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STATUTORY INSTRUMENTS

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**2005 No. 469**

**SOCIAL SECURITY**

**The Social Security (Retirement Pensions etc.)  
(Transitional Provisions) Regulations 2005**

<i>Made</i>	- - - -	<i>3rd March 2005</i>
<i>Laid before Parliament</i>		<i>10th March 2005</i>
<i>Coming into force</i>	- -	<i>6th April 2005</i>

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by paragraph 27 of Schedule 11 to the Pensions Act 2004<sup>(1)</sup> and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security (Retirement Pensions etc.) (Transitional Provisions) Regulations 2005 and shall come into force on 6th April 2005.

(2) In these Regulations—

“the Act” means the Social Security Contributions and Benefits Act 1992<sup>(2)</sup>;

“period of deferment” shall be construed in accordance with section 55(3) or, as the case may be, section 55C(3)<sup>(3)</sup>, of the Act;

“transitional case” means a case where a person’s entitlement to retirement pension or shared additional pension is deferred and the period of deferment begins before 6th April 2005 and continues on or after that day.

**Modification of Schedule 5 to the Act**

2.—(1) Schedule 5 to the Act (pension increase or lump sum where entitlement to retirement pension is deferred)<sup>(4)</sup> shall be modified in relation to transitional cases in accordance with the following paragraphs.

(2) In paragraph A1(1) (choice between increase of pension and lump sum where pensioner’s entitlement is deferred)—

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(1) 2004 c. 35.

(2) 1992 c. 4.

(3) Sections 55 and 55C were substituted respectively by the Pensions Act 2004, section 297(1) and (2).

(4) All the provisions of Schedule 5 that are being modified were inserted by Schedule 11 to the Pensions Act 2004.

- (a) after the words “12 months” there shall be inserted the words “and at least 12 months of that period fall after 5th April 2005”;
- (b) for paragraph (b) there shall be substituted the following paragraph—
- “(b) that paragraph 1 is to apply in relation to so much of the period of deferment as falls before the first day of the first accrual period (as defined by paragraph 3B(2)) beginning on or after 6<sup>th</sup> April 2005 and that paragraph 3A (entitlement to lump sum) is to apply in relation to the remainder of the period of deferment.”.
- (3) In paragraph 1(2) (increase of pension where pensioner’s entitlement is deferred), for the words from “that amount” to the end of the sub-paragraph, there shall be substituted—
- “(a) there are at least 7 incremental periods in the period of deferment;
- (b) there are at least 5 incremental periods in the period of deferment and the amount of the increment for at least one of those periods is calculated in accordance with paragraph 2(3) as in force in relation to incremental periods beginning on or after 6th April 2005; or
- (c) the person has made (or is treated as having made) an election under paragraph A1(1)(b) and there is at least one incremental period before the first day of the first accrual period (as defined by paragraph 3B(2)) beginning on or after 6th April 2005.”.
- (4) In paragraph 3B (calculation of lump sum)—
- (a) at the end of sub-paragraph (1), there shall be added the words “or, if greater, the amount equal to the total amount of Category A or Category B retirement pension which would have been payable to the person during the period of 12 months ending with the last day of the period of deferment if his entitlement had not been deferred”;
- (b) in the definition of “accrual period” in sub-paragraph (2), for the words “a prescribed day of the week”, there shall be substituted the words “the day of the week on which the person’s retirement pension would have been payable had his entitlement not been deferred”;
- (5) In paragraph 3C (choice between increase of pension and lump sum where pensioner’s deceased spouse has deferred entitlement)—
- (a) at the end of paragraph (1)(d), there shall be added the words “and throughout the period of 12 months beginning with 6th April 2005”;
- (b) for paragraph (2)(b) there shall be substituted the following paragraph—
- “(b) that paragraph 4 is to apply in relation to so much of S’s period of deferment as falls before the first day of the first accrual period (as defined by paragraph 7B(2)) beginning on or after 6<sup>th</sup> April 2005 and that paragraph 7A (entitlement to lump sum) is to apply in relation to the remainder of that period of deferment.”.
- (6) In paragraph 7B (calculation of lump sum)—
- (a) at the end of sub-paragraph (1), there shall be added the words “or, if greater, the amount equal to the total amount of Category A or Category B retirement pension which would have been payable to S during the period of 12 months ending with the day before his death if his entitlement had not been deferred”;
- (b) in the definition of “accrual period” in sub-paragraph (2), for the words “a prescribed day of the week”, there shall be substituted the words “the day of the week on which S’s retirement pension would have been payable had his entitlement not been deferred”.

