



# Pensions Act 2004

## 2004 CHAPTER 35

### PART 8

#### STATE PENSIONS

##### *Entitlement to more than one pension*

#### **296 Persons entitled to more than one Category B retirement pension**

In section 43(3) of the Social Security Contributions and Benefits Act 1992 (c. 4) (persons entitled to more than one retirement pension)—

- (a) for paragraph (a) substitute—
  - “(a) to both a Category A retirement pension and one or more Category B retirement pensions under this Part for the same period,
  - (aa) to more than one Category B retirement pension (but not a Category A retirement pension) under this Part for the same period, or”, and
- (b) for the words from “paragraph (a)” to “above” substitute “ paragraph (a), (aa) or (b) (as the case may be) ”.

##### *Deferral of state pension*

#### **297 Deferral of retirement pensions and shared additional pensions**

- (1) For section 55 of the Social Security Contributions and Benefits Act 1992 (increase of retirement pension where entitlement is deferred) substitute—

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**“55 Pension increase or lump sum where entitlement to retirement pension is deferred**

- (1) Where a person’s entitlement to a Category A or Category B retirement pension is deferred, Schedule 5 to this Act has effect.
- (2) In that Schedule—
  - paragraph A1 makes provision enabling an election to be made where the pensioner’s entitlement is deferred
  - paragraphs 1 to 3 make provision about increasing pension where the pensioner’s entitlement is deferred
  - paragraphs 3A and 3B make provision about lump sum payments where the pensioner’s entitlement is deferred
  - paragraph 3C makes provision enabling an election to be made where the pensioner’s deceased spouse has deferred entitlement
  - paragraphs 4 to 7 make provision about increasing pension where the pensioner’s deceased spouse has deferred entitlement
  - paragraphs 7A and 7B make provision about lump sum payments where the pensioner’s deceased spouse has deferred entitlement
  - paragraphs 7C to 9 make supplementary provision.
- (3) For the purposes of this Act a person’s entitlement to a Category A or Category B retirement pension is deferred if and so long as that person—
  - (a) does not become entitled to that pension by reason only—
    - (i) of not satisfying the conditions of section 1 of the Administration Act (entitlement to benefit dependent on claim), or
    - (ii) in the case of a Category B retirement pension payable by virtue of a spouse’s contributions, of the spouse not satisfying those conditions with respect to his Category A retirement pension, or
  - (b) in consequence of an election under section 54(1), falls to be treated as not having become entitled to that pension,
 and, in relation to any such pension, “period of deferment” shall be construed accordingly.”
- (2) For section 55C of that Act (increase of shared additional pension where entitlement is deferred) substitute—

**“55C Pension increase or lump sum where entitlement to shared additional pension is deferred**

- (1) Where a person’s entitlement to a shared additional pension is deferred, Schedule 5A to this Act has effect.
- (2) In that Schedule—
  - paragraph 1 makes provision enabling an election to be made where the person’s entitlement is deferred
  - paragraphs 2 and 3 make provision about increasing pension where the person’s entitlement is deferred

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paragraphs 4 and 5 make provision about lump sum payments where the person's entitlement is deferred.

(3) For the purposes of this Act, a person's entitlement to a shared additional pension is deferred—

- (a) where he would be entitled to a Category A or Category B retirement pension but for the fact that his entitlement is deferred, if and so long as his entitlement to such a pension is deferred, and
- (b) otherwise, if and so long as he does not become entitled to the shared additional pension by reason only of not satisfying the conditions of section 1 of the Administration Act (entitlement to benefit dependent on claim),

and, in relation to a shared additional pension, "period of deferment" shall be construed accordingly."

(3) In paragraph 6 of Schedule 4 to the Pensions Act 1995 (c. 26) (which, with effect from 6th April 2010, amends the existing law regarding the deferment of pensions), for sub-paragraph (5) (commencement) substitute—

"(5) The preceding sub-paragraphs shall come into force as follows—

- (a) sub-paragraphs (1) and (4) shall come into force on 6th April 2005;
- (b) sub-paragraphs (2) and (3) shall have effect in relation to incremental periods (within the meaning of Schedule 5 to the Social Security Contributions and Benefits Act 1992 (c. 4)) beginning on or after that date."

(4) Schedule 11 (which contains further amendments relating to the deferral of retirement pensions and shared additional pensions) has effect.

#### **Commencement Information**

- II** S. 297 wholly in force at 6.4.2005; s. 297(3) in force at Royal Assent and s. 297(1)(2)(4) in force for specified purposes at Royal Assent and at 6.4.2005 otherwise see s. 322

#### *Miscellaneous*

### **298 Disclosure of state pension information**

(1) Section 42 of the Child Support, Pensions and Social Security Act 2000 (c. 19) (disclosure of state pension information) is amended as follows.

(2) In subsection (2), for the words from the beginning to "information", substitute, "The Secretary of State may, in the prescribed manner, disclose or authorise the disclosure of any information".

(3) After subsection (3) insert—

"(3A) For the purposes of this section and of any regulations made under it, anything done by or in relation to a person who—

- (a) provides, or proposes to provide, relevant services to a person falling within subsection (3) ("the qualifying person"), and

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(b) is authorised in writing by the qualifying person to act for the purposes of this section,

is treated as done by or in relation to the qualifying person.

