

Changes to legislation: Social Security Contributions and Benefits Act 1992, Cross Heading: Choice between increase of pension and lump sum where pensioner's deceased spouse or civil partner has deferred entitlement is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 5

[^{F1}PENSION INCREASE OR LUMP SUM WHERE ENTITLEMENT TO RETIREMENT PENSION IS DEFERRED]

Textual Amendments

- F1** Sch. 5 heading substituted (18.11.2004 for specified purposes, 6.4.2005 in so far as not already in force) by [Pensions Act 2004 \(c. 35\), s. 322\(3\)\(a\)](#), [Sch. 11 para. 3](#)

Modifications etc. (not altering text)

- C1** Sch. 5: sums amended (coming into force in accordance with arts. 1(4)(5), 7 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2024 \(S.I. 2024/242\)](#), arts. 1(3)(c), [4\(3\)](#)
- C2** Sch. 5 modified (6.4.2005) by [The Social Security \(Retirement Pensions etc.\) \(Transitional Provisions\) Regulations 2005 \(S.I. 2005/469\)](#), regs. 1(1), 2

[^{F1}Choice between increase of pension and lump sum where pensioner's deceased spouse [^{F2}or civil partner] has deferred entitlement

Textual Amendments

- F1** Sch. 5 para. 3C and cross-heading inserted (18.11.2004 for specified purposes, 6.4.2005 in so far as not already in force) by [Pensions Act 2004 \(c. 35\), s. 322\(3\)\(a\)](#), [Sch. 11 para. 9](#)
- F2** Words in Sch. 5 para. 3C cross-heading inserted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2053\)](#), art. 1(2)(b)(3), [Sch. para. 5\(6\)\(a\)](#)

- 3C (1) Subject to paragraph 8, this paragraph applies where—
- a [^{F3}widow, widower or surviving civil partner] (“W”) is entitled to a Category A or Category B retirement pension,
 - W was married to [^{F4}or was the civil partner of] the other party to the marriage [^{F5}or civil partnership] (“S”) when S died,
 - S’s entitlement to a Category A or Category B retirement pension was deferred when S died, and
 - S’s entitlement had been deferred throughout the period of 12 months ending with the day before S’s death.
- (2) W shall within the prescribed period elect in the prescribed manner either—
- that paragraph 4 (entitlement to increase of pension) is to apply in relation to S’s period of deferment, or
 - that paragraph 7A (entitlement to lump sum) is to apply in relation to S’s period of deferment.

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- (3) If no election under sub-paragraph (2) is made within the period prescribed under that sub-paragraph, W is to be treated as having made an election under sub-paragraph (2) (b).
- (4) Regulations—
- (a) may enable a person who has made an election under sub-paragraph (2) (including one that the person is treated by sub-paragraph (3) as having made) to change the election within a prescribed period and in a prescribed manner, if prescribed conditions are satisfied, and
 - (b) if they enable a person to make an election under sub-paragraph (2)(b) in respect of a period of deferment after receiving any increase of pension under paragraph 4 by reference to that period, may for the purpose of avoiding duplication of payment—
 - (i) enable an amount determined in accordance with the regulations to be recovered from the person in a prescribed manner and within a prescribed period, or
 - (ii) provide for an amount determined in accordance with the regulations to be treated as having been paid on account of the amount to which the person is entitled under paragraph 7A.
- (5) The making of an election under sub-paragraph (2)(b) does not affect the application of [^{F6}paragraphs 5 to 6A] (which relate to an increase in pension where the pensioner's deceased spouse [^{F7}or civil partner] had deferred an entitlement to a guaranteed minimum pension).]

Textual Amendments

- F3** Words in Sch. 5 para. 3C(1)(a) substituted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2053\)](#), art. 1(2)(b)(3), **Sch. para. 5(6)(b)**
- F4** Words in Sch. 5 para. 3C(1)(b) inserted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2053\)](#), art. 1(2)(b)(3), **Sch. para. 5(6)(c)(i)**
- F5** Words in Sch. 5 para. 3C(1)(b) inserted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2053\)](#), art. 1(2)(b)(3), **Sch. para. 5(6)(c)(ii)**
- F6** Words in Sch. 5 para. 3C(5) substituted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2053\)](#), art. 1(2)(b)(3), **Sch. para. 5(6)(d)(i)**
- F7** Words in Sch. 5 para. 3C(5) inserted (26.7.2005 for specified purposes, 5.12.2005 in so far as not already in force) by [The Civil Partnership \(Pensions and Benefit Payments\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2053\)](#), art. 1(2)(b)(3), **Sch. para. 5(6)(d)(ii)**

Modifications etc. (not altering text)

