

SCHEDULES

SCHEDULE 12

Section 23

STATE PENSION: AMENDMENTS

PART 1

AMENDMENTS TO DO WITH NEW STATE PENSION SYSTEM

Forfeiture Act 1982 (c. 34)

- 1 In section 4 of the Forfeiture Act 1982 (Upper Tribunal to decide whether forfeiture rule applies to social security benefits), in the definition of “relevant enactment” in subsection (5), after the entry relating to the Pension Schemes Act 1993 insert—
“Part 1 of the Pensions Act 2014.”.

Social Security Contributions and Benefits Act 1992 (c. 4)

- 2 The Contributions and Benefits Act is amended as follows.
- 3 In section 1 (outline of contributory system), in subsection (1)(a), after “this Act” insert “or any other Act”.
- 4 In section 13 (Class 3 contributions), in subsection (2), omit “contribution”.
- 5 After section 19A insert—

“19B Extended meaning of “benefit” etc in Part 1

In this Part references to “benefit” or “contributory benefit” include benefit under Part 1 of the Pensions Act 2014.”

- 6 (1) Section 22 (earnings factors) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a), omit the final “and”;
 - (b) after paragraph (b) insert “; and
 - (c) establishing entitlement to a state pension under Part 1 of the Pensions Act 2014 and, where relevant, calculating the rate of a state pension under that Part.”
- (3) After subsection (5) insert—
- “(5ZA) Regulations may provide for crediting—
- (a) for 1987-88 or any subsequent tax year, earnings or Class 2 or Class 3 contributions, or
 - (b) for any earlier tax year, contributions of any class,

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for the purpose of bringing an earnings factor for that tax year to a figure which will make that year a “qualifying year”, “pre-commencement qualifying year” or “post-commencement qualifying year” of a person for the purposes of Part 1 of the Pensions Act 2014 (see sections 2(4) and 4(4) of that Act).

(5ZB) Regulations under subsection (5ZA) must provide for crediting a person with such contributions as may be specified in respect of periods on or after 6 April 1975 during which the person was—

- (a) a spouse or civil partner of a member of Her Majesty’s forces,
- (b) accompanying the member on an assignment outside the United Kingdom, and
- (c) not of a description specified in the regulations.”

7 In section 122(1) (interpretation), in the definition of “benefit”, after paragraph (c) insert—

“(For the meaning of “benefit” in Part 1, see also section 19B)”.

Social Security Administration Act 1992 (c. 5)

8 The Administration Act is amended as follows.

9 In section 1 (entitlement to benefit dependent on claim), in subsection (4), after paragraph (za) insert—

“(zb) state pension or a lump sum under Part 1 of the Pensions Act 2014;”.

10 In section 5 (regulations about claims for and payments of benefits), in subsection (2), after paragraph (za) insert—

“(zb) state pension or a lump sum under Part 1 of the Pensions Act 2014;”.

11 In section 71 (overpayments - general), in subsection (11), before paragraph (a) insert—

“(za) state pension or a lump sum under Part 1 of the Pensions Act 2014;”.

12 In section 73 (overlapping benefits - general)—

(a) in subsection (1), after “adjusting” insert “state pension under Part 1 of the Pensions Act 2014 or”;

(b) in subsection (4), before paragraph (a) insert—

“(za) state pension under Part 1 of the Pensions Act 2014;”.

13 In section 121DA (interpretation of Part 6), in subsection (1), after paragraph (hk) insert—

“(hl) Part 1 of the Pensions Act 2014;”.

14 In section 122B (supply of other government information for fraud prevention and verification), in subsection (3)(b), after “Part 4 of that Act” insert “, Part 1 of the Pensions Act 2014”.

15 In section 124 (age, death and marriage), in subsection (1), after paragraph (ae) insert—

“(af) of the provisions of Part 1 of the Pensions Act 2014; and”.

16 In section 125 (regulations as to notification of deaths), in subsection (1), after “Part 4 of that Act” insert “, Part 1 of the Pensions Act 2014”.

17 After section 148AB insert—

“148AC Revaluation for transitional pensions under Pensions Act 2014

- (1) The Secretary of State must, in each tax year, review the general level of prices in Great Britain and any changes which have taken place during the review period.
- (2) In this section “the review period” means the period since the beginning of 6 April 2016.
- (3) If on a review it appears to the Secretary of State that the general level of prices has increased during the review period, the Secretary of State must make an order specifying the percentage of the increase.
- (4) The percentage specified in the order is the “revaluing percentage” for the purposes of paragraph 6(5) of Schedule 1 to the Pensions Act 2014.
- (5) Subsection (3) does not require the Secretary of State to make an order if it appears to the Secretary of State that the effect of the order on amounts calculated in accordance with paragraph 6 of Schedule 1 to the Pensions Act 2014 would be inconsiderable.
- (6) If on a review the Secretary of State determines that no order under this section is required, the Secretary of State must lay before Parliament a report explaining the reasons for arriving at that determination.
- (7) For the purposes of any review under this section the Secretary of State may estimate the general level of prices in such manner as the Secretary of State thinks fit.”

