

**EXPLANATORY MEMORANDUM TO**  
**THE SOCIAL SECURITY (MISCELLANEOUS AMENDMENTS) (NO.6)**  
**REGULATIONS**

**2009 No. 3229**

**1.** This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 These regulations are being introduced to change the existing rules for making payments of Retirement Pension and State Pension Credit. They will affect people who reach pensionable age on or after 6 April 2010. They provide that benefit will be paid in arrears, on a day based on the customer's National Insurance number. They also provide that payments may be made fortnightly, introduce part week payments of Retirement Pension if certain criteria are satisfied and change the State Pension Credit rules to take account of the introduction of part week payments.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

**4. Legislative Context**

4.1 These regulations introduce amendments to the existing regulations that govern the payment of benefit for people of pensionable age (the date at which they qualify for Retirement Pension). The changes affect people who reach pensionable age on or after 6 April 2010. The intention is to align payment arrangements for Retirement Pension and State Pension Credit with the changes that introduced new payment arrangements in 2009 for the benefits paid to people of working age. They also introduce rules to make a part-week payment of Retirement Pension where a gap in benefit entitlement would otherwise occur when a customer moves from a working age benefit to a pension age benefit. Changes to the State Pension Credit rules have been made to take account of the new part-week payments of Retirement Pension. The regulations do not affect the legislative arrangements in place for people who reach pensionable age before 6 April 2010.

**5. Territorial Extent and Application**

5.1 This instrument applies to Great Britain.

5.2 Equivalent provision will be made for Northern Ireland by statutory rules.

**6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## 7. Policy background

- *What is being done and why*

7.1 The proposals in these regulations are designed to change the payment arrangements for Retirement Pension and State Pension Credit for people who reach pensionable age on or after 6 April 2010. The payment of benefit has three components – whether it is paid in advance or in arrears, the frequency of payment and the day of the week on which it is paid.

7.2 The regulations make four main changes and a number of consequential amendments. The four main provisions are that they provide that Retirement Pension and State Pension Credit will be paid in arrears not in advance. They introduce a provision that will permit Retirement Pension and State Pension Credit to be paid fortnightly. They also provide that for Retirement Pension and State Pension Credit benefit will be paid on a payday that is allocated according to the final two digits of the customer's National Insurance number. The fourth main provision introduces a new measure to make a part week payment of Retirement Pension if the customer previously received a social security benefit that stopped when they reach pensionable age and there is a gap in their entitlement until the start of their first full benefit week for Retirement Pension. In addition the existing provisions for part week payments of State Pension Credit will be changed. When a customer moves to the guarantee credit in State Pension Credit from another income related benefit, any part-week payment of Retirement Pension will be taken into account when calculating their State Pension Credit entitlement. (The guarantee credit provides financial help for people who have reached the minimum qualifying age whose income is below a certain level.)

7.3 The intention is not to make any changes for the payment arrangements of people who reach pensionable age before 6 April 2010 (including people who have not yet claimed their Retirement Pension for example because they have decided to defer taking it).

7.4 Similar changes to payment arrangements were introduced in 2009 to benefits paid to people of working age and the proposals are designed to align payment arrangements across a range of social security benefits. This will improve the transition from one benefit to another. At present when a person moves from a working age benefit to Retirement Pension or State Pension Credit their existing payment arrangements usually have to be altered and this is confusing for customers. By introducing common rules across several benefits people will retain their existing arrangements when they transfer. It is estimated that around 500,000 people will reach pensionable age in 2010/11 and that of these about one third (150,000) will be people who transfer from a social security benefit to Retirement Pension or State Pension Credit.

7.5 The move to payment of Retirement Pension in arrears will leave some people without funds when they transfer from a working age to pension age benefit. The introduction of the part-week payment of Retirement Pension is designed to close the gap for the most vulnerable people not currently covered by existing legislation. People moving from one income related benefit to another (for example from Income Support to State Pension Credit) are already protected under the State Pension Credit regulations. However people moving from, for example, Incapacity Benefit to Retirement Pension would not be protected unless Retirement Pension is paid for the part-week from the day they reach pensionable age.

