

2016 No. 287

SOCIAL SECURITY

**The Social Security (Northern Ireland Reciprocal Arrangements)
Regulations 2016**

Made - - - - 3.35 p.m. on 3rd March 2016

Laid before the House of Commons 5 p.m. on 3rd March 2016

Coming into force - - 6th April 2016

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by section 87(4), (6) and (9) of the Northern Ireland Act 1998(a) and section 189(1), (4) and (5) of the Social Security Administration Act 1992(b).

Citation and commencement

1. These Regulations may be cited as the Social Security (Northern Ireland Reciprocal Arrangements) Regulations 2016 and come into force on 6th April 2016.

Adaptation of legislation

2.—(1) The provisions contained in the Memorandum of Reciprocal Arrangements set out in the Schedule to these Regulations shall have effect so far as they relate to Great Britain.

(2) The following legislation, and any subordinate legislation made or having effect as if made under that legislation, so far as it relates to Great Britain, shall have effect subject to such adaptations as may be required for the purpose of giving effect to the provisions contained in the Memorandum of Reciprocal Arrangements set out in the Schedule to these Regulations—

- (a) the Social Security Administration Act 1992;
- (b) the Social Security Contributions and Benefits Act 1992(c);
- (c) the Jobseekers Act 1995(d);
- (d) Chapter 2 (social security decisions and appeals) of Part 1 (decisions and appeals) of the Social Security Act 1998(e);

(a) 1998 c.47. Section 87(6) was amended by S.I.s 2000/741, 2008/1242 and 2016/160. Other amendments to section 87 are not relevant to these Regulations.

(b) 1992 c.5. Section 189(1) was amended by paragraph 109 of Schedule 7 to the Social Security Act 1998 (c.14), by paragraph 57(1) and (2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) and by paragraph 1 of Schedule 6 to the Tax Credits Act 2002 (c.21). Section 189(4) and (5) was amended by paragraph 109 of Schedule 7 to the Social Security Act 1998 and by S.I. 2013/252.

(c) 1992 c.4.

(d) 1995 c.18.

(e) 1998 c.14.

- (e) (i) section 23 (supply of pension information in connection with divorce etc.)(a), so far as it relates to shareable state scheme rights (which means rights in relation to which pension sharing is available under Chapter 2 (sharing of state scheme rights) of Part 4 (pension sharing) of the Welfare Reform and Pensions Act 1999)(b), and
 - (ii) Chapter 2 of Part 4, of the Welfare Reform and Pensions Act 1999;
- (f) Part 1 (employment and support allowance) of the Welfare Reform Act 2007(c);
- (g) Part 4 (personal independence payment) of the Welfare Reform Act 2012(d);
- (h) Part 1 (state pension) of the Pensions Act 2014(e).

Revocations and savings

3.—(1) The following Regulations are revoked—

- (a) the Social Security (Northern Ireland Reciprocal Arrangements) Regulations 1976(f);
- (b) the Social Security (Northern Ireland Reciprocal Arrangements) Amendment Regulations 1999(g).

(2) Anything done under or by virtue of the regulations revoked by these Regulations shall be deemed to have been done under or by virtue of the corresponding provision of these Regulations.

Signed by authority of the Secretary of State for Work and Pensions

Priti Patel
Minister for Employment,
Department for Work and Pensions

At 3.35 pm on 3rd March 2016

SCHEDULE

Regulation 2

MEMORANDUM OF RECIPROCAL ARRANGEMENTS RELATING TO SOCIAL SECURITY BETWEEN THE SECRETARY OF STATE FOR WORK AND PENSIONS, WITH THE CONSENT OF THE TREASURY, OF THE ONE PART AND THE MINISTER FOR SOCIAL DEVELOPMENT (BEING THE NORTHERN IRELAND MINISTER HAVING RESPONSIBILITY FOR SOCIAL SECURITY), WITH THE CONSENT OF THE DEPARTMENT OF FINANCE AND PERSONNEL, OF THE OTHER PART

1.—(1) In this Memorandum—

“determining authority” means—

- (a) in relation to Great Britain, the Secretary of State, the First-Tier Tribunal established under section 3(1) (the First-tier Tribunal and the Upper Tribunal) of the Tribunals,

(a) Section 23 was amended by paragraph 157 of Schedule 27 and paragraph 1 of Schedule 30 to the Civil Partnership Act 2004 (c.33).
 (b) 1999 c.30.
 (c) 2007 c.5.
 (d) 2012 c.5.
 (e) 2014 c.19.
 (f) S.I. 1976/1003.
 (g) S.I. 1999/2227.

