



2015 CHAPTER 5

PART 1

STATE PENSION

*Introduction*

**State pension**

1.—(1) This Part creates a benefit called state pension.

(2) A person who reaches pensionable age before 6 April 2016 is not entitled to benefits under this Part (but may be entitled to similar benefits under Part 2 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (in this Act referred to as “the Contributions and Benefits Act”)).

*State pension at the full or reduced rate*

**Entitlement to state pension at full or reduced rate**

2.—(1) A person is entitled to a state pension payable at the full rate if—

- (a) the person has reached pensionable age, and
- (b) the person has 35 or more qualifying years.

(2) A person is entitled to a state pension payable at the reduced rate if—

- (a) the person has reached pensionable age, and
- (b) the person has at least the minimum number of qualifying years but fewer than 35 qualifying years.

(3) The minimum number of qualifying years for a state pension payable at the reduced rate is to be specified in regulations and may not be more than 10.

(4) In this Part “qualifying year” means a tax year, during a person’s working life, in which the person’s earnings factor (or the sum of the person’s earnings factors) is equal to or greater than the qualifying earnings factor for the year.

(5) “Earnings factor” is to be construed in accordance with sections 22 and 23 of the Contributions and Benefits Act.

(6) For transitional cases in which a person may be entitled to a different state pension (instead of a state pension under this section), see sections 4 and 12.

(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.

### **Full and reduced rates of state pension**

**3.—**(1) The full rate of the state pension is the weekly rate for the time being specified in regulations.

(2) The reduced rate of the state pension for a person is the following proportion of the full rate—

$$\frac{1}{35} \times \text{the person's number of qualifying years}$$

(3) Once the full rate has been specified, the power to make regulations under subsection (1) may not be re-exercised so as to reduce the rate.

### *State pension at the transitional rate*

### **Entitlement to state pension at transitional rate**

**4.—**(1) A person is entitled to a state pension payable at the transitional rate if—

- (a) the person has reached pensionable age,
- (b) the person has at least the minimum number of qualifying years, and
- (c) the person has at least one pre-commencement qualifying year.

(2) The minimum number of qualifying years for a state pension payable at the transitional rate is to be specified in regulations and may not be more than 10.

(3) A person entitled to a state pension payable at the transitional rate is not entitled to a state pension under section 2.

(4) In this Part—

“post-commencement qualifying year” means a qualifying year beginning on or after 6 April 2016;

“pre-commencement qualifying year” means—

- (a) a qualifying year beginning on or after 6 April 1978 and ending before 6 April 2016, or
- (b) a reckonable year that would have been treated under regulation 13(1) of the Social Security (Widow’s Benefit, Retirement Pensions and Other Benefits) (Transitional) Regulations (Northern Ireland) 1979 as a qualifying year for the purposes of determining the person’s entitlement to an old state pension that is a Category A retirement pension.

(5) A reckonable year mentioned in paragraph (b) of the definition of “pre-commencement qualifying year” in subsection (4) counts towards the minimum number of qualifying years required by subsection (1)(b) (even though it does not come within the definition of “qualifying year” for the purposes of this Part).

(6) “Earnings factor” is to be construed in accordance with sections 22 and 23 of the Contributions and Benefits Act.

(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.

### **Transitional rate of state pension**

5.—(1) The transitional rate of the state pension for a person is a weekly rate equal to—

- (a) the sum of the amounts calculated under Schedule 1 for the person’s pre-commencement and post-commencement qualifying years capped at the full rate of the state pension on the day on which the person reaches pensionable age, or
- (b) if higher, the amount for the person’s pre-commencement qualifying years alone.

(2) The transitional rate of the state pension for a person is to be increased from time to time in accordance with the applicable paragraph of Schedule 2.

(3) Section 6 requires the transitional rate of the state pension for a person to be recalculated in certain circumstances.

(4) There are special rules about the transitional rate for certain women: see section 11 (reduced rate elections).

