

*Status: Point in time view as at 10/04/2023.*

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## 2015 CHAPTER 5

### **PART 1**

#### STATE PENSION

##### *Transitional entitlement based on contributions of others*

#### **Survivor's pension based on inheritance of additional old state pension**

7.—(1) A person is entitled to a state pension under this section if—

- (a) the person has reached pensionable age,
- (b) the person's spouse died while they were married or the person's civil partner died while they were civil partners of each other, and
- (c) the person is entitled to an inherited amount under Schedule 3.

(2) A state pension under this section is payable at a weekly rate equal to the inherited amount.

(3) The rate of the state pension for a person under this section is to be increased from time to time in accordance with the applicable paragraph of Schedule 4.

(4) Regulations may provide that if at any time the sum of the relevant state pensions for a person exceeds an amount provided for by regulations, the rate of any state pension payable to the person under this section is to be reduced by the amount of the excess.

(5) The “sum of the relevant state pensions” for a person is the sum of—

- (a) the rate of any state pension payable to the person under this section (ignoring any reduction under subsection (4)), and
- (b) the rate of any state pension payable to the person under section 2, 4 or 12.

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(6) In subsections (4) and (5) a reference to the rate of a person's state pension is to the rate—

- (a) taking into account any reduction under section 14 (in the case of a state pension under section 4), but
- (b) ignoring any increase under section 17.

(7) There are provisions elsewhere that affect a person's entitlement to a state pension under this section or the rate at which it is payable.

#### Commencement Information

II S. 7 in operation at 6.4.2016, see [s. 53\(1\)\(3\)](#)

### Choice of lump sum or survivor's pension under section 9 in certain cases

8.—(1) A person is entitled to a choice under this section if—

- (a) the person has reached pensionable age,
- (b) the person's spouse died while they were married or the person's civil partner died while they were civil partners of each other,
- (c) the spouse's or civil partner's entitlement to an old state pension was deferred at the time of death and throughout the period of 12 months ending with the day before the death,
- (d) either—
  - (i) the person was under pensionable age when the spouse or civil partner died and did not marry or form a civil partnership after the death and before reaching pensionable age, or
  - (ii) the person was over pensionable age when the spouse or civil partner died, and
- (e) the person would, on reaching pensionable age or on the death of the spouse or civil partner, have been entitled to an old state pension if in the relevant provisions of the Contributions and Benefits Act—
  - (i) the words “before 6 April 2016” were omitted, and
  - (ii) any reference to a bereavement allowance included a reference to bereavement support payment under section 29 of this Act.

(2) The person may choose—

- (a) to be paid a lump sum under this section, or
- (b) to be paid a state pension under section 9.

(3) Regulations are to set out the manner in which, and the period within which, that choice is to be made.

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(4) A person who chooses to be paid a lump sum under this section, or who fails to choose within that period, is entitled to a “widowed person's or surviving civil partner's lump sum” calculated under paragraph 7B of Schedule 5 to the Contributions and Benefits Act.

(5) In that paragraph as it applies for the purposes of this section—

- (a) read the references to “W” as references to the person,
- (b) read sub-paragraph (5) as if it required increases under paragraph 4 of the Schedule to be excluded, and
- (c) read the reference in sub-paragraph (7)(a) to the date on which W becomes entitled to a Category A or Category B retirement pension as a reference to the date on which the person becomes entitled to make a choice under this section.

(6) There are provisions elsewhere that affect a person's entitlement to a lump sum under this section.

(7) Regulations may allow a person, in specified circumstances—

- (a) to alter his or her choice under this section;
- (b) to make a late choice.

(8) Regulations under subsection (7) may, for the purpose of avoiding the duplication of payment—

- (a) enable recovery of an amount paid to the person, or
- (b) reduce the amount of a lump sum to be paid to the person.

(9) For the purposes of this section—

- (a) “deferred” has the meaning given by section 55(3) of the Contributions and Benefits Act,
- (b) “the relevant provisions” of the Contributions and Benefits Act are—
  - section 44(1)(a);
  - section 48(1);
  - section 48A(1) and (3);
  - section 48B(1), (1A), (4) and (4A);
  - section 48BB(1) and (3), and
- (c) in determining whether a person would have been entitled to an old state pension as mentioned in subsection (1)(e) ignore any requirement to make a claim.

#### Commencement Information

**I2** S. 8(3)(7)(8) in operation at 16.7.2015 for specified purposes by [S.R. 2015/307](#), [art. 2\(2\)\(c\)](#)

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- I3** S. 8 in operation at 6.4.2016 so far as not brought into operation earlier by an order, see [s. 53\(1\)\(3\)](#)

### **Survivor's pension based on inheritance of deferred old state pension**

- 9.—(1)** A person is entitled to a state pension under this section if—
- (a) the person has reached pensionable age,
  - (b) the person's spouse died while they were married or the person's civil partner died while they were civil partners of each other,
  - (c) either—
    - (i) the person was under pensionable age when the spouse or civil partner died and did not marry or form a civil partnership after the death and before reaching pensionable age, or
    - (ii) the person was over pensionable age when the spouse or civil partner died,
  - (d) the person is entitled to an inherited deferral amount under Schedule 5, and
  - (e) in the case of a person entitled to a choice under section 8, the person has chosen to be paid a state pension under this section.
- (2) A state pension under this section is payable at a weekly rate equal to the inherited deferral amount.
- (3) But if at any time an order under section 132B of the Social Security Administration (Northern Ireland) Act 1992 (in this Act referred to as “the Administration Act”) comes into operation, the rate of the person's state pension under this section is increased (at that time) by the percentage specified in the order.
- (4) A person may be entitled to more than one state pension under this section.
- (5) There are provisions elsewhere that affect a person's entitlement to a state pension under this section or the rate at which it is payable.

