

## 1989 No. 373

## SOCIAL SECURITY

**The Social Security (Abolition of Earnings Rule)  
(Consequential) Regulations (Northern Ireland) 1989***Made . . . . . 19th September 1989**Coming into operation . . . . . 1st October 1989*

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 31(3) of the Social Security (Northern Ireland) Order 1989(a) and of all other powers enabling it in that behalf, hereby makes the following regulations:

*Citation and commencement*

1. These regulations may be cited as the Social Security (Abolition of Earnings Rule) (Consequential) Regulations (Northern Ireland) 1989 and shall come into operation on 1st October 1989.

*Amendment of the Social Security (Benefit) (Married Women and Widows Special Provisions) (Northern Ireland) Regulations 1975*

2. In regulation 3A(1) of the Social Security (Benefit) (Married Women and Widows Special Provisions) (Northern Ireland) Regulations 1975(b) (modification of paragraphs 4(1) and 4A(1) of Schedule 1 to the Pensions Order) for “woman’s deceased husband had deferred retirement” there shall be substituted “woman’s deceased husband’s entitlement to a Category A or Category B retirement pension was deferred”.

*Amendment of the Social Security and Family Allowances (Polygamous Marriages) Regulations (Northern Ireland) 1975*

3. In regulation 3(1)(a) of the Social Security and Family Allowances (Polygamous Marriages) Regulations (Northern Ireland) 1975(c) (special rules for retirement pension for women) for “and retired from regular employment” there shall be substituted “and in respect of which neither of them has an entitlement to a Category A or Category B retirement pension which is deferred”.

*Amendment of the Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977*

4. In regulations 2(1)(a), 10(2)(b)(ii) and 11(1)(a) of the Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977(d) for “retired from regular employment” there shall be substituted “entitled to a Category

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(a) S.I. 1989/1342 (N.I. 13)

(b) S.R. 1975 No. 19; relevant amending regulations are S.R. 1980 No. 271

(c) S.R. 1975 No. 89

(d) S.R. 1977 No. 74; relevant amending regulations are S.R. 1983 No. 193 and S.R. 1984 No. 373

A or Category B retirement pension” and in regulation 2(1)(b) of those regulations for “retired” there shall be substituted “entitled”.

*Amendment of the Social Security (Graduated Retirement Benefit) (No. 2) Regulations (Northern Ireland) 1978*

5.—(1) The Social Security (Graduated Retirement Benefit) (No. 2) Regulations (Northern Ireland) 1978(a) shall be amended in accordance with paragraphs (2) and (3).

(2) In Schedule 1 (which sets out sections 35 and 36 of the National Insurance Act (Northern Ireland) 1966(b) as continued in force by the regulations)—

(a) in section 35—

- (i) in subsection (1) for “(except as mentioned in section 36(1) below) has retired from regular employment” there shall be substituted “is entitled to a retirement pension”,
- (ii) in subsection (4) for “defers his retirement from regular employment” there shall be substituted “defers his entitlement to a Category A or Category B retirement pension”,
- (iii) in subsection (7) for “retired from regular employment” there shall be substituted “has claimed”;

(b) in section 36—

- (i) in subsection (1) the words “but has not retired from regular employment” shall be omitted,
- (ii) in subsection (2) for “neither retired from regular employment nor otherwise” there shall be substituted “not”, and the words “retired from regular employment or otherwise” shall be omitted.

(3) In Schedule 2 (which contains provisions to be applied in calculating the graduated retirement pension payable)—

(a) in paragraph 1 for “defers his retirement from regular employment” there shall be substituted “defers his entitlement to a Category A or Category B retirement pension” and for “retirement” there shall be substituted “entitlement”;

(b) in paragraph 2 the words “but has not retired from regular employment” shall be omitted;

(c) in paragraph 3—

- (i) in sub-paragraph (1) for “period of deferment” there shall be substituted “period of enhancement”,
- (ii) for head (b) of sub-paragraph (2) there shall be substituted the following head—

“(b) “period of enhancement”, in relation to any person, means the period which begins on the same day as the period of deferment and ends on the same day as that period

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(a) S.R. 1978 No. 105. amended by S.R. 1989 No. 18

(b) 1966 c. 6 (N.I.)