Courts and Enforcement Act 2007(a) or the Upper Tribunal established under section 3(2) of that Act, and

- (b) in relation to Northern Ireland, the Northern Ireland department having responsibility for social security, an appeal tribunal constituted under Chapter 1 (general) of Part 2 (decisions and appeals) of the Social Security (Northern Ireland) Order 1998(b) or a Commissioner appointed under section 50 (appointment of Commissioners) of the Social Security Administration (Northern Ireland) Act 1992(c),

as the case may require;

“legislation” means—

- (a) in relation to Great Britain the following legislation and any subordinate legislation made or having effect as if made under that legislation—
- (i) the Social Security Administration Act 1992;
 - (ii) the Social Security Contributions and Benefits Act 1992, except Parts 7 (income-related benefits), 10 (Christmas bonus for pensioners), 11 (statutory sick pay), 12 (statutory maternity pay), 12ZA (statutory paternity pay)(d), 12ZB (statutory adoption pay)(e) and 12ZC (statutory shared parental pay)(f);
 - (iii) the Jobseekers Act 1995, except in relation to an income-based jobseeker’s allowance, which has the meaning given by section 1(4) (the jobseeker’s allowance) of that Act(g);
 - (iv) Chapter 2 (social security decisions and appeals) of Part 1 (decisions and appeals) of the Social Security Act 1998;
 - (v) section 23 (supply of pension information in connection with divorce etc.), so far as it relates to shareable state scheme rights, and Chapter 2 (sharing of state scheme rights) of Part 4 (pension sharing) of the Welfare Reform and Pensions Act 1999;
 - (vi) Part 1 (employment and support allowance) of the Welfare Reform Act 2007;
 - (vii) Part 4 (personal independence payment) of the Welfare Reform Act 2012;
 - (viii) Part 1 (state pension) of the Pensions Act 2014;
- (b) in relation to Northern Ireland the following legislation and any subordinate legislation made or having effect as if made under that legislation—
- (i) the Social Security Administration (Northern Ireland) Act 1992(h);
 - (ii) the Social Security Contributions and Benefits (Northern Ireland) Act 1992(i) except Parts 7 (income-related benefits), 10 (Christmas bonus for pensioners), 11 (statutory sick pay), 12 (statutory maternity pay), 12ZA (statutory paternity pay)(j), 12ZB (statutory adoption pay)(k) and 12ZC (statutory shared parental pay)(l);
 - (iii) the Jobseekers (Northern Ireland) Order 1995(m), except in relation to an income-based jobseeker’s allowance, which has the meaning given by Article 3(4) (the jobseeker’s allowance) of that Order;

(a) 2007 c.15.

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

(c) 1992 c.8.

(d) Part 12ZA was inserted by section 2 of the Employment Act 2002 (c.22).

(e) Part 12ZB was inserted by section 4 of the Employment Act 2002.

(f) Part 12ZC was inserted by section 119(1) of the Children and Families Act 2014 (c.6).

(g) Section 1(4) is repealed by paragraph 1 of Schedule 14 to the Welfare Reform Act 2012. This repeal has effect on different days in different areas as a result of the gradual introduction of Universal Credit.

(h) 1992 c.8.

(i) 1992 c.7.

(j) Part 12ZA was inserted by Article 5 of the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I.2)) and was amended paragraph 2(6) of Schedule 1 to the Work and Families Act (Northern Ireland) 2015 (c.1 (N.I.)).

(k) Part 12ZB was inserted by Article 6 of the Employment (Northern Ireland) Order 2002.

(l) Part 12ZC was inserted by section 5 of the Work and Families Act (Northern Ireland) 2015.

(m) S.I. 1995/2705 (N.I. 15).

- (iv) Chapter 2 (social security decisions and appeals) of Part 2 (decisions and appeals) of the Social Security (Northern Ireland) Order 1998;
- (v) Article 21 (supply of pension information in connection with divorce etc.), so far as it relates to shareable state scheme rights, and Chapter 2 (sharing of state scheme rights) of Part 5 (pension sharing) of the Welfare Reform and Pensions (Northern Ireland) Order 1999(a);
- (vi) Part 1 (employment and support allowance) of the Welfare Reform Act (Northern Ireland) 2007(b);
- (vii) Part 5 (personal independence payment) of the Welfare Reform (Northern Ireland) Order 2015(c);
- (viii) Part 1 (state pension) of the Pensions Act (Northern Ireland) 2015(d);

in each case as amended, modified, adapted, extended, supplemented, replaced or consolidated by any subsequent enactment or by any subordinate legislation, but not legislation made for the purpose of giving effect to the provisions of any agreement applying to one of the two territories and providing for reciprocity with a scheme of social security in force outside the United Kingdom;

“territory” means Great Britain or Northern Ireland, as the case may require.

(2) In the application of this Memorandum to a territory, expressions used in this Memorandum shall have the same meaning as in the legislation which relates to that territory.

(3) The rules for the construction of Acts of Parliament and instruments contained in the Interpretation Act 1978(e) shall apply for the purposes of the interpretation of this Agreement as they apply for the purposes of the interpretation of an Act of Parliament or instrument.

2.—(1) For the purposes of all the provisions of the systems of social security established by the legislation—

- (a) acts, omissions and events and in particular residence, presence, employment (including employment as a mariner or airman), the occurrence of an industrial accident or the development of any prescribed disease, the payment, crediting or treating as paid of contributions (including graduated contributions and payments in lieu of graduated contributions), the refund of contributions paid in excess of the annual maximum amounts payable and the payment or claiming of benefit; and
- (b) the operation of any provisions as to exception from liability to pay contributions,

having effect for all or any of those purposes in one territory shall have corresponding effect for all or any of those purposes in the other territory.

