement pension to the sum specified in Article 8(1)(a) of the Social Security Pensions (Northern Ireland) Order 1975 (rate of basic com-

(a) 1975 c. 15

(b) S.R. 1978 No. 114 (I, p. 344); to which there are amendments not directly relevant to these regulations

(c) S.R. 1979 No. 243

(d) S.I. 1975/1503 (N.I. 15)

ponent of Category A retirement pension) or the weekly rate of Category B retirement pension specified in paragraph 9 of Part I of Schedule 4 to the Act, as the case may be, current at—

(a) the date of retirement of the person whose pension falls to be so increased; or

(b) the date on which that person was last ordinarily resident in Northern Ireland;

whichever is the later.

(4) Where, in the case of a Category A retirement pension the additional component of which falls to be increased under the provisions of Article 11(3) of the Social Security Pensions (Northern Ireland) Order 1975, the surviving spouse whose pension falls to be so increased, being over pensionable age at the date of the death of the former spouse, is not ordinarily resident in Northern Ireland, the amount of the increase shall not exceed the sum which would be required to raise the additional component of that Category A retirement pension to the maximum prescribed by regulation 2 of the Social Security (Maximum Additional Component) Regulations (Northern Ireland) 1979(e) which would have been appropriate had the former spouse died on—

(a) the date on which the surviving spouse was last ordinarily resident in Northern Ireland; or

(b) 6th April 1979;

whichever is the later.”.

Amendment of regulation 5 of the principal regulations

4.—(1) Regulation 5 of the principal regulations (application of disqualification in respect of up-rating of benefit) shall be amended in accordance with the provisions of this regulation.

(2) In paragraph (1) for “(up-rating of benefits)” there shall be substituted “(up-rating of benefits or increments in guaranteed minimum pensions)”.

(3) For paragraph (3)(b) there shall be substituted the following—

“(b) in the case of a person who immediately before the appointed date is a widow or a widower, any additional Category B retirement pension, if the former spouse had died before the appointed date;”.

(4) In paragraph (4)(b) for “section 28(3) of the Act” there shall be substituted “regulation 8 of the Widow’s Benefit and Retirement Pensions Regulations”.

(5) For paragraph (5) there shall be substituted the following—

“(5) The provisions of these regulations shall not affect the disqualification while absent from Northern Ireland of a person referred to in regulation 8 of the Widow’s Benefit and Retirement Pensions Regulations, being any such person other than a widow, who—

(a) is not ordinarily resident in Northern Ireland immediately before the appointed date; and

- (b) is or becomes entitled to a Category A retirement pension the right to which is determined by taking into account under regulation 8 of the Widow's Benefit and Retirement Pensions Regulations the contributions of that person's former spouse;
- for receiving any additional Category A retirement pension the right to which is so determined unless and until that person becomes ordinarily resident in Northern Ireland if—
- (i) before the appointed date the former spouse had retired from regular employment and was not ordinarily resident in Northern Ireland; or
 - (ii) the former spouse died before the appointed date.”.

(6) For paragraph (6) there shall be substituted the following—

“(6) Paragraph (3)(c) of this regulation shall not apply to a person in relation to a Category B retirement pension if that person's spouse had not retired before the appointed date and either that person and that person's spouse—

- (i) were husband and wife immediately before that date; or
- (ii) became husband and wife on or after that date.”.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 9th November 1979.

(L.S.)

W. J. Sloane
Senior Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the regulations but is intended to indicate their general purport.)

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

The regulations modify the conditions relating to entitlement to basic component and additional component of retirement pension, and to the payment of up-rating increases, in relation to persons absent from and not ordinarily resident in Northern Ireland. They prescribe upper limits by which Category A retirement pensions of persons who are absent from Northern Ireland may be increased by any Category B pensions to which they become entitled.

The regulations also adapt and apply the provisions of the principal regulations to the up-rating of increments in guaranteed minimum pensions, and to the up-rating of pensions payable to widowers and others on the contributions of their former spouses.