
Status: Point in time view as at 27/01/2022.

Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004, Part 3. (See end of Document for details)

SCHEDULES

SCHEDULE 5

BENEFITS AND PENSIONS

PART 3

OCCUPATIONAL PENSION SCHEMES

Guaranteed minimum pensions etc.: Great Britain

- 14 (1) In this paragraph “the 1993 Act” means the Pension Schemes Act 1993 (c. 48); and expressions used in this paragraph and in that Act have the same meaning in this paragraph as in that Act.
- (2) The fact that the person’s gender has become the acquired gender does not affect the operation of section 14 of the 1993 Act (guaranteed minimum) in relation to the person, except to the extent that its operation depends on section 16 of the 1993 Act (revaluation); and sub-paragraphs (3) and (5) have effect subject to that.
- (3) If (immediately before the certificate is issued) the person is a woman who is entitled to a guaranteed minimum pension but has not attained the age of 65—
- (a) the person is for the purposes of section 13 of the 1993 Act and the guaranteed minimum pension provisions to be treated after it is issued as not having attained pensionable age (so that the entitlement ceases) but as attaining pensionable age on subsequently attaining the age of 65, and
 - (b) in a case where the person’s guaranteed minimum pension has commenced before the certificate is issued, it is to be treated for the purposes of Chapter 3 of Part 4 of the 1993 Act (anti-franking) as if it had not.
- (4) But sub-paragraph (3)(a) does not—
- (a) affect any pension previously paid to the person, or
 - (b) prevent section 15 of the 1993 Act (increase of guaranteed minimum where commencement of guaranteed minimum pension postponed) operating to increase the person’s guaranteed minimum by reason of a postponement of the commencement of the person’s guaranteed minimum pension for a period ending before the certificate is issued.
- (5) If (immediately before the certificate is issued) the person is a man who—
- (a) has attained the age of 60, but
 - (b) has not attained the age of 65,
- the person is to be treated for the purposes of section 13 of the 1993 Act and the guaranteed minimum pension provisions as attaining pensionable age when it is issued.

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- (6) If at that time the person has attained the age of 65, the fact that the person's gender has become the acquired gender does not affect the person's pensionable age for those purposes.
- (7) The fact that the person's gender has become the acquired gender does not affect any guaranteed minimum pension to which the person is entitled as a widow or widower immediately before the certificate is issued (except in consequence of the operation of the previous provisions of this Schedule).
- (8) If a transaction to which section 19 of the 1993 Act applies which is carried out before the certificate is issued discharges a liability to provide a guaranteed minimum pension for or in respect of the person, it continues to do so afterwards.
- (9) "The guaranteed minimum pension provision" means so much of the 1993 Act (apart from section 13) and of any other enactment as relates to guaranteed minimum pensions.

Guaranteed minimum pensions etc.: Northern Ireland

- 15
- (1) In this paragraph "the 1993 Act" means the Pension Schemes (Northern Ireland) Act 1993 (c. 49); and expressions used in this paragraph and in that Act have the same meaning in this paragraph as in that Act.
 - (2) The fact that the person's gender has become the acquired gender does not affect the operation of section 10 of the 1993 Act (guaranteed minimum) in relation to the person, except to the extent that its operation depends on section 12 of the 1993 Act (revaluation); and sub-paragraphs (3) and (5) have effect subject to that.
 - (3) If (immediately before the certificate is issued) the person is a woman who is entitled to a guaranteed minimum pension but has not attained the age of 65—
 - (a) the person is for the purposes of section 9 of the 1993 Act and the guaranteed minimum pension provisions to be treated after it is issued as not having attained pensionable age (so that the entitlement ceases) but as attaining pensionable age on subsequently attaining the age of 65, and
 - (b) in a case where the person's guaranteed minimum pension has commenced before the certificate is issued, it is to be treated for the purposes of Chapter 3 of Part 4 of the 1993 Act (anti-franking) as if it had not.
 - (4) But sub-paragraph (3)(a) does not—
 - (a) affect any pension previously paid to the person, or
 - (b) prevent section 11 of the 1993 Act (increase of guaranteed minimum where commencement of guaranteed minimum pension postponed) operating to increase the person's guaranteed minimum by reason of a postponement of the commencement of the person's guaranteed minimum pension for a period ending before the certificate is issued.
 - (5) If (immediately before the certificate is issued) the person is a man who—
 - (a) has attained the age of 60, but
 - (b) has not attained the age of 65,
 the person is to be treated for the purposes of section 9 of the 1993 Act and the guaranteed minimum pension provisions as attaining pensionable age when it is issued.

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- (6) If at that time the person has attained the age of 65, the fact that the person's gender has become the acquired gender does not affect the person's pensionable age for those purposes.
- (7) The fact that the person's gender has become the acquired gender does not affect any guaranteed minimum pension to which the person is entitled as a widow or widower [^{F1}or surviving civil partner] immediately before the certificate is issued (except in consequence of the operation of the previous provisions of this Schedule).
- (8) If a transaction to which section 15 of the 1993 Act applies which is carried out before the certificate is issued discharges a liability to provide a guaranteed minimum pension for or in respect of the person, it continues to do so afterwards.
- (9) "The guaranteed minimum pension provision" means so much of the 1993 Act (apart from section 9) and of any other enactment as relates to guaranteed minimum pensions.

Textual Amendments

- F1** Words in [Sch. 5 para. 15\(7\)](#) inserted (7.12.2020) by [The Marriage and Civil Partnership \(Northern Ireland\) \(No. 2\) Regulations 2020 \(S.I. 2020/1143\)](#), regs. 1(2), **43**

Equivalent pension benefits: Great Britain

- 16 (1) The provision that may be made by regulations under paragraph 15 of Schedule 3 to the Social Security (Consequential Provisions) Act 1992 (c. 6) (power to retain provisions repealed by Social Security Act 1973 (c. 38), with or without modification, for transitional purposes) includes provision modifying the preserved equivalent pension benefits provisions in consequence of this Act.
- (2) "The preserved equivalent pension benefits provisions" are the provisions of the National Insurance Act 1965 (c. 51) relating to equivalent pension benefits continued in force, with or without modification, by regulations having effect as if made under that paragraph.

Equivalent pension benefits: Northern Ireland

- 17 (1) The provision that may be made by regulations under paragraph 15 of Schedule 3 to the Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9) (corresponding power for Northern Ireland) includes provision modifying the Northern Ireland preserved equivalent pension benefits provisions in consequence of this Act.
- (2) "The Northern Ireland preserved equivalent pension benefits provisions" are the provisions of the National Insurance Act (Northern Ireland) 1966 (c. 6 (N.I.)) relating to equivalent pension benefits continued in force, with or without modification, by regulations having effect as if made under that paragraph.

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Changes to legislation:

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