18 In section 150 (annual up-rating of benefits), in subsection (1), after paragraph (o) insert—

“(p) which are the increases in the rates of state pensions under section 17 of the Pensions Act 2014;”.

19 In section 150A (annual up-rating), in subsection (1), before paragraph (a) insert—

“(za) the amount specified in regulations under section 3(1) of the Pensions Act 2014 (full rate of state pension);”.

20 In section 151 (up-rating: supplementary), in subsection (2)—

(a) for “(dza) or (e)” substitute “(dza), (e) or (p)”;

(b) after “order and” insert “—
(a)”;

(c) at the end insert “, and
(b) in the case of the sums mentioned in subsection (1)(p) of that section, shall apply only in relation to sums calculated under section 17 of the Pensions Act 2014 by reference to periods which have ended before the coming into force of the order.”

21 After section 151 insert—

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“151A Up-rating of transitional state pensions under Pensions Act 2014

- (1) The Secretary of State must, in each tax year, review the general level of prices in Great Britain and any changes which have taken place.
 - (2) If on a review it appears to the Secretary of State that the general level of prices has increased during the review period, the Secretary of State must make an order specifying a percentage by which the amounts mentioned in the following provisions of the Pensions Act 2014 are to be increased—
 - (a) section 9;
 - (b) paragraph 4(3) of Schedule 2;
 - (c) paragraphs 5(3) and 6 of Schedule 4;
 - (d) paragraphs 5(3) and 6 of Schedule 9.
 - (3) The percentage specified in the order must not be less than the percentage by which the general level of prices has increased during the review period.
 - (4) This section does not require the Secretary of State to make an order if it appears to the Secretary of State that the effect of the order on the amounts referred to in subsection (2) would be inconsiderable.
 - (5) An order under this section must be framed so as to bring the increase in question into force in the week beginning with the first Monday in the tax year following that in which the order is made.
 - (6) The Secretary of State must lay with a draft order under this section a copy of a report by the Government Actuary or the Deputy Government Actuary giving that Actuary’s opinion on the likely effect on the National Insurance Fund.
 - (7) If a draft order under this section is combined with a draft up-rating order under section 150 or 150A, the report required by virtue of subsection (6) may be combined with that required by virtue of section 150(8) or 150A(5).
 - (8) For the purposes of any review under this section the Secretary of State may estimate the general level of prices in such manner as the Secretary of State thinks fit.”
- 22 (1) Section 155A (power to anticipate pensions up-rating order) is amended as follows.
- (2) In subsection (1)(a)—
 - (a) for “150 or 150A” substitute “150, 150A or 151A”;
 - (b) in sub-paragraph (i), after “by way of” insert “state pension under the Pensions Act 2014,”.
 - (3) In subsection (2), after “an award is made of” insert “a state pension,”.
- 23 (1) Section 163 (general financial arrangements) is amended as follows.
- (2) In subsection (1), before paragraph (a) insert—
 - “(za) state pension and lump sums under Part 1 of the Pensions Act 2014;”.
 - (3) In subsection (2)(a), after “Contributions and Benefits Act” insert “, Part 1 of the Pensions Act 2014”.

- (4) In subsection (3)(b), after “that Act” insert “or Part 1 of the Pensions Act 2014”.
- 24 In section 170 (Social Security Advisory Committee), in subsection (5)—
- (a) in the definition of “the relevant enactments”, after paragraph (al) insert—
(am) “the provisions of Part 1 of the Pensions Act 2014;”;
 - (b) in the definition of “the relevant Northern Ireland enactments”, after paragraph (al) insert—
(am) “any provisions in Northern Ireland which correspond to the provisions of Part 1 of the Pensions Act 2014;”.
- 25 (1) Section 179 (reciprocal agreements) is amended as follows.
- (2) In subsection (3)(a), after “Part 4 of that Act” insert “, Part 1 of the Pensions Act 2014”.
- (3) In subsection (4), after paragraph (ah) insert—
“(ai) to Part 1 of the Pensions Act 2014;”.
- (4) In subsection (5)—
- (a) after “Act 2007” insert “or Part 1 of the Pensions Act 2014”;
 - (b) after paragraph (ac) insert—
“(ad) state pension under Part 1 of the Pensions Act 2014;”.
- 26 In section 187 (inalienability), in subsection (1), after paragraph (za) insert—
“(zb) state pension under Part 1 of the Pensions Act 2014;”.
- 27 In section 190 (parliamentary control of orders and regulations), in subsection (1)(a) after “150A,” insert “151A,”.
- 28 In section 191 (interpretation), in the definition of “benefit”, after “universal credit,” insert “state pension under Part 1 of the Pensions Act 2014,”.