- ends or, if earlier, on the day before the fifth anniversary of the beginning of that period.”,
- (iii) in sub-paragraph (3) for “had retired on attaining pensionable age” there shall be substituted “had not deferred his entitlement to a Category A or Category B retirement pension”,
  - (iv) in sub-paragraph (4) for “period of deferment” there shall be substituted “period of enhancement”;
- (d) in paragraph 4 for “period of deferment” wherever it occurs there shall be substituted “period of enhancement” and—
- (i) in sub-paragraph (1) for “deferred his retirement from regular employment” there shall be substituted “deferred his entitlement to a Category A or Category B retirement pension”,
  - (ii) in head (a) of sub-paragraph (1) for “after his retirement if he had retired on attaining pensionable age” there shall be substituted “after attaining pensionable age if he had not deferred his entitlement to a Category A or Category B retirement pension”,
  - (iii) in head (b) of sub-paragraph (1) for “the day before that of the person’s retirement” there shall be substituted “the same day the period of enhancement ends”.

*Amendment of the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978*

6.—(1) The Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978(a) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 4(3) (modification of the Act in relation to retirement pension) for sub-paragraph (a) there shall be substituted the following sub-paragraph—

“(a) the date on which the person whose pension falls to be so increased first became entitled to that pension; or”.

(3) In regulation 5 (application of disqualification in respect of up-rating of benefit)—

(a) in paragraph (3)—

- (i) in sub-paragraph (a) for “had not retired” there shall be substituted “was not entitled to a Category B retirement pension” and for “had retired” there shall be substituted “was entitled to a Category A retirement pension”,
- (ii) in sub-paragraph (c) the words “retired or had otherwise” shall be omitted,
- (iii) in sub-paragraph (d) for “had retired or” there shall be substituted “had become entitled to a Category A retirement pension or had”;

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(a) S.R. 1978 No. 114; relevant amending provisions are S.R. 1979 No. 392 and Article 19(1) of the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18))

- (b) in paragraph (4)(i) for “had retired from regular employment” there shall be substituted “was entitled to a Category A retirement pension”;
- (c) in paragraph (5)(i) for “had retired from regular employment” there shall be substituted “was entitled to a Category A retirement pension”;
- (d) in paragraph (6) for “had not retired” there shall be substituted “was not entitled to a Category A retirement pension”.

(4) In regulation 6 (modification of right to elect to be treated as not having retired) the words “(election to be treated as not having retired)” shall be omitted.

*Amendment of the Social Security Benefit (Computation of Earnings) Regulations (Northern Ireland) 1978*

7.—(1) The Social Security Benefit (Computation of Earnings) Regulations (Northern Ireland) 1978(a) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 5 (calculation of earnings of certain retirement pensioners and adult dependants of pensioners)—

- (a) in paragraph (1)(a) the words “a person entitled to a retirement pension” in the first place they occur shall be omitted;
- (b) in paragraph (2) the words “30(1)” shall be omitted;
- (c) paragraph (3) shall be omitted;
- (d) in paragraph (4) (a) after “his accounting period” there shall be inserted “but in a case to which section 30(1) of the Act(b) applied, does not include any day falling after 30th September 1989”.

(3) In regulation 7 (calculation of earnings from boarders or lodgers of certain retirement pensioners and adult dependants of pensioners) the words “a person who is entitled to a retirement pension or is” and “30(1)” shall be omitted.

(4) Subject to Article 9(5) of the Social Security (Northern Ireland) Order 1989(c), in respect of any day before 1st October 1989 the said regulations 5 and 7 shall apply as though section 30(1) of the principal Act had not been repealed and the amendments contained in this regulation had not been made.

*Amendment of the Social Security (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979*

8.—(1) The Social Security (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979(d) shall be amended in accordance with paragraphs (2) to (8).

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(a) S.R. 1978 No. 371; relevant amending regulations are S.R. 1979 No. 97

(b) Section 30(1) was repealed by Article 9(1) of the Social Security (Northern Ireland) Order 1989 with effect from 1st October 1989

(c) Article 9(5) comes into operation on 1st October 1989

(d) S.R. 1979 No. 243; relevant amending regulations are S.R. 1987 No. 404

(2) In regulation 1(2) (interpretation) for the definition of “period of deferment” there shall be substituted the following definition—

“ “period of enhancement” shall be construed in accordance with paragraphs 2(2) and 5(1) of Schedule 1 to the Pensions Order(a);”.

(3) In regulation 2(1) (election to be treated as not having retired) the words “retired from regular employment or has otherwise” in sub-paragraph (a), and the words “retired or” shall be omitted.