In paragraph (a) “relevant services” means services that may involve the giving of advice or forecasts to which information to which this section applies may be relevant.”

(4) In subsection (7)—

(a) omit the “and” at the end of paragraph (c), and

(b) after paragraph (d) insert—, and

“(e) a projection of the amount of any lump sum to which that individual is likely to become entitled, or might become entitled in particular circumstances.”

(5) In subsection (11)—

(a) for the definitions of “basic retirement pension” and “additional retirement pension”, substitute—

““additional retirement pension” means any additional pension or shared additional pension under the Social Security Contributions and Benefits Act 1992, or any graduated retirement benefit under sections 36 and 37 of the National Insurance Act 1965;

“basic retirement pension” means any basic pension under the Social Security Contributions and Benefits Act 1992;”,

(b) after the definition of “employer”, insert—

““lump sum” means a lump sum under Schedule 5 or 5A to the Social Security Contributions and Benefits Act 1992;”, and

(c) for the definitions of “trustee” and “manager”, substitute—

““trustee or manager”, in relation to an occupational or personal pension scheme, means—

(a) in the case of a scheme established under a trust, the trustee or trustees of the scheme, and

(b) in any other case, the person or persons responsible for the management of the scheme.”

#### Commencement Information

**I2** S. 298 partly in force; s. 298(1)-(3)(5)(a)(c) in force at Royal Assent see s. 322

**I3** S. 298(4)(5)(b) in force at 6.4.2005 by [S.I. 2005/275](#), art. 2(7), [Sch. Pt. 7](#)

## 299 Claims for certain benefits following termination of reciprocal agreement with Australia

(1) This section applies to claims for—

(a) retirement pension,

(b) bereavement benefit, or

(c) widow’s benefit,

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made on or after 1st March 2001 (the date from which the termination of the reciprocal agreement with Australia had effect).

- (2) This section also applies to claims for retirement pension or widow's benefit made before 1st March 2001 if the claimant only became entitled to the pension or benefit on or after that date.
- (3) For the purposes of such claims—
  - (a) the relevant provisions of the reciprocal agreement with Australia shall be treated as continuing in force as provided by this section; and
  - (b) the relevant UK legislation shall have effect as if modified to the extent required to give effect to those provisions (as they continue in force by virtue of this section).
- (4) The relevant provisions of that agreement are treated as continuing in force as follows—
  - (a) references to periods during which a person was resident in Australia are only to periods spent in Australia before 6th April 2001 and forming part of a period of residence in Australia which began before 1st March 2001;
  - (b) Articles 3(3) and 5(2) (entitlement by virtue of previous receipt of pension in Australia) apply only to persons who were last in Australia during a period falling within paragraph (a) above;
  - (c) references to the territory of the United Kingdom do not include the islands of Jersey, Guernsey, Alderney, Herm or Jethou;
  - (d) references to widow's benefit, widow's payment, widow's pension and widowed mother's allowance include, respectively, bereavement benefit, bereavement payment, bereavement allowance and widowed parent's allowance;
  - (e) for the purposes of claims by a widower—
    - (i) for retirement pension by virtue of his wife's insurance, or
    - (ii) for bereavement benefit,references to widows and husbands include, respectively, widowers and wives.
- (5) An order made under—
  - (a) section 179 of the Social Security Administration Act 1992 (c. 5), or
  - (b) section 155 of the Social Security Administration (Northern Ireland) Act 1992 (c. 8),may, in consequence of a change in the law of Great Britain or, as the case may be, Northern Ireland, modify the relevant provisions of the reciprocal agreement with Australia as they are treated as continuing in force for the purposes of claims to which this section applies.
- (6) For the purposes of this section—
  - (a) “the reciprocal agreement with Australia” means the agreement set out in Schedule 1 to the Social Security (Australia) Order 1992 (S.I. 1992/ 1312) and the Social Security (Australia) Order (Northern Ireland) 1992 (S.R. 1992 No. 269) (as amended by the exchange of notes set out in Schedule 3 to those Orders);
  - (b) “the relevant provisions” of that agreement are the provisions of Articles 1, 3, 5, 8, 18, 20 and 24, so far as they relate to the United Kingdom;

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(c) “the relevant UK legislation” is—

- (i) the Social Security Contributions and Benefits Act 1992 (c. 4);
- (ii) the Social Security Administration Act 1992;
- (iii) the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7); and
- (iv) the Social Security Administration (Northern Ireland) Act 1992;

and, for the purposes of subsection (5), a change in the law of Great Britain or Northern Ireland includes any change made after the date of the reciprocal agreement with Australia.

(7) In this section—

“retirement pension” has the meaning given by the reciprocal agreement with Australia;

“bereavement benefit” means bereavement payment, widowed parent’s allowance or bereavement allowance payable under the Social Security Contributions and Benefits Act 1992 or the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“widow’s benefit” means widow’s payment, widowed mother’s allowance or widow’s pension payable under either of those Acts.

(8) This section shall be deemed to have had effect at all times on and after 1st March 2001.

(9) Nothing in this section affects Article 2(2) of the Social Security (Australia) Order 2000 (S.I. 2000/3255) or Article 2(2) of the Social Security (Australia) Order (Northern Ireland) 2000 (S.R. 2000 No. 407) (which provide for cases where a person was in receipt of benefit on 28th February 2001 or had claimed a benefit to which he was entitled on or before that date).

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