(2) If an employed earner has an accident after that person leaves one territory to go in the course of that person’s employment to the other territory and before that person arrives in the latter territory, then for the purpose of any right to benefit in respect of that accident—

- (a) a claim for benefit may be made in either territory;
- (b) the accident shall be treated as if it had happened in the territory in which the claim is made; and
- (c) the employed earner’s absence from either territory shall be disregarded in determining whether the employment is employed earner’s employment for the purposes of those provisions of the legislation relating to industrial injuries benefits.

3. Where the determining authority has made a decision relating to a claim for benefit arising under or in connection with the legislation, including a decision as revised or superseded,

- (a) the decision may be revised or superseded; and

(a) S.I. 1999/3147 (N.I. 11). Article 21 was amended by paragraph 108 of Schedule 29 to the Civil Partnership Act 2004.
 (b) 2007 c.2 (N.I.).
 (c) S.I. 2015/2006 (N.I. 1).
 (d) 2015 c.5 (N.I.).
 (e) 1978 c.30.

(b) any appeal from the decision may be determined

under and to the extent permitted by the legislation of the territory in which the claimant is, as if the decision had been made in that territory, notwithstanding that the decision was made in the other territory.

4. The provisions of Articles 2 and 3 of this Memorandum shall not confer a right to double benefit.

5. The Social Security, Child Support and Pensions Joint Authority(a) shall from time to time determine the administrative procedures appropriate for the purposes of giving effect to the provisions of this Memorandum.

6. The arrangements in this Memorandum shall come into force on 6th April 2016, but either Party may terminate them by giving not less than six months notice in writing to the other.

7.—(1) The Memorandum of Reciprocal Arrangements of 3rd June 1976 set out in Schedule 1 to the Social Security (Northern Ireland Reciprocal Arrangements) Regulations 1976 and the Social Security (Great Britain Reciprocal Arrangements) Regulations (Northern Ireland) 1976(b) (as amended by the exchange of letters of 30th July 1999 set out in the Schedule to the Social Security (Northern Ireland Reciprocal Arrangements) Amendment Regulations 1999 and the Social Security (Great Britain Reciprocal Arrangements) (Amendment) Regulations (Northern Ireland) 1999(c)) and made between the Secretary of State for Social Services, with the consent of the Treasury, of the one part, and the Department of Health and Social Services for Northern Ireland, with the consent of the Department of Finance for Northern Ireland, of the other part shall be terminated upon the coming into force of this Memorandum.

(2) Anything occurring, done or suffered before any such termination and having effect for the purposes of the said Memorandum shall be treated as having a corresponding effect for the purposes of this Memorandum.

Priti Patel
Minister for Employment
Department for Work and Pensions

At 10.13 a.m. on 3rd March 2016

We consent.

Charlie Elphicke
Mel Stride
Two of the Lords Commissioners of Her Majesty's Treasury

At 3.07 p.m. on 3rd March 2016

Morrow
Minister for Social Development (being the Northern Ireland Minister having responsibility for social security)

At 12.00 p.m. on 3rd March 2016

The Department of Finance and Personnel hereby consents.

Emer Morelli
A senior officer for the Department of Finance and Personnel

At 1.06 p.m. on 3rd March 2016

(a) See section 88(1)(b) of the Northern Ireland Act 1998 (c.47).
(b) S.R. 1976/196.
(c) S.R. 1999/350.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations give effect in Great Britain to reciprocal arrangements between Great Britain and Northern Ireland relating to social security. The arrangements are made between the Secretary of State for Work and Pensions, with the consent of the Treasury, of the one part and the Minister for Social Development in Northern Ireland, with the consent of the Department of Finance and Personnel, of the other part. These arrangements are contained in the Memorandum set out in the Schedule to these Regulations.

The arrangements terminate and replace the Memorandum of Reciprocal Arrangements of 1976 relating to social security contained in Schedule 1 to the Social Security (Northern Ireland Reciprocal Arrangements) Regulations 1976, S.I. No. 1003. They largely mirror the arrangements of 1976, which help secure a single system of social security for the United Kingdom. So, for example, a person's payment of National Insurance contributions in one territory will have equivalent effect in the other territory; in the same way a claim to, or award of, a contributory benefit in one territory will be treated as a claim to, or award of, that benefit in the other territory. The arrangements are also extended in order to encompass benefits in recent social security legislation, i.e. Employment and Support Allowance, Personal Independence Payment and new state pension. Several out of date references to various authorities and tribunals are updated.

The Regulations provide that the legislation referred to in regulation 2(2) is adapted to give effect to the provisions contained in the Memorandum of Reciprocal Arrangements set out in the Schedule.

An impact assessment has not been produced for these Regulations as they have no impact on business or civil society organisations.

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