

1994 No. 370

SOCIAL SECURITY

The Social Security (Severe Disablement Allowance and Invalid Care Allowance) (Amendment) Regulations (Northern Ireland) 1994

Made 3rd October 1994

Coming into operation 28th October 1994

The Department of Health and Social Services for Northern Ireland, being a designated Department(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in respect of matters relating to the equal treatment of men and women in relation to severe disablement allowance and invalid care allowance, in exercise of the powers conferred on it by that section 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 (Severe Disablement Allowance and Invalid Care Allowance) (Amendment) Regulations (Northern Ireland) 1994 and shall come into operation on 28th October 1994.

(2) The Interpretation Act 1978(c) shall apply to these regulations as it applies to an Act of the United Kingdom Parliament.

Amendment of the Social Security Contributions and Benefits Act

2.—(1) The Social Security Contributions and Benefits (Northern Ireland) Act 1992(d) shall be amended in accordance with paragraphs (2) to (4) of this regulation.

(2) In section 68 (entitlement to and rate of severe disablement allowance)—

- (a) in subsection (4)(d) for “pensionable age” there shall be substituted “the age of 65”;
- (b) in subsection (11)(a)(i) for “retiring age” there shall be substituted “the age of 65”; and
- (c) in subsection (13) the words “ “retiring age” means 70 in the case of a man and 65 in the case of a woman,” shall be omitted.

(a) S.I. 1993/1571
(b) 1972 c. 68
(c) 1978 c. 30
(d) 1992 c. 7

(3) In section 70 (invalid care allowance)—

(a) in subsection (5) for “pensionable age” there shall be substituted “the age of 65”;

(b) in subsection (6) for “retiring age” there shall be substituted “the age of 65”; and

(c) subsection (10) shall be omitted.

(4) In paragraph 4(1) of Schedule 6 (assessment of extent of disablement) at the end there shall be omitted the words “, if a woman, or 70, if a man”.

Amendment of the Social Security (Incapacity for Work) Order

3.—(1) The Social Security (Incapacity for Work) (Northern Ireland) Order 1994(a) shall be amended in accordance with paragraphs (2) and (3) of this regulation.

(2) In paragraph 18 of Schedule 1 (severe disablement allowance: consequential amendments) for sub-paragraphs (6) and (7) there shall be substituted the following sub-paragraph—

“(6) Omit subsections (12) and (13).”.

(3) In Schedule 2 (repeals), in the third column (extent of repeal), in the entry relating to section 68 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, for paragraph (b) there shall be substituted the following paragraph—

“(b) subsections (12) and (13).”.

Amendment of the Social Security (Severe Disablement Allowance) Regulations

4.—(1) The Social Security (Severe Disablement Allowance) Regulations (Northern Ireland) 1984(b) shall be amended in accordance with paragraphs (2) to (10) of this regulation.

(2) In regulation 2(1) (interpretation)—

(a) “and” shall be omitted; and

(b) after “Health and Social Security (Northern Ireland) Order 1984” there shall be inserted “and “the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992”.

(3) In the heading to regulation 4, for “Circumstances in which a person over pensionable age is to be treated as having been entitled to a severe disablement allowance immediately before attaining that age” there shall be substituted “Circumstances in which a person over the age of 65 is to be treated as having been entitled to a severe disablement allowance immediately before attaining that age”.

(4) In regulation 4 for “pensionable age” there shall be substituted “the age of 65”.

(a) S.I. 1994/1898 (N.I. 12)

(b) S.R. 1984 No. 317, to which there are amendments not relevant to these regulations

(5) After regulation 4 there shall be inserted the following regulation—
 “*Women aged 65 before 28th October 1994*

4A.—(1) A woman shall be entitled to a severe disablement allowance if—

- (a) she attained the age of 65 before 28th October 1994;
- (b) immediately before attaining the age of 65 she would have satisfied the requirements for entitlement to a severe disablement allowance or, if she attained that age before 29th November 1984, to a non-contributory invalidity pension (whether or not she made a claim) but for—
 - (i) the condition, which applied prior to 28th October 1994, in section 68(4)(d) of the Contributions and Benefits Act(a) (exclusion of persons who had attained pensionable age and had not been entitled to a severe disablement allowance immediately before attaining that age); or
 - (ii) the corresponding condition in respect of a non-contributory invalidity pension(b); and
- (c) she satisfies the requirements for entitlement to a severe disablement allowance apart from the conditions in section 68(2), (3) and (4)(d) of the Contributions and Benefits Act.

(2) For the purposes of paragraph (1)(b) there shall be excluded from the requirements for entitlement to a non-contributory invalidity pension the condition that the claimant, if she were married or cohabiting with a man, be incapable of performing normal household duties.”