### **Recalculation and backdating of transitional rate in special cases**

6.—(1) This section modifies the transitional rate of the state pension for a person if, after the person has reached pensionable age, a determination is made under section 44A(2) of the Pension Schemes (Northern Ireland) Act 1993 (in this Act referred to as “the Pension Schemes Act”) (contracting-out:

reinstatement in state scheme following payment of contributions equivalent premium).

(2) The person's transitional rate is to be recalculated (taking the determination into account under paragraph 3(8) of Schedule 1).

(3) The recalculated rate has effect as from the day on which the person reached pensionable age (and the other provisions of this Part apply accordingly).

*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.

(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.

**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.
- (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.

### **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.

### **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.

*Transition: women who have had a reduced rate election*

### **Reduced rate elections: effect on section 4 pensions**

**11.—**(1) Section 4(1)(b) (minimum number of qualifying years for state pension at the transitional rate) does not apply to a woman if a reduced rate election was in force in respect of her at the beginning of the relevant 35-year period.

(2) Schedule 6 modifies the rules about the transitional rate of the state pension for a woman if a reduced rate election was in force in respect of her at the beginning of the relevant 35-year period.

(3) In this section—

“reduced rate election” means an election made, or treated as having been made, under regulations under section 19(4) of the Contributions and Benefits Act;

“relevant 35-year period” means the 35-year period ending with the tax year before the one in which the woman reached pensionable age.

**Reduced rate elections: pension for women with no section 4 pension**

**12.—**(1) A woman is entitled to a state pension under this section if—

- (a) she has reached pensionable age,
- (b) a reduced rate election was in force in respect of her at the beginning of the relevant 35-year period,
- (c) she does not have any pre-commencement qualifying years, and
- (d) she is entitled to a basic amount under Schedule 7.

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

(3) But if at any time the full rate of the state pension is increased, the rate of the woman’s state pension under this section is increased (at that time) by the same percentage as the increase in the full rate.

(4) In subsection (3) the reference to the rate of the woman’s state pension is to the rate ignoring any increase under section 17.

(5) A woman is not entitled to a state pension under this section and section 2 at the same time: she is only entitled to the one with the higher rate.

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

(7) In this section—

“reduced rate election” means an election made, or treated as having been made, under regulations under section 19(4) of the Contributions and Benefits Act;

“relevant 35-year period” means the 35-year period ending with the tax year before the one in which the woman reached pensionable age.

*Transition: pension sharing on divorce etc.*

**Shared state pension on divorce etc.**

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

- (a) the person has reached pensionable age, and
- (b) the person is entitled to a state scheme pension credit.

(2) A state pension under this section is payable at the appropriate weekly rate set out in Schedule 8.



(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 9.

(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.

(6) In this Part—

“state scheme pension credit” means—

(a) a new state scheme pension credit, or

(b) an old state scheme pension credit;

“new state scheme pension credit” means a credit under Article 46A(2)(b) of the Welfare Reform and Pensions (Northern Ireland) Order 1999;

“old state scheme pension credit” means a credit under Article 46(1)(b) of that Order.

#### **Pension sharing: reduction in the sharer's section 4 pension**

**14.**—(1) The rate of a person's state pension under section 4 is reduced under this section if the person is subject to a state scheme pension debit.

(2) The amount by which the rate is reduced is the amount of the appropriate weekly reduction set out in Schedule 10.

(3) A person's state pension may be reduced more than once under this section.

(4) In this Part—

“state scheme pension debit” means—

(a) a new state scheme pension debit, or

(b) an old state scheme pension debit;

“new state scheme pension debit” means a debit under Article 46A(2)(a) of the Welfare Reform and Pensions (Northern Ireland) Order 1999;

“old state scheme pension debit” means a debit under Article 46(1)(a) of that Order.

#### **Pension sharing: amendments**

**15.** Schedule 11 contains amendments to do with pension sharing.

*Postponing or suspending state pension*

**Pensioner's option to suspend state pension**

**16.—**(1) A person who has become entitled to a state pension under this Part may opt to suspend his or her entitlement in accordance with regulations.

(2) A person is not entitled to any state pension under this Part for the period for which the person has opted to suspend his or her entitlement.

(3) For other effects of a person exercising the option, see section 17.

