

2016 No. 195

PENSIONS

The Pensions (2015 Act) (Transitional and Transitory Provisions) Order (Northern Ireland) 2016

Made - - - - - *24th March 2016*

Coming into operation - - - - - *6th April 2016*

The Department for Social Development makes the following Order in exercise of the power conferred by section 53(5) of the Pensions Act (Northern Ireland) 2015(a).

Citation, commencement and cessation

1.—(1) This Order may be cited as the Pensions (2015 Act) (Transitional and Transitory Provisions) Order (Northern Ireland) 2016 and shall come into operation on 6th April 2016.

(2) Article 2 ceases to have effect on the day on which section 29 of the Pensions Act (Northern Ireland) 2015 (bereavement support payment) comes fully into operation.

Transitory provision

2. Section 36(1)(a) of the Contributions and Benefits Act(b) (bereavement payment) is to be read as if after “under section 44 below” the words “or a state pension under Part 1 of the Pensions Act (Northern Ireland) 2015” appear.

Transitional provisions

3.—(1) This Article applies to a case in which the spouse or civil partner mentioned in paragraph 3(1) of Schedule 3 to the Pensions Act (Northern Ireland) 2015 (survivor’s pension: inherited amount where dead spouse or civil partner was in the old state pension) died—

- (a) on or after 6th April 2016; but
- (b) before the day on which section 29 of the Pensions Act (Northern Ireland) 2015 comes fully into operation.

(2) In a case to which this Article applies—

- (a) paragraph 3(1)(d) of Schedule 3 to the Pensions Act (Northern Ireland) 2015 is to be read as if it provides—

“(d) the pensioner would, on reaching pensionable age, have been entitled to a Category B retirement pension under section 48BB of the Contributions and

(a) 2015 (c. 5 (N.I.))

(b) 1992. c.7; section 36 was substituted by Article 51(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I.1999/3147 (N.I.11)) and subsection (1) was amended by paragraph 70(2) of Schedule 24 to the Civil Partnership Act 2004 (c. 33)

Benefits Act^(a) if in subsections (1) and (3) of that section the words “before 6 April 2016” were omitted.”; and

(b) paragraph 3(2) of that Schedule is to be read as if it provides—

“(2) The inherited amount is equal to the weekly rate at which that Category B retirement pension would have been payable on the day on which the pensioner reached pensionable age if any element of the rate attributable to the basic pension were ignored.”.

Sealed with the Official Seal of the Department for Social Development on 24th March 2016

(L.S.)

Anne McCleary

A senior officer of the Department for Social Development

(a) Section 48BB was inserted by Article 53 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 and amended by sections 33(11) and 35 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c.4 (N.I.)), paragraph 81 of Schedule 24 to the Civil Partnership Act 2004, paragraph 9 of Schedule 3 to the Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13 (N.I.)) and paragraph 54 of Schedule 12 to the Pensions Act (Northern Ireland) 2015

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes transitional and transitory provision in connection with the coming into operation of Part 1 of the Pensions Act (Northern Ireland) 2015 (“the 2015 Act”). Part 1 creates a new state pension for people reaching pensionable age on or after 6th April 2016. Part 1 comes fully into operation on 6th April 2016 in accordance with section 53(3) of the 2015 Act. Part 5 of the 2015 Act creates a new bereavement support payment for people whose spouse or civil partner dies. Part 5 does not come into operation on 6th April 2016 – it comes into operation on such day as the Department may appoint in accordance with section 53(1) of the 2015 Act.

Part 1 is worded on the assumption that Part 5 will come into operation on 6th April 2016. Transitional provisions are required so that Part 1 applies correctly for certain cases that arise in respect of the period from 6th April 2016 until Part 5 comes into operation. Without the transitional provisions, there would be a gap from 6th April 2016 when Part 1 comes into operation. Certain cases arising in respect of that gap would get less new state pension than they should do.

The cases are where a person’s spouse or civil partner dies between 6th April 2016 and the date Part 5 comes into operation (the cases are set out in Article 3(1)). Such a person may be entitled to one of the existing bereavement benefits which are being replaced by the new bereavement support payment. If the person is entitled to one of those existing benefits, they should also get an inherited amount as part of their new state pension under paragraph 3 of Schedule 3 to the 2015 Act (assuming they satisfy the other conditions of entitlement). Without the transitional provisions, they would not get their inherited amount because paragraph 3 would refer to bereavement support payment before Part 5 comes into operation. The transitional provision in Article 3(2)(a) ensures they get their inherited amount by providing that paragraph 3 does not refer to bereavement support payment for these cases. The transitional provision in Article 3(2)(b) ensures their inherited amount is calculated by reference to the rate of inherited old additional state pension applicable for a person who received the existing bereavement benefit.

The new bereavement support payment in Part 5 of the 2015 Act replaces the existing bereavement payment in section 36 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992. When Part 5 comes into operation, paragraph 8 of Schedule 16 to the 2015 Act repeals section 36. Paragraph 8 of Schedule 16 is worded on the assumption that Part 5 will come into operation at the same time as Part 1. Transitory provisions are required because section 36 is not repealed at the same time as Part 1 comes into operation. This means a person will be unable to get bereavement payment under section 36 if their deceased spouse or civil partner was entitled to an old state pension (as now), but will be able to get a bereavement payment if their deceased spouse or civil partner was entitled to a new state pension. Section 36 therefore needs to refer to new state pension for a transitory period until paragraph 8 of Schedule 16 repeals section 36. This ensures people entitled to an old state pension and those entitled to a new state pension are treated in the same way.

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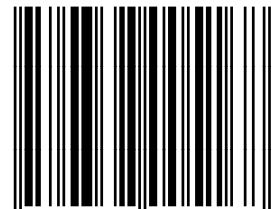
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