(6) In the heading to regulation 5, for “Severe disablement allowance for persons over retiring age” there shall be substituted “Severe disablement allowance for persons over the age of 65”.

(7) In regulation 5(a) for “retiring age” there shall be substituted “the age of 65”.

(8) After regulation 5 there shall be inserted the following regulation—
 “*Men aged 65 before 28th October 1994*

5A. A man who—

- (a) attained the age of 65 before 28th October 1994; and
- (b) was entitled to a severe disablement allowance or a non-contributory invalidity pension immediately before he attained that age,

shall be entitled to a severe disablement allowance notwithstanding that he ceased to satisfy the conditions specified in section 68(2) or (3) of the Contributions and Benefits Act after he attained that age, if he satisfies the other requirements for entitlement to that allowance.”

(a) Section 68 is amended by regulation 2(2) of these regulations

(b) See section 36(4) of the Social Security (Northern Ireland) Act 1975 (c. 15) prior to the abolition of non-contributory invalidity pension and the substitution of a new section 36 by Article 5(1) of the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8)) with effect from 29th November 1984

(9) In regulation 7(1) (days for which persons are to be treated as incapable of work) for “retiring age” there shall be substituted “the age of 65”.

(10) In regulation 19(3) (persons formerly entitled to non-contributory invalidity pension) for “retiring age” there shall be substituted “the age of 65”.

Amendment of the Social Security (Invalid Care Allowance) Regulations

5.—(1) The Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976(a) shall be amended in accordance with paragraphs (2) to (8) of this regulation.

(2) In regulation 2(1) (interpretation) after “Social Security (Northern Ireland) Act 1975” there shall be inserted “, “the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992”.

(3) In the heading to regulation 10, for “Circumstances in which a person over pensionable age is to be treated as having been entitled to invalid care allowance immediately before attaining that age” there shall be substituted “Circumstances in which a person over the age of 65 is to be treated as having been entitled to invalid care allowance immediately before attaining that age”.

(4) In regulation 10 for “pensionable age” there shall be substituted “the age of 65”.

(5) After regulation 10 there shall be inserted the following regulation—
“*Women aged 65 before 28th October 1994*

10A. A woman shall be entitled to an invalid care allowance if—

- (a) she attained the age of 65 before 28th October 1994;
- (b) immediately before attaining the age of 65 she would have satisfied the requirements for entitlement to an invalid care allowance, whether or not she made a claim, but for the condition, which applied prior to 28th October 1994, in section 70(5) of the Contributions and Benefits Act(b) (exclusion of persons who had attained pensionable age and had not been entitled to that allowance immediately before attaining that age); and
- (c) she satisfies the requirements for entitlement to an invalid care allowance apart from the conditions in section 70(1)(a) and (b) and (5) of the Contributions and Benefits Act.”.

(6) In the heading to regulation 11, for “Invalid care allowance for persons over retiring age” there shall be substituted “Invalid care allowance for persons over the age of 65”.

(7) In regulation 11 for “retiring age” there shall be substituted “the age of 65”.

(a) S.R. 1976 No. 99, to which there are amendments not relevant to these regulations

(b) Section 70 is amended by regulation 2(3) of these regulations

(8) After regulation 11 there shall be inserted the following regulation—
“*Men aged 65 before 28th October 1994*

11A. A man who—

(a) attained the age of 65 before 28th October 1994; and

(b) was entitled to an invalid care allowance immediately before he attained that age,

shall be entitled to that allowance notwithstanding that, after he attained that age, he was not caring for a severely disabled person or no longer satisfied the requirements of section 70(1)(a) or (b) of the Contributions and Benefits Act, if he satisfies the other requirements for entitlement to that allowance.”.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 3rd October 1994.

(L.S.)

W. G. Purdy

Assistant Secretary

(This note is not part of the Regulations.)

These regulations implement Council Directive 79/7/EEC (O.J. No. L6, 10.1.79, p. 24) on the progressive implementation of the principle of equal treatment for men and women on matters of social security, by removing certain age differences between men and women in the conditions of entitlement to severe disablement allowance and invalid care allowance.

Regulation 2 amends sections 68 and 70 of, and Schedule 6 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992 by substituting references to "pensionable age" and "retiring age" (which are different for men and women) with "the age of 65".

Regulation 3 makes consequential amendments to Schedules 1 and 2 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994.

Regulations 4 and 5 substitute "the age of 65" for the references to "pensionable age" and "retiring age" in the Social Security (Severe Disablement Allowance) Regulations (Northern Ireland) 1984 and the Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976. They also insert in those regulations transitional provisions relating to persons over 65 on the coming into operation of these regulations.

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This Order has been exempted from printing by the Statutory Rules (Northern Ireland) Order 1979. A summary is given in the List of Statutory Rules of a Local Character under the heading ROADS.