(4) In regulation 3 (provisions applying after election)—

(a) in paragraph (a) for “retires from regular employment” there shall be substituted “becomes entitled to a Category A or Category B retirement pension”;

(b) in paragraph (b) for “otherwise than by virtue of having retired from regular employment” there shall be substituted “in accordance with section 29(4) of the Act”;

(c) in paragraph (c) the words “retires from regular employment and” shall be omitted.

(5) In regulation 4 (days to be treated as days of increment)—

(a) in paragraph (1) for “period of deferment” there shall be substituted “period of enhancement”;

(b) for sub-paragraph (a) of paragraph (1) there shall be substituted the following sub-paragraph—

“(a) if that person had not deferred his entitlement to a Category A or Category B retirement pension, or, in the case of a married woman and her Category B retirement pension or Article 12(2) increase, if both she and her husband had not deferred their entitlement to, respectively a Category A and a Category B retirement pension, that person would have been entitled to such a pension (and would not have been disqualified for receiving it by reason of imprisonment or detention in legal custody); and”;

(c) in paragraph (2)(i) for “period of deferment” there shall be substituted “period of enhancement” and in paragraph (2)(ii) for “deferred retirement” there shall be substituted “deferred entitlement”.

(6) In regulation 5 (which modifies Schedule 1 to the Pensions Order)—

(a) in paragraph (1) for “period of deferment” there shall be substituted “period of enhancement” and for “if he had retired from regular employment on attaining pensionable age” there shall be substituted “if his entitlement to the pension had commenced on the day he attained pensionable age”;

(b) in paragraph (3) for “period of deferment” there shall be substituted “period of enhancement” and for “that of his retirement” there shall be substituted “his entitlement arose”;

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(a) Paragraph 2(2) was substituted by paragraph 3(3) of Schedule 1 to the Social Security (Northern Ireland) Order 1989 and paragraph 5(1) was substituted by paragraph 3(9) of that Schedule with effect from 1st October 1989

(c) in paragraph (4) the words "if he had retired" shall be omitted.

(7) In regulation 11 (Category C retirement pensions for widows of men over pensionable age on 5th July 1948) sub-paragraph (b) in both paragraph (1) and paragraph (3) shall be omitted.

(8) In regulation 12 (Category C retirement pension for certain women whose marriage has been terminated otherwise than by death) in paragraph (1) sub-paragraph (b) shall be omitted, and in paragraph (4) the words from "so however that" to the end shall be omitted.

*Amendment of the Social Security (Widow's Benefit, Retirement Pensions and Other Benefits) (Transitional) Regulations (Northern Ireland) 1979*

**9.**—(1) The Social Security (Widow's Benefit, Retirement Pensions and Other Benefits) (Transitional) Regulations (Northern Ireland) 1979(a) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 12 (provision relating to an increase of retirement pension where pensioner's deceased spouse had deferred entitlement) for "would have been entitled if he had retired on the date of his death" there shall be substituted "would at his death have been entitled if his entitlement had not been deferred".

(3) In regulation 17(1) (alternative benefit rights in place of widow's basic pension) for "retires or attains the age of 65" there shall be substituted "is entitled to a Category A or Category B retirement pension".

(4) In regulation 18 (alternative benefit rights in place of contributory old age pension) paragraph (2) shall be omitted.

*Amendment of the Social Security (Maximum Additional Pension) Regulations (Northern Ireland) 1979*

**10.** In regulation 2(a) of the Social Security (Maximum Additional Pension) Regulations (Northern Ireland) 1979(b) (prescribed maximum additional pension) the words "and retired" shall be omitted and for "had retired" there shall be substituted "had not deferred his or her entitlement to a Category A or Category B retirement pension".

*Amendment of the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations (Northern Ireland) 1984*

**11.** In regulation 31(1)(c) of the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations (Northern Ireland) 1984(c) (invalidity pension in respect of industrial injury — persons over pensionable age) for "pensionable age and has not retired from regular employment" there shall be substituted "but not more than 5 years over pensionable age".