- C1** Sch. 5 para. 3C excluded (18.11.2004 for specified purposes, 6.4.2005 in so far as not already in force) by [Pensions Act 2004 \(c. 35\)](#), s. 322(3)(a), **Sch. 11 para. 26**

Changes to legislation:

Social Security Contributions and Benefits Act 1992, Cross Heading: Choice between increase of pension and lump sum where pensioner's deceased spouse or civil partner has deferred entitlement is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied (with modifications) by [S.I. 2010/875 reg. 16Sch. 2](#) (This amendment not applied to [legislation.gov.uk](#). [S.I. 2010/875](#) revoked (27.8.2010) before coming into force by [S.I. 2010/1906](#), regs. 1(2), 2)
- Act restricted by [S.I. 1995/471 art. 32\(4\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 8ZA inserted by [2009 c. 24 s. 16\(1\)](#) (This amendment not applied to [legislation.gov.uk](#). Ss. 16-21 repealed (1.4.2013) by 2012 c. 5, s. 73; [S.I. 2012/3090](#), art. 2(1)(b))
- Pt. 12ZE inserted by [2023 c. 20 Sch. para. 5](#)
- s. 4(1)(a)(viii) and word inserted by [2023 c. 20 Sch. para. 11\(b\)](#)
- s. 4C(5)(i)(j) repealed by [2007 c. 22 Sch. 4 para. 42\(3\)\(c\)Sch. 7 Pt. 7](#)
- s. 11A(1)(eb) inserted by [2021 c. 26 Sch. 27 para. 12](#) (This amendment not applied to [legislation.gov.uk](#). The existing section 11A of Act repealed by paragraph 4(1) of the Schedule to the National Insurance Contributions (Reduction in Rates) Act 2023 (c. 57))
- s. 30B(4)(aa) inserted by [2012 c. 5 Sch. 9 para. 4](#)
- s. 35(1)(e) and word inserted by [2012 c. 5 s. 63\(2\)\(a\)](#)
- s. 35(3)(za) inserted by [2012 c. 5 s. 63\(2\)\(b\)](#)
- s. 45(2A)(a) words substituted by [2011 c. 19 Sch. 3 para. 2\(3\)\(b\)](#)
- s. 45(2A)(b) substituted by [2011 c. 19 Sch. 3 para. 2\(3\)\(c\)](#)
- s. 46(5)(6) inserted by [2008 c. 30 Sch. 4 para. 6\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 4 para. 6(3) repealed (1.10.2014) without ever being in force by 2014 c. 19, Sch. 12 para. 96(c); [S.I. 2014/2377](#), art. 2(1)(a)(ii)(3)(c))
- s. 46(5)(a) words substituted by [2011 c. 19 Sch. 3 para. 3](#)
- s. 47(4A) inserted by [2008 c. 30 s. 102\(6\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 102 repealed (1.10.2014) without ever being in force by 2014 c. 19, Sch. 12 para. 96(a); [S.I. 2014/2377](#), art. 2(1)(a)(ii)(3)(c))
- s. 124(1)(ea) inserted by [2012 c. 5 s. 59\(2\)\(a\)](#)
- s. 124(1)(ga) inserted by [2009 c. 24 s. 5\(1\)\(a\)](#)
- s. 124(1C) inserted by [2012 c. 5 s. 59\(2\)\(b\)](#)
- s. 124(6A)(6B) inserted by [2009 c. 24 s. 5\(1\)\(b\)](#)
- s. 124A inserted by [2012 c. 5 s. 59\(3\)](#)
- s. 130C(2)(za) inserted by [2016 asp 19 Sch. 4 para. 5](#)
- s. 138(2A) inserted by [2009 c. 24 s. 17](#) (This amendment not applied to [legislation.gov.uk](#). Ss. 16-21 repealed (1.4.2013) by 2012 c. 5, s. 73; [S.I. 2012/3090](#), art. 2(1)(b))
- s. 138(2B) inserted by [2009 c. 24 s. 19\(2\)](#) (This amendment not applied to [legislation.gov.uk](#). Ss. 16-21 repealed (1.4.2013) by 2012 c. 5, s. 73; [S.I. 2012/3090](#), art. 2(1)(b))
- s. 140(4)(ca) inserted by [2009 c. 24 s. 19\(6\)](#) (This amendment not applied to [legislation.gov.uk](#). Ss. 16-21 repealed (1.4.2013) by 2012 c. 5, s. 73; [S.I. 2012/3090](#), art. 2(1)(b))
- s. 140(4A) inserted by [2009 c. 24 s. 19\(7\)](#) (This amendment not applied to [legislation.gov.uk](#). Ss. 16-21 repealed (1.4.2013) by 2012 c. 5, s. 73; [S.I. 2012/3090](#), art. 2(1)(b))
- s. 164(2)(aa) inserted by [2012 c. 5 s. 63\(3\)\(a\)](#)