Social Security Act 1993 (c. 3)

- 29 In section 2 of the Social Security Act 1993 (payments into National Insurance Fund out of money provided by Parliament), in subsection (4)(a), after “paragraphs” insert “(za),”.

Pensions Act 1995 (c. 26)

- 30 In Schedule 4 to the Pensions Act 1995 (pensionable age), in paragraph 1, for “and Part 1 of the Welfare Reform Act 2007” substitute “, Part 1 of the Welfare Reform Act 2007 and the Pensions Act 2014”.

Social Security Act 1998 (c. 14)

- 31 The Social Security Act 1998 is amended as follows.
- 32 In section 2 (use of computers), in subsection (2)—
- (a) in paragraph (k), omit the final “or”;
 - (b) after paragraph (l) insert—
“(m) Part 1 of the Pensions Act 2014;”.
- 33 In section 8 (decisions by Secretary of State)—

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- (a) in subsection (3), after paragraph (aa) insert—
 - “(ab) state pension or a lump sum under Part 1 of the Pensions Act 2014;”;
 - (b) in subsection (4), for “or Part 4 of that Act” substitute “, Part 4 of that Act or Part 1 of the Pensions Act 2014”.
- 34 In section 11 (regulations with respect to decisions), in subsection (3), in the definition of “the current legislation”, for “and Part 4 of that Act” substitute “, Part 4 of that Act and Part 1 of the Pensions Act 2014”.
- 35 In section 27 (restrictions on entitlement to benefit in certain cases of error), in subsection (7), in the definition of “benefit”, after paragraph (f) insert—
- (g) “state pension or a lump sum under Part 1 of the Pensions Act 2014.”
- 36 In section 28 (correction of errors in decisions etc), in subsection (3)—
- (a) in paragraph (h), omit the final “or”;
 - (b) after paragraph (i) insert “or
 - (j) Part 1 of the Pensions Act 2014.”
- 37 In Schedule 3 (decisions against which an appeal lies), after paragraph 6B insert—
- “State pension: prisoners and overseas residents*
- 6C A decision that a state pension under Part 1 of the Pensions Act 2014 is not payable by reason of regulations under section 19 of that Act (prisoners).
 - 6D A decision that a person is not entitled to increases in the rate of a state pension under Part 1 of the Pensions Act 2014 by reason of regulations under section 20 of that Act (overseas residents).”

Child Support, Pensions and Social Security Act 2000 (c. 19)

- 38 (1) Section 42 of the Child Support, Pensions and Social Security Act 2000 (disclosure of state pension information) is amended as follows.
- (2) In subsection (7), after paragraph (a) insert—
- “(aa) the amount of any state pension under Part 1 of the Pensions Act 2014 a present or future entitlement to which has already accrued to that individual;
 - (ab) a projection of the amount of any state pension under Part 1 of the Pensions Act 2014 to which that individual is likely to become entitled, or might become entitled in particular circumstances;”.
- (3) In subsection (11), in the definition of “lump sum”, after “under” insert “section 8 of the Pensions Act 2014 or”.

Social Security Fraud Act 2001 (c. 11)

- 39 The Social Security Fraud Act 2001 is amended as follows.
- 40 In section 6A (definitions), in subsection (1)—
- (a) in the definition of “disqualifying benefit”, after paragraph (za) insert—

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- (zb) “state pension or a lump sum under Part 1 of the Pensions Act 2014 or under any provision in Northern Ireland which corresponds to that Part;”;
 - (b) in the definition of “sanctionable benefit”, before paragraph (b) insert—
 - (aa) “state pension or a lump sum under Part 1 of the Pensions Act 2014;”.
- 41 In section 10 (power to supplement and mitigate loss of benefit provisions), in subsection (3), after paragraph (be) insert—
- “(bf) state pension or a lump sum under Part 1 of the Pensions Act 2014 or under any provision in Northern Ireland which corresponds to that Part;”.

State Pension Credit Act 2002 (c. 16)

- 42 The State Pension Credit Act 2002 is amended as follows.
- 43 In section 7 (fixing of claimant’s retirement provision for assessed income period), in subsection (6)(a), after “benefit under” insert “Part 1 of the Pensions Act 2014 or”.
- 44 In section 16 (meaning of “retirement pension income”), in subsection (1), before paragraph (a) insert—
- “(za) a state pension under Part 1 of the Pensions Act 2014 or under any provision in Northern Ireland which corresponds to that Part;”.

Income Tax (Earnings and Pensions) Act 2003 (c. 1)

- 45 In section 577 of the Income Tax (Earnings and Pensions) Act 2003 (United Kingdom social security pensions), in the definition of “state pension” in subsection (2), before paragraph (a) insert—
- (za) “any provision of Part 1 of the Pensions Act 2014 or any corresponding provision under the law of Northern Ireland;”.