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(a) S.R. 1979 No. 244, to which there are amendments not relevant to these regulations  
(b) S.R. 1979 No. 391, amended by Article 19(1)(b) of the Social Security (Northern Ireland) Order 1986  
(c) S.R. 1984 No. 245, to which there are amendments not relevant to these regulations

*Amendment of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987*

12.—(1) In regulation 15 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(a) (advance notice of retirement and claim for and award of benefit)—

- (a) paragraphs (2), (3) and (4) shall be omitted;
- (b) for paragraphs (5) and (6) there shall be substituted the following paragraphs—

“(5) Where a person claims a Category A or Category B retirement pension and is, or but for that claim would be, in receipt of sickness, invalidity or unemployment benefit for a period which includes the first day to which the claim relates, then if that day is not the appropriate day for the payment of retirement pension in his case, the claim shall be treated as if the first day of the claim was instead the next following such pay day.

(6) Where the spouse of such a person as is mentioned in paragraph (5) claims a Category A or Category B retirement pension and the first day of that claim is the same as the first day of the claim made by that person, that paragraph shall apply also to the claim made by the spouse.”;

- (c) in paragraph (7) for “does not intend to retire from regular employment” there shall be substituted “intends to defer his entitlement to a Category A or Category B retirement pension”, and the words “other than the question of retirement” shall be omitted.

(2) Where a person claims a Category A or Category B retirement pension as from a day falling before 1st October 1989 then, in his case—

- (a) paragraphs (2), (3) and (4) of the said regulation 15 shall apply as though section 27(4) of the principal Act(b) had not been repealed and paragraph (1)(a) of this regulation had not been made; and
- (b) paragraphs (5), (6) and (7) of the said regulation 15 shall apply as though the amendments to those paragraphs contained in this regulation had not been made.

Sealed with the Official Seal of the Department of Health and Social Services on 19th September 1989.

(L.S.)

*A. N. Burns*

Assistant Secretary

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(a) S.R. 1987 No. 465, to which there are amendments not relevant to these regulations

(b) Section 27(4) was repealed by Schedule 9 to the Social Security (Northern Ireland) Order 1989 with effect from 1st October 1989

## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These regulations correspond to provision contained in regulations made by the Secretary of State for Social Security in relation to Great Britain and accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980 (c. 30) are not subject to the requirement for prior reference to the Social Security Advisory Committee.

The regulations are consequential upon the abolition, by Article 9 of the Social Security (Northern Ireland) Order 1989 ("the Order") of the earnings rule for retirement pensions with effect from 1st October 1989. Article 9 of, and Schedule 1 to, the Order provide in particular that—

- (a) the earnings rule for Category A and Category B retirement pensions be abolished (Article 9(1));
- (b) it is no longer a requirement for entitlement to a Category A or Category B retirement pension that a person has retired from regular employment (Article 9(2) and (3));
- (c) a person may nevertheless defer his entitlement to a Category A or Category B retirement pension (Article 9(4)); and
- (d) where entitlement is deferred a person may earn increments to his pension during a period referred to as the "period of enhancement" (paragraph 3 of Schedule 1).

The amendments made by these regulations are consequential upon those changes. In particular they amend—

- the Social Security (Benefit) (Married Women and Widows Special Provisions) (Northern Ireland) Regulations 1975, regulation 3A;
- the Social Security and Family Allowances (Polygamous Marriages) Regulations (Northern Ireland) 1975, regulation 3;
- the Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977, regulations 2, 10 and 11;
- the Social Security (Graduated Retirement Benefit) (No. 2) Regulations (Northern Ireland) 1978, Schedules 1 and 2;
- the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978, regulations 4, 5 and 6;
- the Social Security Benefit (Computation of Earnings) Regulations (Northern Ireland) 1978, regulations 5 and 7;
- the Social Security (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979, regulations 1, 2, 3, 4, 5, 11 and 12;
- the Social Security (Widow's Benefit, Retirement Pensions and Other Benefits) (Transitional) Regulations (Northern Ireland) 1979, regulations 12, 17 and 18;
- the Social Security (Maximum Additional Pension) Regulations (Northern Ireland) 1979, regulation 2;
- the Social Security (Unemployment, Sickness and Invalidity benefit) Regulations (Northern Ireland) 1984, regulation 31;



the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987, regulation 15.

Regulations 7 and 12 also contain saving provisions.

Article 31(3) of the Order, the enabling provision under which these regulations are made, came into operation on 23rd August 1989 by virtue of Article 1(3) of the Order.

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**1989 Nos. 374, 375**

These Orders have been exempted from printing by the Statutory Rules (Northern Ireland) Order 1979. Summaries are given in the List of Statutory Rules of a Local Character under the heading ROADS.