

These notes refer to the Child Support, Pensions and Social Security Act 2000 (c.19) which received Royal Assent on 28th July 2000

CHILD SUPPORT, PENSIONS AND SOCIAL SECURITY ACT 2000

EXPLANATORY NOTES

Part II: Pensions

Commentary on Sections

Chapter I: State Pensions

Preservation of rights in respect of additional pensions

Section 39: Preservation of rights in respect of additional pensions

424. Currently, widows and, in certain circumstances, widowers, may receive the full amount of their deceased spouse's SERPS. However, changes originally enacted in the Social Security Act 1986 (but now consolidated in the Contributions and Benefits Act 1992) halved the amount of SERPS the surviving spouse could receive. The change was due to take effect in respect of married persons who died after 5 April 2000. This change was not fully publicised, and some people were incorrectly told that they, or their widow(er) could expect to "inherit" the full amount of SERPS.
425. The Government has now decided to postpone the reduction to 6 October 2002, and to set up an Inherited SERPS Scheme.
426. Section 52 of the Welfare Reform and Pensions Act 1999 enables the Secretary of State to make affirmative regulations to do one or more of the following:
- to provide for specified categories of widows and widowers to receive more than 50% of their spouse's SERPS;
 - to postpone the 50% reduction due to come into effect from 6 April 2000 to a later year;
 - to set up a scheme to determine who has been misled by incorrect or incomplete information about the 50% reduction and who, or whose spouses may, as a result, suffer financial loss in the future, so as to ensure that the reduction is not applied in their case.
427. Until provision for one of these options is in force, the section also ensures that widow(ers) continue to "inherit" the full amount of their spouse's SERPS.
428. **Section 39** amends section 52 of the Welfare Reform and Pensions Act to provide for the 50% reduction in inherited SERPS to come into effect in respect of deaths occurring on or after 6 October 2002, but also to provide that regulations may postpone the change to a later date. It clarifies the eligibility criteria for the Inherited SERPS Scheme to ensure that people who were denied the opportunity of considering taking relevant steps to protect their spouse's position because they received incorrect or incomplete

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information, can seek redress. It also allows for the regulations to make further specific provisions relating to the manner in which decisions under the scheme may be taken.

429. *Subsections (1) and (2)* change the implementation date for the 50% reduction in SERPS from 6 April 2000 to 6 October 2002 where entitlement to additional pension in SERPS arises in Widowed Mother's Allowance, Widowed Parent's Allowance and Category B retirement pension, including where this is increased because of deferred retirement.
430. *Subsection (3)* provides that regulations may defer the implementation date of 6 October 2002 to a later date.
431. *Subsection (4)* allows for the regulations to provide that a person can be eligible for the scheme if, as a consequence of receiving incorrect or incomplete information, he did not consider either taking a step to safeguard the future financial position of his spouse that he might have taken, or refraining from taking such a step which he took but might not have taken had he received the right information.
432. *Subsection (5)* allows for the regulations to prescribe matters that may be relied on, or presumptions that may be made, in the making of decisions under the preserved rights scheme.