

Draft Order laid before Parliament under section 54(2)(c) of the Pensions Act 2014 for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2016 No.

SOCIAL SECURITY

**The Pensions Act 2014 (Consequential and Supplementary
Amendments) Order 2016**

Made - - - -

Coming into force - -

6th April 2016

A draft of this Order has been laid before Parliament in accordance with section 54(2)(c) of the Pensions Act 2014(a) and approved by a resolution of each House.

Accordingly, the Secretary of State for Work and Pensions, in exercise of the powers conferred by sections 53 and 54(5) of that Act makes the following Order.

Citation and commencement

1.—(1) This Order may be cited as the Pensions Act 2014 (Consequential and Supplementary Amendments) Order 2016.

(2) This Order comes into force on 6th April 2016 immediately after Part 1 of the Pensions Act 2014 comes into force for all remaining purposes.

Amendment of the Social Security Contributions and Benefits Act 1992

2.—(1) The Social Security Contributions and Benefits Act 1992(b) is amended as follows.

(2) In section 23A (contributions credits for relevant parents and carers)(c), after subsection (8) insert—

“(8A) Where this section, or regulations made under it, have the effect that the contributor concerned is credited, on or after 6 April 2016, with contributions for a tax year starting before that date, the contributions are to be treated for the purposes of calculating the rate under paragraph 3 of Schedule 1 to the Pensions Act 2014 as having been credited before 6 April 2016.”.

(3) In section 48B (Category B retirement pension for widows and widowers)(d), after subsection (9) insert—

(a) 2014 c.19.

(b) 1992 c.4.

(c) Section 23A was inserted by section 3 of the Pensions Act 2007 (c.22).

(d) Section 48B was substituted into the Social Security Contributions and Benefits Act 1992 by paragraph 3 of Schedule 4 to the Pensions Act 1995 (c.26). Subsection (9) of that section was inserted by paragraph 61 of Schedule 12 to the Pensions Act 2014.

“(10) Subsection (11) applies in the case of a pensioner entitled to a Category B retirement pension by virtue of subsection (1) or (1A) whose spouse or civil partner—

- (a) attained pensionable age on or after 6 April 2016, and
- (b) died after attaining pensionable age.

(11) Where this subsection applies, the amount determined in accordance with subsection (2) as the weekly rate of the additional pension payable to the pensioner must be increased by such percentage as equals the overall percentage by which, had the pension been in payment as from the date when the spouse or civil partner reached pensionable age until the spouse’s or civil partner’s death, that weekly rate would have increased during that period by virtue of orders under section 150 of the Administration Act (annual uprating of benefits).”.

(4) In section 51 (Category B retirement pension for widows, widowers and surviving civil partners who attained pensionable age before 6th April 2010)(a)—

- (a) in subsection (6), for “Schedule 4A” substitute “Schedules 4A and 4B”;
- (b) after subsection (10), insert—

“(11) Subsection (12) applies in the case of a pensioner whose spouse or civil partner—

- (a) attained pensionable age on or after 6 April 2016, and
- (b) died after attaining pensionable age.

(12) Where this subsection applies, the amount determined in accordance with this section as the weekly rate of the additional pension payable to the pensioner must be increased by such percentage as equals the overall percentage by which, had the pension been in payment as from the date when the spouse or civil partner reached pensionable age until the spouse’s or civil partner’s death, that weekly rate would have increased during that period by virtue of orders under section 150 of the Administration Act (annual uprating of benefits).”.

(5) In paragraph 4 of Schedule 4B (additional pension: accrual rates for purposes of section 45(2)(d))(b)—

- (a) the existing wording becomes sub-paragraph (1);
- (b) in sub-paragraph (1), insert at the beginning “Where the final relevant year is 2015-16 or an earlier tax year,”;
- (c) after sub-paragraph (1), insert—

“(2) Otherwise, the flat rate amount is calculated by increasing the FRAA by the percentage by which earnings factors for 2015-16 are directed to be increased by the last order under section 148 of the Administration Act to come into force before the end of the final relevant year.”.

(6) In paragraph 8 of that Schedule—

- (a) in sub-paragraph (3), insert at the beginning “Where the final relevant year is 2015-16 or an earlier tax year,”;
- (b) after sub-paragraph (3), insert—

“(4) Otherwise, the flat rate amount is calculated by increasing the FRAA by the percentage by which earnings factors for 2015-16 are directed to be increased by the last order under section 148 of the Administration Act to come into force before the end of the final relevant year.”.