#### **Modifications etc. (not altering text)**

- C1** S. 9 sums amended (with effect in accordance with arts. 1(3), 7 of the amending Rule) by [The Social Security Benefits Up-rating Order \(Northern Ireland\) 2017 \(S.R. 2017/56\)](#), arts. 1(1)(c), **6(4)(a)**
- C2** S. 9 sums amended (25.9.2017) by [The Social Security Benefits Up-rating \(No. 2\) Order \(Northern Ireland\) 2017 \(S.R. 2017/187\)](#), arts. 1, **6(3)(a)**
- C3** S. 9 sums amended (24.3.2018) by [The Social Security \(2017 Benefits Up-rating\) Order \(Northern Ireland\) 2018 \(S.R. 2018/56\)](#), arts. 1, **6(3)(a)**
- C4** S. 9 sums amended (with effect in accordance with arts. 1(2)(3), 7 of the amending Rule) by [The Social Security Benefits Up-rating Order \(Northern Ireland\) 2018 \(S.R. 2018/58\)](#), arts. 1(1)(c), **6(4)(a)**

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- C5** S. 9 sums amended (29.9.2018) by [The Social Security Benefits Up-rating \(No. 2\) Order \(Northern Ireland\) 2018 \(S.R. 2018/167\)](#), arts. 1, **6(3)(a)**
- C6** S. 9 sums amended (26.3.2019) by [The Social Security \(2018 Benefits Up-rating\) Order \(Northern Ireland\) 2019 \(S.R. 2019/46\)](#), arts. 1, **6(3)(a)**
- C7** S. 9 sums amended (with effect in accordance with arts. 1(2)(3), 7 of the amending Rule) by [The Social Security Benefits Up-rating Order \(Northern Ireland\) 2019 \(S.R. 2019/58\)](#), arts. 1(1)(c), **6(4)(a)**
- C8** S. 9 sums amended (27.9.2019) by [The Social Security Benefits Up-rating \(No. 2\) Order \(Northern Ireland\) 2019 \(S.R. 2019/188\)](#), arts. 1, **6(3)(a)**
- C9** S. 9 sums amended (with effect in accordance with arts. 1(2)(3)(a), 7 of the amending Rule) by [The Social Security Benefits Up-rating Order \(Northern Ireland\) 2020 \(S.R. 2020/40\)](#), arts. 1(1)(c), **6(4)(a)**
- C10** S. 9: sums amended (with effect in accordance with arts. 1(2)(3), 7 of the amending Rule) by [The Social Security Benefits Up-rating Order \(Northern Ireland\) 2021 \(S.R. 2021/82\)](#), arts. 1(1)(c), **6(4)(a)**
- C11** S. 9: sums amended (with effect in accordance with arts. 1(2)(3)(a), 7 of the amending Rule) by [The Social Security Benefits Up-rating Order \(Northern Ireland\) 2022 \(S.R. 2022/143\)](#), arts., **6(4)(a)**
- C12** S. 9: sums modified (28.9.2022) by [The Social Security Benefits Up-rating \(No. 2\) Order \(Northern Ireland\) 2022 \(S.R. 2022/231\)](#), arts. 1, **6(3)(a)**
- C13** S. 9: sum modified (27.3.2023) by [The Social Security \(2022 Benefits Up-rating\) Order \(Northern Ireland\) 2023 \(S.R. 2023/27\)](#), arts. 1, **6(3)(a)**
- C14** S. 9: sums modified (with effect in accordance with arts. 1(2)(3), 7 of the amending Rule) by [The Social Security Benefits Up-rating Order \(Northern Ireland\) 2023 \(S.R. 2023/43\)](#), arts. 1(1)(c), **6(4)(a)**

#### **Commencement Information**

- I4** S. 9 in operation at 6.4.2016, see s. 53(1)(3)

### **Inheritance of graduated retirement benefit**

**10.—(1)** Regulations may make provision corresponding or similar to any provision of sections 7 to 9 and Schedules 3 to 5 for the purpose of conferring benefits on a person whose dead spouse or civil partner paid graduated contributions as an insured person.

(2) The regulations may—

- (a) include provision corresponding or similar to any provision that may be made by regulations under section 7 or 8;
- (b) amend or otherwise modify this Act or any other statutory provision (whenever passed or made).

(3) In this section “graduated contributions” and “insured person” have the meanings given by section 35(8) of the National Insurance Act (Northern Ireland) 1966.

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#### **Commencement Information**

- I5** S. 10 in operation at 25.2.2016 for specified purposes by [S.R. 2016/68, art. 2\(b\)](#)
- I6** S. 10 in operation at 6.4.2016 so far as not brought into operation earlier by an order, see [s. 53\(1\)\(3\)](#)

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