Gender Recognition Act 2004 (c. 7)

- 46 The Gender Recognition Act 2004 is amended as follows.
- 47 In section 23 of that Act (power to modify statutory provisions) “enactment” includes sections 11 and 12 of, and Schedules 6 and 7 to, this Act.
- 48 (1) Schedule 5 (benefits and pensions) is amended as follows.
- (2) After paragraph 6 insert—

“Pension under Part 1 of the Pensions Act 2014

- 6A (1) Any question—
- (a) whether the person is entitled to a state pension under Part 1 of the Pensions Act 2014 for any period after the certificate is issued, and
 - (b) (if so) the rate at which the person is so entitled for the period, is to be decided as if the person’s gender were the acquired gender.
- (2) Accordingly, if (immediately before the certificate is issued) the person
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- (a) is a woman entitled to a state pension under Part 1 of the Pensions Act 2014, but
 - (b) has not attained the age of 65,
- the person ceases to be so entitled when it is issued.
- (3) And, conversely, if (immediately before the certificate is issued) the person—
- (a) is a man who has attained the age at which a woman of the same age attains pensionable age, but
 - (b) has not attained the age of 65,
- the person is to be treated for the purposes of Part 1 of the Pensions Act 2014 as attaining pensionable age when it is issued.
- (4) But sub-paragraph (1) does not apply if and to the extent that the decision of any question to which it refers is affected by the payment or crediting of contributions, or the crediting of earnings, in respect of a period ending before the certificate is issued.
- (5) If the person’s acquired gender is the male gender, sections 11 and 12 of, and Schedules 6 and 7 to, the Pensions Act 2014 (effect of reduced rate elections) apply in relation to the person as they apply in relation to a woman (but only once the person has reached pensionable age for a man).
- (6) Paragraph 10 makes provision about deferment of state pensions under Part 1 of the Pensions Act 2014.”
- (3) In paragraph 7, in sub-paragraph (1), at the end insert “(but this is subject to sub-paragraph (3))”.
- (4) In paragraph 10, in sub-paragraph (1), before paragraph (a) insert—
 “(za) a state pension under Part 1 of the Pensions Act 2014.”.

Finance (No. 2) Act 2005 (c. 22)

- 49 The Finance (No. 2) Act 2005 is amended as follows.
- 50 (1) Section 8 (meaning of “applicable year of assessment” in section 7) is amended as follows.
- (2) In subsection (3), for “subsection (4)” substitute “subsections (4) and (4A)”.
- (3) After subsection (4) insert—
- “(4A) In a case where the social security pension lump sum is a lump sum under section 8 of the Pensions Act 2014 or under any corresponding provision under the law of Northern Ireland, “the first benefit payment day” for the purposes of subsection (2) is the day as from which the lump sum becomes payable.”
- 51 In section 9 (interpretation), in the definition of “state pension lump sum” in subsection (2), before paragraph (a) insert—
- (za) “section 8 of the Pensions Act 2014 or under any corresponding provision under the law of Northern Ireland.”.

Welfare Reform Act 2012 (c. 5)

- 52 In section 96 of the Welfare Reform Act 2012 (benefit cap), in subsection (11), before paragraph (a) insert—
“(za) state pension under Part 1 of the Pensions Act 2014,”.

PART 2

AMENDMENTS TO DO WITH OLD STATE PENSION SYSTEM

Graduated retirement benefit

- 53 (1) Section 36 of the National Insurance Act 1965 (graduated retirement benefit), so far as continuing in force, is amended as follows.
- (2) In subsection (7), for “has attained pensionable age” substitute “attained pensionable age before 6 April 2016”.
- (3) In subsection (8), in the definition of “retirement pension”, after “any category” insert “under the Social Security Contributions and Benefits Act 1992”.

Category A retirement pensions

- 54 The Contributions and Benefits Act is amended as follows.
- 55 In section 44(1) (Category A retirement pensions), for paragraph (a) substitute—
“(a) the person attained pensionable age before 6 April 2016,”.
- 56 (1) Section 48 (use of former spouse’s contributions) is amended as follows.
- (2) In subsection (1), after “person” insert “who attained pensionable age before 6 April 2016”.
- (3) After subsection (2) insert—
“(2A) Regulations under subsection (1) may not provide for contributions of a person in respect of times on or after 6 April 2016 to be treated as contributions of another person.”