- ***Consolidation***

7.6 Informal consolidation of this instrument will be included in due course in the Department's "the law relating to Social Security" (the Blue Volumes) which are available at no cost to the public on the internet at:  
<http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/>

It is also the Department's intention to consolidate the Social Security (Claims and Payments) Regulations within the next two years, dependent on resource availability.

## **8. Consultation outcome**

8.1 It has not been possible to conduct a full 12 week consultation. The desire to introduce these changes in conjunction with the reforms to state pensions (so that operational and IT changes could be introduced at the same time) has reduced the time available for consultation. During the development of the changes the Department conducted initial discussions with key stakeholders to obtain their views. Once the proposals had been developed the Department consulted with key stakeholders via the Department for Work and Pensions Policy and Strategy Forum. The members of this forum include representatives from: Advice Services Alliance, Advice UK, Age Concern England, Association of Directors of Adult Social Services, Barnardos, Carers UK, Child Poverty Action Group, Citizens Advice, Citizens Advice Scotland, Disability Alliance, Local Government Association, Low Income Tax Reform Group, Macmillan Cancer Care, Making Space, MENCAP, MIND The Mental Health Charity, NACRO, National Association of Welfare Rights Advisers, National Deaf Children's Society, National Pensioners Convention, Gingerbread, RADAR ,Refugee Council, RETHINK, RNIB, RNID, SHELTER and the TUC.

8.2 The members of the forum acknowledged that there were some advantages to aligning the payment arrangements for customers across a number of benefits, but raised concerns about: the potential for disruption to the payment arrangements of existing customers; the financial disadvantage to customers of moving from weekly payments in advance to payments in arrears; previous commitments not to alter payment arrangements of pensioners; and the importance of communicating the changes clearly.

8.3 The proposed changes will not disrupt the existing payment arrangements for current pensioners. The new rules are designed to reduce the disruption that would otherwise occur when people move from a working age benefit to a pension age benefit. Customers who have been allocated a payday based on their National Insurance number for their working age benefit will retain this payday when they claim their state pensions.

8.4 The move to weekly payments in arrears may disadvantage customers and proposals have been introduced to protect the most vulnerable from this change. The introduction of payments of Retirement Pension from pensionable age for people moving from a working age benefit will bridge the gap to the start of the first full week of Retirement Pension. People in receipt of State Pension Credit may already get that benefit from pensionable age under existing rules so are already protected. Financial constraints have meant we have focused resources on those with most need.

8.5 The Government has previously given an undertaking not to change the payment arrangements for current pensioners. [*HC Debate 31 March 2003 vol 402 cc605-6W* <http://www.publications.parliament.uk/pa/cm200203/cmhansrd/vo030331/index/30331-x.htm>] These proposals support that undertaking since they make no changes to current pensioners' payment arrangements.

8.6 The Department agrees that it is essential it communicate the changes clearly and is reviewing the range of products affected to ensure a clear message is included.

## **9. Guidance**

9.1 Changes will be made to the publications produced by the Department for Work and Pensions for customers - including the claim packs for Retirement Pension and State Pension Credit, leaflets and web pages. Training and support materials are being introduced for staff who will administer the new arrangements. Guidance and support material will be developed for advisers.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is none.

10.2 The impact on the public sector is low as a result of the necessary technology, guidance, training and other administrative changes being developed and delivered alongside the main state pension reforms. Further, the move to payment in arrears will, over time, help to reduce the level of overpayments that may otherwise occur following the death of a customer, and thus administration costs also.

10.3 A full impact assessment has not been prepared for this instrument.

## **11. Regulating small business**

11.1 The legislation does not apply to small business.

## **12. Monitoring & review**

12.1 The regulations are designed to improve the transfer of customers from one benefit to another as they reach pensionable age. By aligning the rules with other benefits it will be easier for customers to understand and for staff to administer. The change to payment in arrears will also reduce the level of overpayments of benefit that occur following the death of the customer. The Department for Work and Pensions will use existing procedures to monitor the accuracy of payments and to evaluate the impact of the new arrangements.

## **13. Contact**

Teresa Cox at the Department for Work and Pensions Tel: 0207 449 7146 or email: [Teresa.Cox@dwp.gsi.gov.uk](mailto:Teresa.Cox@dwp.gsi.gov.uk) can answer any queries regarding the instrument.