
DRAFT STATUTORY INSTRUMENTS

2015 No.

The State Pension Regulations 2015

PART 2

Prisoners

Prisoners who are not to be paid state pension

2.—(1) Subject to regulation 3, a person is not to be paid a state pension under Part 1 of the 2014 Act (state pension) for any period during which the person is a prisoner⁽¹⁾ who is mentioned in paragraph (2).

(2) Except where paragraph (3) applies, a person is a prisoner for the purposes of paragraph (1) where the person is—

- (a) a prisoner in Great Britain or elsewhere who is imprisoned or detained in legal custody in connection with, or as a result of, criminal proceedings;
- (b) a prisoner in Great Britain or elsewhere who is unlawfully at large;
- (c) a prisoner in Great Britain who is being detained—
 - (i) under section 47 of the Mental Health Act 1983 (removal to hospital of persons serving sentences of imprisonment etc)⁽²⁾; and
 - (ii) on or before the day which the Secretary of State certifies to be the person's release date (if any) within the meaning in section 50(3) of that Act⁽³⁾;
- (d) a prisoner in Great Britain who is being detained under section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (transfer of prisoners for treatment of mental disorder)⁽⁴⁾.

(3) Where a person outside Great Britain is a prisoner within paragraph (2)(a) or (b) and, in similar circumstances in Great Britain, the person would not have been a prisoner, the person is not a prisoner within paragraph (2)(a) or (b).

Paying state pension to persons who are remanded in custody

3.—(1) Where a person is remanded in custody for an offence, regulation 2(1) does not apply unless a sentence described in paragraph (2) is later imposed on the person for the offence.

(2) Subject to paragraph (3), the described sentences for the purposes of paragraph (1) are—

- (a) a sentence of imprisonment or detention in legal custody as a result of criminal proceedings;

(1) See section 19(2) of the Pensions Act 2014 for the meaning of "prisoner".

(2) 1983 c.20. Section 47 was amended by section 49(3) of, and Schedule 6 to, the Crime (Sentences) Act 1997 (c.43), paragraph 18 of Schedule 10 to the Domestic Violence, Crime and Victims Act 2004 (c.28), paragraph 97 of Schedule 16 to the Armed Forces Act 2006 (c.52) and section 4(7) of, and paragraph 10 of Schedule 1 and Part 1 of Schedule 11 to, the Mental Health Act 2007 (c.12). S.I. 1999/672 transferred functions under section 47 to the National Assembly for Wales.

(3) Section 50(3) was substituted by section 294(3) of the Criminal Justice Act 2003 (c.44).

(4) 2003 asp.13.

- (b) a sentence of detention where the provisions mentioned in regulation 2(2)(c)(i) or (d) apply;
 - (c) a suspended sentence within the meaning in section 189 of the Criminal Justice Act 2003 (suspended sentences of imprisonment)⁽⁵⁾.
- (3) A sentence described in paragraph (2)(a) which is imposed outside Great Britain is not a described sentence for the purposes of paragraph (1) if, in similar circumstances in Great Britain, a sentence described in paragraph (2)(a) would not have been imposed.

(5) 2003 c.44. Section 189 was amended by section 68 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c.10) and S.I. 2005/643.