(7) In paragraph 9 of that Schedule—

- (a) in sub-paragraph (3), insert at the beginning “Where the final relevant year is 2015-16 or an earlier tax year,”;

(a) Section 51 was substituted by paragraph 64 of Schedule 12 to the Pensions Act 2014.

(b) Schedule 4B was inserted by paragraph 1 of Schedule 2 to the Pensions Act 2007.

(b) after sub-paragraph (3), insert—

“(4) Otherwise, the flat rate amount is calculated by increasing the FRAA by the percentage by which earnings factors for 2015-16 are directed to be increased by the last order under section 148 of the Administration Act to come into force before the end of the final relevant year.”.

(8) In paragraph 13 of that Schedule(a)—

(a) in sub-paragraph (2), insert at the beginning “Where the final relevant year is 2015-16 or an earlier tax year,”;

(b) after sub-paragraph (2), insert—

“(3) Otherwise, that amount is £93.60 for the flat rate introduction year and subsequent tax years.”.

Amendment of the Social Security Administration Act 1992

3.—(1) The Social Security Administration Act 1992(b) is amended as follows.

(2) In section 148A(1) (revaluation of low earnings threshold)(c), after “each subsequent tax year” insert “up to and including the tax year 2014-15”.

(3) In section 148AA(1) (revaluation of flat rate accrual amount)(d), after “each subsequent tax year” insert “up to and including the tax year 2014-15”.

Amendment of Schedule 4 to the Scotland Act 1998

4. In paragraph 2(3)(e) of Schedule 4 to the Scotland Act 1998(e) (enactments etc. protected from modification), after “(contributory benefits)” insert “and Part 1 of the Pensions Act 2014 (state pension)”.

Amendment of section 17(1)(b) of the Social Security Contributions (Transfer of Functions, etc.) Act 1999

5. In section 17(1)(b) of the Social Security Contributions (Transfer of Functions, etc.) Act 1999(f) (arrangements for discharge of decision-making functions), after “section 22(5)” insert “or (5ZA)(g)”.

Amendment of the Finance (No.2) Act 2005

6.—(1) The Finance (No.2) Act 2005(h) is amended as follows.

(2) In section 8 (meaning of “applicable year of assessment” in section 7)—

(a) in subsection (3), for “and (4A)” substitute “; (4A) and (4B)”;

(b) after subsection (4A), insert—

“(4B) In a case where the social security pension lump sum is a lump sum under regulations under section 10 of the Pensions Act 2014 which make provision corresponding or similar to section 8 of that Act or under any corresponding provision under the law of Northern Ireland, “the first benefit payment day” for the purposes of subsection (2) is the day as from which the lump sum becomes payable.”.

(a) Paragraph 13(2) was amended by S.I. 2015/185.

(b) 1992 c.5.

(c) Section 148A was inserted by section 33(1) of the Child Support, Pensions and Social Security Act 2000 (c.19).

(d) Section 148AA was inserted by paragraph 2 of Schedule 2 to the Pensions Act 2007.

(e) 1998 c.46. Paragraph 2(3)(e) of Schedule 4 was amended by S.I. 2000/1831.

(f) 1999 c.2.

(g) Section 22(5ZA) was inserted by paragraph 6(3) of Schedule 12 to the Pensions Act 2014.

(h) 2005 c.22. Relevant amendments were made by paragraphs 50 and 51 of Schedule 12 to the Pensions Act 2014.

(3) In section 9(2) (interpretation and commencement) in the definition of “state pension lump sum”, after paragraph (za) insert—

“(zb) regulations under section 10 of the Pensions Act 2014 which make provision corresponding or similar to section 8 of that Act or under any corresponding provision under the law of Northern Ireland.”.

Amendment of section 14(4)(c) of the Pensions Act 2008

7. In section 14(4) of the Pensions Act 2008(a) (review of earnings trigger and qualifying earnings band), for paragraph (c) substitute—

“(c) the amounts for the time being specified in section 44(4) of that Act (rate of basic state pension) and in regulations under section 3(1) of the Pensions Act 2014 (full rate of state pension);”.