Category B retirement pensions

- 57 The Contributions and Benefits Act is amended as follows.
- 58 In section 23A (contributions credits for relevant parents and carers), in subsection (1)(b), after “section 48A” insert “or 48AA”.
- 59 In section 46 (modification of section 45 for calculating additional pension in certain benefits), in subsection (2), omit “48A(4) or” (in both places).
- 60 For section 48A substitute—

“48A Category B retirement pension for married person or civil partner

- (1) A married person is entitled to a Category B retirement pension by virtue of the contributions of his or her spouse if—
(a) the person attained pensionable age before 6 April 2016, and

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- (b) the spouse—
 - (i) has attained pensionable age, and
 - (ii) satisfies the relevant contribution condition.
- (2) But subsection (1) does not confer a right to a Category B retirement pension on—
 - (a) a man whose spouse was born before 6 April 1950, or
 - (b) a woman whose wife was born before 6 April 1950.
- (3) A person who is a civil partner is entitled to a Category B retirement pension by virtue of the contributions of his or her civil partner (“the contributing civil partner”) if—
 - (a) the person attained pensionable age before 6 April 2016, and
 - (b) the contributing civil partner—
 - (i) was born on or after 6 April 1950,
 - (ii) has attained pensionable age, and
 - (iii) satisfies the condition in paragraph 5A of Schedule 3.
- (4) A Category B retirement pension payable under this section is payable at the weekly rate specified in paragraph 5 of Part 1 of Schedule 4.
- (5) A person ceases to be entitled to a Category B retirement pension under this section if—
 - (a) the person’s spouse or civil partner dies (but see sections 48B and 51), or
 - (b) the person otherwise ceases to be married or in the civil partnership (but see section 48AA).
- (6) In subsection (1)(b)(ii) “the relevant contribution condition” means—
 - (a) in a case where the spouse was born before 6 April 1945, the conditions in paragraph 5 of Schedule 3;
 - (b) in any other case, the condition in paragraph 5A of Schedule 3.
- (7) For the purposes of any provision of this Act as it applies in relation to this section, no account is to be taken of any earnings factors of the spouse or contributing civil partner for the tax year beginning with 6 April 2016 or any later tax year.
- (8) Section 51ZA contains special rules for cases involving changes in gender.

48BAA Category B retirement pension for divorcee or former civil partner

- (1) A person who has been in a marriage that has been dissolved is entitled to a Category B retirement pension by virtue of the contributions of his or her former spouse if—
 - (a) the person attained pensionable age—
 - (i) before 6 April 2016, and
 - (ii) before the marriage was dissolved, and
 - (b) the former spouse—
 - (i) attained pensionable age before the marriage was dissolved, and
 - (ii) satisfied the relevant contribution condition.

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

- (2) But subsection (1) does not confer a right to a Category B retirement pension on—
- (a) a man whose former spouse was born before 6 April 1950, or
 - (b) a woman whose former wife was born before 6 April 1950.
- (3) A person who has been in a civil partnership that has been dissolved is entitled to a Category B retirement pension by virtue of the contributions of his or her former civil partner if—
- (a) the person attained pensionable age—
 - (i) before 6 April 2016, and
 - (ii) before the civil partnership was dissolved, and
 - (b) the former civil partner—
 - (i) was born on or after 6 April 1950,
 - (ii) attained pensionable age before the civil partnership was dissolved, and
 - (iii) satisfied the condition in paragraph 5A of Schedule 3.
- (4) During any period when the person’s former spouse or civil partner is alive, a Category B retirement pension payable under this section is payable at the weekly rate specified in paragraph 5 of Part 1 of Schedule 4.
- (5) During any period after the person’s former spouse or civil partner is dead, a Category B retirement pension payable under this section is payable at the weekly rate of the basic pension specified in section 44(4).
- (6) In subsection (1)(b)(ii) “the relevant contribution condition” means—
- (a) in a case where the former spouse was born before 6 April 1945, the conditions in paragraph 5 of Schedule 3;
 - (b) in any other case, the condition in paragraph 5A of Schedule 3.
- (7) For the purposes of any provision of this Act as it applies in relation to this section, no account is to be taken of any earnings factors of the former spouse or civil partner for the tax year beginning with 6 April 2016 or any later tax year.
- (8) A voidable marriage or civil partnership which has been annulled is to be treated for the purposes of this section as if it had been a valid marriage or civil partnership which was dissolved at the date of annulment.
- (9) Section 51ZA contains special rules for cases involving changes in gender.”
- 61 (1) Section 48B (Category B retirement pension for widows and widowers) is amended as follows.
- (2) For subsections (1) to (1A) substitute—
- “(1) A person (“the pensioner”) whose spouse died while they were married is entitled to a Category B retirement pension by virtue of the contributions of his or her spouse if—
- (a) the pensioner attained pensionable age—
 - (i) before 6 April 2016, and
 - (ii) before the spouse died, and
 - (b) the spouse satisfied the relevant contribution condition.

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(1ZA) But subsection (1) does not confer a right to a Category B retirement pension on—

- (a) a man who attained pensionable age before 6 April 2010, or
- (b) a woman who attained pensionable age before 6 April 2010 and whose spouse was a woman.

