

STATE PENSION CREDIT ACT 2002

EXPLANATORY NOTES

EQUAL TREATMENT FOR WIDOWS AND WIDOWERS

Background and Summary

28. **Section 18** of the Act, which is consequential on the introduction of new bereavement benefits under sections 54 to 56 of the Welfare Reform and Pensions Act 1999, makes an amendment to the Pensions Schemes Act 1993 to provide equal treatment for widows and widowers. This amendment ensures that a widower who receives benefit based on the National Insurance contributions of his late wife, where she was a member of a contracted-out occupational or personal pension scheme, is treated in the same way as a widow in the same circumstances.
29. Someone who contracted out of the additional pension (SERPS) at any time between 6 April 1978 and 5 April 1997 will have built up a private pension in place of SERPS. At pensionable age the amount of their SERPS is reduced to take account of this pension from the private scheme. This is known as the contracted-out deduction and is based on the guaranteed minimum pension they receive or are treated as receiving from their private scheme.
30. The Pensions Act 1995 broke the link between SERPS and contracted-out private pension schemes with effect from 6 April 1997. So, from that date onwards, someone earns either SERPS or an occupational or a personal pension by being a member of a scheme which is contracted out of SERPS. There is no longer a guaranteed minimum pension and so there is no contracted-out deduction.
31. Contracted-out private pension schemes have been required to pay a pension to a member's widow since 6 April 1978 and to a member's widower since 6 April 1988. A widow could inherit SERPS from her late husband if she was entitled to widowed mother's allowance, widow's pension or a retirement pension based on her husband's contributions. Where her husband had been a member of a contracted-out pension scheme before 1997, legislation provided for the amount of benefit to be reduced by the contracted-out deduction so that there was no double provision (that is SERPS as well as a widow's pension from the contracted-out pension scheme).
32. However, until the new bereavement benefits were introduced from 9 April 2001, a widower could inherit SERPS from his wife only if they were both over pensionable age when the wife died. So legislation provided for a contracted-out deduction to be made in the case of a widower who was entitled to a widower's pension from his wife's contracted-out pension scheme only where both he and his wife were over pensionable age when she died.
33. With the introduction of bereavement benefits, a widower can inherit SERPS from his wife if he is entitled to widowed parent's allowance. In addition, a widower reaching pensionable age who has previously been entitled to widowed parent's allowance or bereavement allowance may inherit SERPS from his wife. However, where the wife had been a member of a contracted-out pension scheme and the widower is receiving

*These notes refer to the State Pension Credit Act 2002
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a widower's pension from that scheme, there is no power to make a contracted-out deduction. As a result, there is currently double provision for certain widowers.

34. The Act amends the Pension Schemes Act 1993 in order to provide for a contracted-out deduction in cases where a widower would otherwise be entitled to inherit SERPS from his late wife as well as a widower's pension from her contracted-out pension scheme. This will ensure that widows and widowers are treated equally in this respect.