### **Modification of Schedule 5A to the Act**

3.—(1) Schedule 5A to the Act (pension increase or lump sum where entitlement to shared additional pension is deferred) shall be modified in relation to transitional cases in accordance with the following paragraphs.

(2) In paragraph 1(1) (choice between increase of pension and lump sum where pensioner's entitlement is deferred)—

(a) after the words “12 months” there shall be inserted the words “and at least 12 months of that period fall after 5th April 2005”;

(b) for paragraph (b) there shall be substituted the following paragraph—

“(b) that paragraph 2 is to apply in relation to so much of the period of deferment as falls before the first day of the first accrual period (as defined by paragraph 5(2)) beginning on or after 6<sup>th</sup> April 2005 and that paragraph 4 (entitlement to lump sum) is to apply in relation to the remainder of the period of deferment.”.

(3) In paragraph 2(2) (increase of pension where pensioner's entitlement is deferred), for the words from “that amount” to the end of the sub-paragraph, there shall be substituted—

“(a) there are at least 7 incremental periods in the period of deferment;

(b) there are at least 5 incremental periods in the period of deferment and the amount of the increment for at least one of those periods is calculated in accordance with paragraph 3(2); or

(c) the person has made (or is treated as having made) an election under paragraph 1(1)(b) and there is at least one incremental period before the first day of the first accrual period (as defined by paragraph 5(2)) beginning on or after 6<sup>th</sup> April 2005.”

(4) In paragraph 5 (calculation of lump sum)—

(a) at the end of sub-paragraph (1), there shall be added the words “or, if greater, the amount equal to the total amount of shared additional pension which would have been payable to the person during the period of 12 months ending with the last day of the period of deferment if his entitlement had not been deferred”;

(b) in the definition of “accrual period” in sub-paragraph (2), for the words “a prescribed day of the week”, there shall be substituted the words “the day of the week on which the person's shared additional pension would have been payable had his entitlement not been deferred”;

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

3rd March 2005

*Malcolm Wicks*  
Parliamentary Under Secretary of State,  
Department for Work and Pensions

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations modify the provisions relating to the deferral of entitlement to retirement pension that are inserted in Schedule 5 to the Social Security Contributions and Benefits Act 1992 (“the 1992 Act”) by Schedule 11 to the Pensions Act 2004 (c. 35) (“the 2004 Act”). They also modify the new Schedule 5A relating to the deferral of entitlement to shared additional pension that is inserted in the 1992 Act by Schedule 11 to the 2004 Act.

In particular, they make transitional arrangements arising from a change in the incremental rate from  $\frac{1}{7}$ th per cent. to  $\frac{1}{5}$ th per cent. and from the introduction of an option to choose a lump sum when a person defers entitlement to their pension for at least 12 months.

Regulations 2(2) and 3(2) ensure that a person must have deferred their entitlement to their pension for at least 12 months after 5th April 2005 to be able to elect to receive a lump sum and they can either elect to receive increments in respect of their entire period of deferment or increments only in respect of the period up to 5th April 2005 and a lump sum in respect of the remainder of the period.

Regulations 2(3) and 3(3) allow a person to receive increments in certain circumstances, even if the amount of the aggregate of the increments is not enough to increase the rate of the pension by 1 per cent.

Regulations 2(4) and 3(4) provide that a lump sum can, if greater, consist of the total amount of pension a person would have received in the previous 12 months had his claim for retirement pension or shared additional pension commenced from that earlier date. This may arise for transitional cases because the increments accrued in respect of the period prior to 6th April 2005 (when no lump sum could be accrued) would necessarily form part of the weekly pension and hence be included in the calculation of pension arrears where a person claims from an earlier date. Regulations 2(4) and 3(4) also ensure that the lump sum starts to accrue from the first pension pay day following 5th April 2005.

Regulation 2(5) to (7) makes corresponding provision for calculating entitlement to a lump sum or increments for the surviving spouse when the deceased was deferring entitlement to retirement pension and his or her period of deferment spans 6th April 2005.

A full Regulatory Impact Assessment has not been produced for this Instrument as it has no impact on the costs of business.