(4) A person may not opt to suspend his or her entitlement to a state pension under this Part on more than one occasion.

(5) Regulations may specify other circumstances in which a person may not opt to suspend his or her entitlement to a state pension under this Part.

(6) Regulations may allow a person who has opted to suspend his or her entitlement to a state pension under this Part to cancel the exercise of that option (in whole or in part) in relation to a past period.

**Effect of pensioner postponing or suspending state pension**

**17.—**(1) If a person's entitlement to a state pension under this Part has been deferred for a period, the weekly rate of the person's state pension is increased by an amount equal to the sum of the increments to which the person is entitled.

(2) But the weekly rate is not to be increased under subsection (1) if the increase would be less than 1% of the person's weekly rate ignoring that subsection.

(3) A person is entitled to one increment for each whole week in the period during which the person's entitlement to a state pension was deferred.

(4) The amount of an increment is equal to a specified percentage of the weekly rate of the state pension to which the person would have been entitled immediately before the end of that period if the person's entitlement had not been deferred.

(5) In subsection (4) "specified" means specified in regulations.

(6) The amount of an increase under this section is itself to be increased from time to time in accordance with any order made under section 132 of the Administration Act (annual up-rating of benefits).

(7) For the purposes of this section and section 18 a person's entitlement to a state pension under this Part is deferred for a period if the person has opted under section 16 to suspend his or her entitlement for that period.

(8) For the purposes of this section and section 18 a person's entitlement to a state pension under this Part is also deferred for a period if the person is not entitled to it for that period by reason only of—

- (a) not satisfying the conditions in section 1 of the Administration Act (entitlement dependent on claim etc.), or
- (b) subsection (9).

(9) A person is not entitled to a state pension under this Part for any period during which his or her entitlement to any other state pension under this Part is deferred.

### **Section 17 supplementary: calculating weeks, overseas residents, etc.**

**18.—**(1) Regulations may—

- (a) provide for circumstances in which a part of a week is to be treated for the purposes of section 17(3) as a whole week, and
- (b) provide for circumstances in which a day does not count in determining a number of whole weeks for the purposes of section 17(3) (for example if the person is receiving other benefits).

(2) Regulations may modify section 17(4) in cases where, at any time in the period during which a person's entitlement to a state pension is deferred, the rate for the person would have changed otherwise than because of an up-rating increase.

(3) Regulations may modify section 17(4) in relation to a person who has been an overseas resident during any part of the period for which the person's entitlement to a state pension has been deferred.

(4) In subsection (3) "overseas resident" means a person who is not ordinarily resident in Northern Ireland or any other territory specified in the regulations.

(5) Regulations may amend the percentage specified in section 17(2).

### *Prisoners and overseas residents*

#### **Prisoners**

**19.—**(1) Regulations may provide that a person is not to be paid a state pension under this Part for any period during which the person is a prisoner.

- (2) "Prisoner" means a person (in Northern Ireland or elsewhere) who is—
  - (a) imprisoned or detained in legal custody, or
  - (b) unlawfully at large.

(3) In the case of a person remanded in custody for an offence, regulations under subsection (1) may be made so as to apply only if a sentence of a specified description is later imposed on the person for the offence.

**Overseas residents**

**20.—**(1) Regulations may provide that an overseas resident who is entitled to a state pension under this Part is not entitled to up-rating increases.

(2) In this section “overseas resident” means a person who is not ordinarily resident in Northern Ireland or any other territory specified in the regulations.

(3) Regulations under this section do not affect the rate of an overseas resident’s state pension for any period during which he or she is in Northern Ireland or a territory specified in the regulations (but once the overseas resident ceases to be in Northern Ireland or a specified territory the rate reverts to what it would have been had he or she not been in Northern Ireland or a specified territory).

(4) Regulations under this section do not affect the rate of a person’s state pension once the person stops being an overseas resident.