(1ZB) In subsection (1)(b) “the relevant contribution condition” means—

- (a) in a case where the spouse—
 - (i) died before 6 April 2010, or
 - (ii) died on or after that date having attained pensionable age before that date,
 the conditions in paragraph 5 of Schedule 3, and
- (b) in any other case, the condition in paragraph 5A of Schedule 3.

(1A) A person (“the pensioner”) whose civil partner died while they were civil partners of each other is entitled to a Category B retirement pension by virtue of the contributions of his or her civil partner if—

- (a) the pensioner attained pensionable age—
 - (i) on or after 6 April 2010 but before 6 April 2016, and
 - (ii) before the civil partner died, and
- (b) the civil partner satisfied the relevant contribution condition.

(1B) In subsection (1A)(b) “the relevant contribution condition” means—

- (a) in a case where the deceased civil partner attained pensionable age before 6 April 2010, the conditions in paragraph 5 of Schedule 3, and
- (b) in any other case, the condition in paragraph 5A of Schedule 3.”

(3) After subsection (3) insert—

“(3A) For the purposes of any provision of this Act as it applies in relation to this section, no account is to be taken of any earnings factors of the deceased for the tax year beginning with 6 April 2016 or any later tax year.”

(4) For subsection (4) substitute—

“(4) A woman (“the pensioner”) whose husband died before she attained pensionable age is entitled to a Category B retirement pension by virtue of the contributions of her husband if—

- (a) she attained pensionable age before 6 April 2016, and
- (b) the condition in subsection (5) is satisfied.

(4A) A man (“the pensioner”) whose wife died before he attained pensionable age is entitled to a Category B retirement pension by virtue of the contributions of his wife if—

- (a) he attained pensionable age on or after 6 April 2010 but before 6 April 2016, and
- (b) the condition in subsection (5) would have been satisfied on the assumption mentioned in subsection (7).”

(5) In subsection (6), after “subsection (4)” insert “or (4A)”.

(6) In subsection (7), for “(4)” substitute “(4A)”.

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- (7) After subsection (8) insert—
- “**(9)** Section 51ZA contains special rules for cases involving changes in gender.”
- 62 (1) Section 48BB (Category B retirement pension: entitlement by reference to widowed parent’s allowance or bereavement allowance where no dependent children) is amended as follows.
- (2) In subsection (1), for “who has attained pensionable age” substitute “who attained pensionable age before 6 April 2016”.
- (3) In subsection (3), for “who has attained pensionable age” substitute “who attained pensionable age before 6 April 2016”.
- 63 (1) Section 48C (Category B retirement pension: general) is amended as follows.
- (2) In subsection (3), for “sections 48A(4)(b) and” substitute “section”.
- (3) In subsection (4), omit “48A(4),”.
- 64 For section 51 substitute—

“51 Category B retirement pension for widows, widowers and surviving civil partners who attained pensionable age before 6 April 2010

- (1) A person (“the pensioner”) whose spouse died while they were married is entitled to a Category B retirement pension if—
- (a) they were both over pensionable age at the time of the death,
 - (b) the pensioner attained pensionable age before 6 April 2010, and
 - (c) the spouse satisfied the relevant contribution condition.
- (2) But subsection (1) does not confer a right to a Category B retirement pension on—
- (a) a woman whose husband has died, or
 - (b) a man whose wife died before 6 April 1979.
- (3) In subsection (1)(c) “the relevant contribution condition” means—
- (a) in a case where the spouse attained pensionable age before 6 April 2010, the conditions in paragraph 5 of Schedule 3, and
 - (b) in a case where the spouse attained pensionable age on or after 6 April 2010, the condition in paragraph 5A of Schedule 3.
- (4) A person (“the pensioner”) whose civil partner died while they were civil partners of each other is entitled to a Category B retirement pension if—
- (a) they were both over pensionable age at the time of the death,
 - (b) the pensioner attained pensionable age before 6 April 2010, and
 - (c) the deceased civil partner satisfied the relevant contribution condition.
- (5) In subsection (4)(c) “the relevant contribution condition” means—
- (a) in a case where the deceased civil partner attained pensionable age before 6 April 2010, the conditions in paragraph 5 of Schedule 3, and

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- (b) in a case where the deceased civil partner attained pensionable age on or after 6 April 2010, the condition in paragraph 5A of Schedule 3.
- (6) The weekly rate of a person's Category B retirement pension under this section is to be determined in accordance with sections 44 to 45AA and Schedule 4A as they apply in the case of a Category A retirement pension taking references in those sections to the pensioner as references to the spouse or deceased civil partner.
- (7) But in the case of—
 - (a) a man whose wife dies after 5 October 2002,
 - (b) a surviving party to a marriage of a same sex couple, or
 - (c) a surviving civil partner,
 any amount of additional pension falling to be calculated under subsection (6) is to be halved.
- (8) For the purposes of any provision of this Act as it applies in relation to this section, no account is to be taken of any earnings factors of the spouse or deceased civil partner for the tax year beginning with 6 April 2016 or any later tax year.
- (9) Subject to the provisions of this Act, a person becomes entitled to a Category B retirement pension under this section on the day on which the conditions of entitlement become satisfied and the entitlement continues throughout the person's life.
- (10) Section 51ZA contains special rules for cases involving changes in gender.”