- s. 164(9)(da) inserted by 2012 c. 5 s. 63(3)(b)
- s. 171ZA(2)(ba) inserted by 2012 c. 5 s. 63(4)(a)
- s. 171ZA(3A) inserted by 2012 c. 5 s. 63(4)(b)
- s. 171ZB(2)(ba) inserted by 2012 c. 5 s. 63(5)(a)
- s. 171ZB(3A) inserted by 2012 c. 5 s. 63(5)(b)
- s. 171ZE(2A) inserted by 2014 c. 6 s. 123(3)(b)
- s. 171ZE(2B) inserted by 2014 c. 6 s. 123(3)(c)
- s. 171ZL(2)(ba) inserted by 2012 c. 5 s. 63(8)(a)
- s. 171ZL(8)(za) inserted by 2012 c. 5 s. 63(8)(c)
- s. 171ZEA(2)(ba) inserted by 2012 c. 5 s. 63(6)(a)
- s. 171ZEA(3)(za) inserted by 2012 c. 5 s. 63(6)(b)
- s. 171ZEB(2)(ba) inserted by 2012 c. 5 s. 63(7)(a)
- s. 171ZEB(3)(za) inserted by 2012 c. 5 s. 63(7)(b)
- s. 173A inserted by 2012 c. 5 s. 63(9)
- s. 176(3A) inserted by 2011 c. 19 Sch. 3 para. 5(2)
- Sch. 4 Pt. 1 para. 2A applied by S.I. 1995/310 reg. 18(1)(a)
- Sch. 4 Pt. 1 para. 6 power to amend conferred by 1992 c. 5 s. 154(2)(a)
- Sch. 4 Pt. 1 para. 2 repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 1 para. 2A repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 5 para. 7 power to amend conferred by 1992 c. 5 s. 154(2)(d)(e)
- Sch. 4 Pt. 5 para. 12 power to amend conferred by 1992 c. 5 s. 154(2)(d)(e)
- Sch. 4 Pt. 3 para. 1 power to amend conferred by 1992 c. 5 s. 150(3)(a)151
- Sch. 4 Pt. 3 para. 2 power to amend conferred by 1992 c. 5 s. 150(3)(a)151
- Sch. 4 Pt. 3 para. 4 power to amend conferred by 1992 c. 5 s. 150(3)(a)151
- Sch. 4 Pt. 3 para. 5 power to amend conferred by 1992 c. 5 s. 150(3)(a)151
- Sch. 4 Pt. 3 para. 6 power to amend conferred by 1992 c. 5 s. 150(3)(a)151
- Sch. 4 Pt. 4 para. 2 applied by S.I. 1995/310 reg. 15(7)
- Sch. 4 Pt. 4 para. 1A repealed by 2007 c. 5 Sch. 8
- Sch. 4 Pt. 4 para. 2 repealed by 2007 c. 5 Sch. 8
- Sch. 4B para. 1(1)(a)para. 1(1)(b)(2) words inserted by 2011 c. 19 Sch. 3 para. 6(2)(b)
- Sch. 4C inserted by 2008 c. 30 s. 102(5)Sch. 3 (This amendment not applied to legislation.gov.uk. S. 102, Sch. 3 repealed (1.10.2014) without ever being in force by 2014 c. 19, Sch. 12 para. 96(a)(b); S.I. 2014/2377, art. 2(1)(a)(ii)(3)(c))
- Sch. 4C para. 7(2)(c) inserted by 2011 c. 19 Sch. 3 para. 7(7)(b)
- Sch. 4C para. 7(3) inserted by 2011 c. 19 Sch. 3 para. 7(8)
- Sch. 4C para. 3 omitted by 2011 c. 19 Sch. 3 para. 7(3)
- Sch. 4C para. 7(2)(b) words inserted by 2011 c. 19 Sch. 3 para. 7(7)(a)
- Sch. 4C para. 1 words substituted by 2011 c. 19 Sch. 3 para. 7(2)
- Sch. 4C para. 2 words substituted by 2011 c. 19 Sch. 3 para. 7(2)
- Sch. 4C para. 5(b) words substituted by 2011 c. 19 Sch. 3 para. 7(4)
- Sch. 4C para. 6 words substituted by 2011 c. 19 Sch. 3 para. 7(5)
- Sch. 4C para. 7(1) words substituted by 2011 c. 19 Sch. 3 para. 7(4)
- Sch. 4C para. 7(1) words substituted by 2011 c. 19 Sch. 3 para. 7(6)
- Sch. 11 para. 2(i) inserted by 2012 c. 5 s. 63(10)(a)
- Sch. 11 para. 9 inserted by 2012 c. 5 s. 63(10)(b)