Amendment of Schedule 7 to the Equality Act 2010

8. In paragraph 4(3) of Schedule 7 to the Equality Act 2010(b) (equality of terms: exceptions), after “(state retirement pensions)” insert “or sections 2 to 12 of the Pensions Act 2014 (state pension)”.

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

Date

Name
Parliamentary Under Secretary of State
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes amendments to various Acts which are consequential on or supplementary to the introduction of the new state pension for people reaching pensionable age on or after 6th April 2016 by the Pensions Act 2014 (c.19).

Articles 2 and 3 amend the Social Security Contributions and Benefits Act 1992 (c.4) (“the Benefits Act”) and the Social Security Administration Act 1992 (c.5).

Article 2(2) amends section 23A of the Benefits Act to provide for the crediting of certain contributions in respect of periods of caring to be treated as if they were made before 6th April 2016 for the purposes of calculating the rate of transitional state pension.

Article 2(3) to (8), except paragraph (4)(a), makes consequential amendments to the Benefits Act. These amendments apply where a person who has reached pensionable age under the old state pension scheme claims a Category B retirement pension which is based on the National Insurance contributions of their deceased spouse or civil partner who was in the new state pension scheme. The amendments ensure that the calculation of the additional state pension in the Category B retirement pension, which is based on the Category A retirement pension the deceased would have got if they had been in the old state pension scheme, reflects (A) revaluation to reflect earnings growth in the period before the deceased reached pensionable age and (B) uprating to take inflation into account after they reached pensionable age.

(a) 2008 c.30. Section 14 was substituted by section 8(1) of the Pensions Act 2011 (c.11).

(b) 2010 c.15.

As those amendments provide for revaluation in those cases, article 3 makes consequential amendments to the Social Security Administration Act 1992 to remove two existing requirements to make an Order providing for revaluation which are no longer needed.

Article 2(4)(a) makes a supplementary amendment to section 51 of the Benefits Act. Section 51 was substituted by the Pensions Act 2014 as part of the amendments relating to the introduction of the new state pension. The article 2(4)(a) amendment provides that Schedule 4B to the Benefits Act is used to calculate the Category B retirement pension for certain people who attained pensionable age before 6th April 2010.

Article 4 amends paragraph 2(3)(e) of Schedule 4 to the Scotland Act 1998 (c.46) to preserve the scope of the legislation on the sharing of state pensions on divorce or the dissolution of a civil partnership in that paragraph by adding a reference to Part 1 of the Pensions Act 2014.

Article 5 amends section 17(1)(b) of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) to enable the Secretary of State to make arrangements for Her Majesty's Revenue and Customs to make decisions as to whether a person should be awarded a National Insurance Credit for the purposes of establishing entitlement to a new state pension.

Article 6 amends the Finance (No.2) Act 2005 (c.22) in relation to people in the new state pension scheme who inherit a lump sum payment based on deferred graduated retirement benefit. It ensures the payment is subject to the same tax treatment as other state pension lump sums.

Article 7 amends section 14(4)(c) of the Pensions Act 2008 (c.30) to add the new state pension to the factors which the Secretary of State may take into account when reviewing the earnings trigger and the qualifying earnings band in order to decide whether these amounts should be increased or decreased.

Article 8 amends paragraph 4(3) of Schedule 7 to the Equality Act 2010 (c.15). The principle of equality between the sexes in occupational pension schemes derives from section 67 of the Equality Act 2010; Part 2 of Schedule 7 sets out exceptions to this principle. One permitted exception is where a man and a woman are eligible to receive different amounts by way of occupational pension and the difference is attributable only to differences between a man and woman in the state retirement pension they are entitled to. The amendment extends this permitted exception to include new state pension.

A full impact assessment has not been published for this Order as it has no impact on the private sector or civil society organisations. An assessment has been made of the impact of the introduction of the new state pension. Copies of that impact assessment may be obtained from the Better Regulation Unit of the Department for Work and Pensions, 2D Caxton House, Tothill Street, London SW1H 9NA or from the DWP website: https://www.gov.uk/government/uploads/system/uploads/attachments_data/file/311316/pensions-act-ia-annex-a-single-tier-state-pension.pdf. (Annex A contains the assessment for the new state pension.)

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