65 After section 51 insert—

“51ZA Special provision for married person whose spouse changed gender

- (1) Section 48A(2)(b) does not prevent a woman from being entitled to a Category B retirement pension under that section in a case where—
 - (a) her spouse is a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
 - (b) the marriage subsisted before the time when that certificate was issued.
- (2) Section 48AA(2)(b) does not prevent a woman from being entitled to a Category B retirement pension under that section in a case where—
 - (a) her former spouse was, at the time the marriage was dissolved, a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
 - (b) the marriage subsisted before the time when that certificate was issued.
- (3) Section 48B(1ZA)(b) does not prevent a woman from being entitled to a Category B retirement pension under that section in a case where—
 - (a) her dead spouse was, at the time of death, a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and

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- (b) the marriage subsisted before the time when that certificate was issued,
and in such a case the reference in section 48B(1ZB)(a)(ii) to the spouse having attained pensionable age before 6 April 2010 is to be read as a reference to the spouse having been born before 6 April 1945.
- (4) Section 51(1) does not confer a right to a Category B retirement pension on a woman if—
 - (a) her dead spouse was, at the time of death, a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
 - (b) the marriage subsisted before the time when that certificate was issued.”
- 66 In section 52(3) (special provision for surviving spouses) for “prescribed maximum” substitute “maximum amount specified in regulations”.
- 67 (1) Schedule 3 (contribution conditions for entitlement to benefit) is amended as follows.
 - (2) In paragraph 5, for sub-paragraph (1) substitute—
 - “(1) This paragraph sets out the contribution conditions for—
 - (a) a widowed mother’s allowance, a widowed parent’s allowance or a widow’s pension;
 - (b) a Category A retirement pension (other than one in relation to which paragraph 5A applies);
 - (c) a Category B retirement pension in the cases provided for by any of sections 48A to 51ZA.”
 - (3) In paragraph 5A(1), for paragraphs (b) and (c) substitute—
 - “(b) a Category B retirement pension in the cases provided for by any of sections 48A to 51ZA.”
- 68 In Part 1 of Schedule 4 (rates of certain benefits), in paragraph 5, for “section 48A(3)” substitute “section 48A(4) or 48AA(4)”.
- 69 In Schedule 4A (additional pension: accrual rates for purposes of section 45(2)(c)), in paragraph 1(2), omit “, 48A(4)” (in both places).
- 70 In section 150 of the Administration Act (annual up-rating of benefits), in subsection (1), after paragraph (ab) insert—
 - “(ac) specified in regulations under section 52(3) of that Act;”.
- 71 In section 46 of the Pension Schemes Act 1993 (effect of entitlement to guaranteed minimum pensions on payment of social security benefits), in subsection (6)(b)(iii), omit “48A,”.
- 72 In section 128 of the Pensions Act 1995 (additional pension: calculation of surpluses), in subsection (6), omit “48A,”.
- 73 In Schedule 4 to the Pensions Act 1995 (equalisation of, and increase in, pensionable age for men and women), omit paragraph 3(2) and (3).
- 74 In section 577 of the Income Tax (Earnings and Pensions) Act 2003 (United Kingdom social security pensions), in the definition of “state pension” in subsection (2)—
 - (a) in paragraph (a), after “48A,” insert “48AA,”;

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(b) in paragraph (b), after “1992” insert “or any provision under the law of Northern Ireland that corresponds to section 48AA of SSCBA 1992”.

- 75 In Schedule 24 to the Civil Partnership Act 2004, omit paragraphs 25(6) and 28(6).
- 76 In Schedule 5 to the Gender Recognition Act 2004 (benefits and pensions), in paragraph 8(1)(a) and (3), after “48A,” insert “48AA,”.
- 77 In Schedule 4 to the Marriage (Same Sex Couples) Act 2013, omit paragraphs 11, 12, 13 and 16.