*Definitions***“Old state pension”**

**21.—**(1) In this Part “old state pension” means a Category A retirement pension or a Category B retirement pension.

(2) A reference in this Part to the rate of an old state pension (however expressed) does not include—

- (a) graduated retirement benefit under the National Insurance Act (Northern Ireland) 1966, or
- (b) any increase in the rate because of Schedule 5 to the Contributions and Benefits Act (deferral increases).

**General definitions etc.**

**22.—**(1) In this Part—

“Category A retirement pension” means a Category A retirement pension under Part 2 of the Contributions and Benefits Act;

“Category B retirement pension” means a Category B retirement pension under Part 2 of the Contributions and Benefits Act;

“full rate” means the rate mentioned in section 3(1);

“old state pension” has the meaning given by section 21 (and references to the rate of an old state pension are to be read in accordance with that section);

“pensionable age” has the meaning given by section 121(1) of the Contributions and Benefits Act; and a person is “over” pensionable age if the person has reached that age (and is otherwise “under” that age);

“post-commencement qualifying year” has the meaning given by section 4(4);

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*Status: This is the original version (as it was originally enacted).*

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“pre-commencement qualifying year” is to be read in accordance with section 4(4) and (5);

“qualifying earnings factor” has the meaning given by section 121(1) of the Contributions and Benefits Act;

“qualifying year” has the meaning given by section 2(4);

“reduced rate” means the rate mentioned in section 3(2);

“regulations” means regulations made by the Department;

“state scheme pension credit”, and related expressions, have the meanings given by section 13;

“state scheme pension debit”, and related expressions, have the meanings given by section 14;

“tax year” has the meaning given by section 121(1) of the Contributions and Benefits Act;

“transitional rate” means the rate mentioned in section 5;

“up-rating increase”, in relation to a state pension under this Part, means—

- (a) an increase in the rate of the state pension because of an increase in the amount specified in regulations under section 3(1), or
- (b) an increase in the rate of the state pension because of section 9(3), 12(3) or 17(6) or Schedule 2, 4 or 9;

“working life” has the meaning given by section 121(1) of the Contributions and Benefits Act.

(2) For the purposes of any other provision of this Part two people are to be treated as if they are not married to each other in relation to times when either of them is married to a third person.

### *Consequential and other amendments*

#### **Amendments**

**23.** In Schedule 12—

Part 1 contains amendments to do with state pensions under this Part;

Part 2 contains key amendments to do with the old state pension system;

Part 3 contains amendments to do with state pension credit;

Part 4 contains other amendments to do with this Part.

#### **Abolition of contracting-out for salary related schemes etc.**

**24.—(1)** Schedule 13 contains amendments to abolish contracting-out for salary related schemes.

(2) An employer may amend an occupational pension scheme in relation to some or all of its members to take account of increases in the employer's national insurance contributions in respect of some or all of the members to whom the amendments apply because of the repeal of section 37 of the Pension Schemes Act (by Schedule 13).

(3) The power may be used to make amendments that will apply in relation to future members and correspond to the amendments being made in relation to current members.

(4) The power may not be used—

(a) to make amendments that apply to a member who is a protected person in relation to a scheme, or

(b) to amend a public service pension scheme or a scheme of a description specified in regulations under this paragraph.

(5) Regulations must define what is meant by a protected person in relation to a scheme for the purposes of subsection (4)(a).

(6) Schedule 14 contains more detail about the power.

(7) In this section and Schedule 14—

“current member”, in relation to a scheme, means a person who is a member of the scheme at the time that the power is used (and “future member” is to be read accordingly);

“employer”, in relation to a scheme, means the employer of persons in the description of employment to which the scheme relates;

“member” has the meaning given by Article 121(1) of the Pensions (Northern Ireland) Order 1995 (in this Act referred to as “the 1995 Order”);

“national insurance contributions”, in relation to an employer, means secondary Class 1 national insurance contributions payable by the employer;

“occupational pension scheme” has the meaning given by section 1 of the Pension Schemes Act;

“public service pension scheme” has the meaning given by that section.

(8) Subsections (2) to (7) and Schedule 14 are repealed at the end of the period of 5 years beginning with 6 April 2016.

(9) The Department may by order amend subsection (8) to extend the period for the time being mentioned there.