

WELFARE REFORM AND PENSIONS ACT 1999

EXPLANATORY NOTES

COMMENTARY

Supplementary

Part V: Welfare

Chapter I: Social Security Benefits

Section 52: Preservation of rights in respect of additional pension

This section enables the Secretary of State to postpone, or to modify or disapply in certain cases, a reduction of 50% in the amount of additional pension under the State Earnings-Related Pension Scheme (“SERPS”) which a widow or widower can “inherit” from a spouse who dies after 5th April 2000.

Currently, widows and, in certain circumstances, widowers may receive the full amount of their deceased spouse’s SERPS. However, as a result of changes originally enacted in the Social Security Act 1986 (but now consolidated in the Social Security Contributions and Benefits Act 1992), where a married person dies after 5th April 2000 the surviving spouse will be able to receive only 50% of the deceased’s SERPS.

This change was not fully publicised, and some people were incorrectly told that they or their widower could expect to “inherit” the full amount of SERPS.

This section enables the Secretary of State to make regulations, subject to the affirmative resolution procedure, to do one or more of the following:

- to provide for specified categories of widows and widowers to receive more than 50% of their spouse’s SERPS;
- to postpone the 50% reduction from 6th April 2000 to a later year;
- to set up a scheme to determine who has been misled by incorrect or incomplete information about the 50% reduction, so as to ensure that the reduction is not applied in their, or their widow(er)’s, case.

Until provision for one of these options is in force, widow(er)s will continue to “inherit” the full amount of their spouse’s SERPS.

An earlier version of this provision was first added to the Bill at Lords Report stage (11th October 1999; Hansard Vol 605, col 26) and this section was substituted at Commons consideration of Lords Amendments (3rd November 1999; Hansard Vol 337, col 363).

Commentary

The three options for provision in regulations are set out in subsection (2), subsection (3) and subsections (4) to (6) respectively.

*These notes refer to the Welfare Reform and Pensions Act 1999 (c.30)
which received Royal Assent on 11 November 1999*

Subsection (2) enables regulations to increase above 50% the proportion of SERPS “inherited” by specified categories of widow(er)s.

Subsection (3) enables regulations to provide for the postponement of the reduction to some year later than the year 2000.

Subsections (4) and (5) enable regulations to provide for a scheme, to be in operation for a specified period, under which claims would be made by people who, in reliance on incorrect or incomplete information provided by a government department about the SERPS reduction, have not safeguarded their own or their spouse’s financial position in the event of widowhood after 5th April 2000. Those, or the spouses of those, who claimed successfully under the scheme would not, in the event of their being widowed after 5th April 2000, be affected by the reduction in SERPS payable as part of Widow’s Benefit, Bereavement Benefits or Category B Retirement Pension.

Subsection (6) enables those regulations to provide also for procedural and other matters regarding the scheme, such as the time and manner in which claims must be made, the information to be provided, the conditions for success, the decision-making process, and appeals.

Subsection (7) prevents the reduction in SERPS from taking effect until regulations are in force to provide for at least one of the three options described above.

Subsection (8) requires a draft of any regulations under this section to be approved by each House of Parliament before the regulations can be made.