Category C retirement pensions: repeal of spent provisions

- 78 The Contributions and Benefits Act is amended as follows.
- 79 In section 63(f)(i) (descriptions of non-contributory benefits), for the words from “payable” to “widows” substitute “payable in certain cases to a widow whose husband was over pensionable age on 5 July 1948 or to a woman whose marriage to a husband who was over pensionable age on that date was terminated otherwise than by his death”.
- 80 (1) Section 78 (Category C retirement pensions etc) is amended as follows.
- (2) Omit subsections (1), (2) and (5).
- (3) In subsections (7) and (8), omit “Category C or”.
- 81 In Part 3 of Schedule 4 —
- (a) omit paragraph 6 (rate of Category C retirement pension);
- (b) in paragraph 7 (rate of Category D retirement pension), for the text in the second column substitute the amount specified in paragraph 6 as the higher rate for a Category C retirement pension immediately before 6 April 2016.
- 82 In section 150A of the Administration Act (annual up-rating), in subsection (10), in the definition of “the specified amounts in the case of Category B, C or D retirement pensions”—
- (a) in paragraph (a), omit the final “and”;
- (b) in paragraph (b), for “amounts specified in paragraphs 6 and 7” substitute “amount specified in paragraph 7”;
- (c) at the end of paragraph (b) insert “, and
- (c) any amount specified in regulations under section 78(9) of the Contributions and Benefits Act for a Category C retirement pension;”.
- 83 In Schedule 5 to the Gender Recognition Act 2004 (benefits and pensions) omit paragraph 11 and the heading above it.

Category D retirement pensions

- 84 In section 78(3) of the Contributions and Benefits Act (entitlement to a Category D retirement pension), for “and satisfies” substitute “, who reached pensionable age before 6 April 2016 and who satisfies”.

Age addition

- 85 In sections 63(g) and 79(1) of the Contributions and Benefits Act (age addition), after “retirement pension of any category” insert “under this Act”.

Christmas bonus

- 86 In section 150(2) of the Contributions and Benefits Act (Christmas bonus: interpretation), for the definition of “retirement pension” substitute—
- ““retirement pension” means—
- (a) a state pension under Part 1 of the Pensions Act 2014,
 - (b) a retirement pension under this Act, or
 - (c) graduated retirement benefit.”

Transition: same sex marriages

- 87 (1) If marriage of same sex couples is not lawful under the law of Scotland when the amendments made by this Part of this Schedule come into force then, under the law of Scotland, references in the amendments to a married person do not include a person married to someone of the same sex; and related expressions (such as “spouse”) are to be read accordingly.
- (2) See also Part 1 of Schedule 2 to the Marriage (Same Sex Couples) Act 2013 (power to provide for English and Welsh marriages of same sex couples to be treated in Scotland as civil partnerships).

PART 3

AMENDMENTS TO DO WITH STATE PENSION CREDIT

- 88 The State Pension Credit Act 2002 is amended as follows.
- 89 In section 3 (savings credit), for subsection (1) substitute—
- “(1) The first of the conditions mentioned in section 1(2)(c)(ii) is that the claimant —
- (a) has attained pensionable age before 6 April 2016 and has attained the age of 65 (before, on or after that date), or
 - (b) is a member of a couple, the other member of which falls within paragraph (a).”
- 90 After that section insert—

“3ZA Power to limit savings credit for certain mixed-age couples

- (1) Regulations may provide that, in prescribed cases, a person who is a member of a mixed-age couple is not entitled to a savings credit.
- (2) For example, the regulations could provide that a member of a mixed-age couple is not entitled to a savings credit unless—
 - (a) the person has been awarded a savings credit with effect from a day before 6 April 2016 and was entitled to a savings credit immediately before that date, and
 - (b) the person remained entitled to state pension credit at all times since the beginning of 6 April 2016.
- (3) In this section “mixed-age couple” means a couple (whenever formed) one member of which had attained pensionable age before 6 April 2016 and the other had not.”

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91 In Schedule 1 to the Pensions Act 2007, omit paragraph 44.

PART 4

OTHER AMENDMENTS TO DO WITH PART 1

Social Security Contributions and Benefits Act 1992 (c. 4)

- 92 The Contributions and Benefits Act is amended as follows.
- 93 (1) Section 39C (rate of widowed parent's allowance and bereavement allowance) is amended as follows.
- (2) In subsection (1), for the words from "45AA" to "as they apply" substitute "45AA and Schedules 4A and 4B below as they apply".
- (3) In subsection (3), for the words from "45AA" to "by virtue of subsection (1) above" substitute "45AA and Schedules 4A and 4B below by virtue of subsection (1) above".
- (4) In subsection (4), for the words from "45AA" to "below" substitute "45AA and Schedules 4A and 4B below".
- 94 (1) Schedule 5 (pension increase or lump sum where entitlement to retirement pension is deferred) is amended as follows.
- (2) In the following provisions omit "(as those provisions have effect by virtue of section 2(7) of the Pensions Act 2011)"—
- paragraph 4(1A)(a), (b) and (c);
- paragraph 7B(5)(b)(i).
- (3) After paragraph 7 insert—
- "7ZA (1) This paragraph modifies paragraphs 5A to 6A in cases where—
- (a) W became entitled to a Category A or Category B retirement pension before 6 April 2012, and
- (b) S died before 6 April 2012.
- ("W" and "S" have the same meaning as in paragraph 5.)
- (2) Paragraph 5A applies as if—
- (a) in sub-paragraph (2), after paragraph (a), there were inserted—
- "(b) the appropriate amount; and";
- (b) in sub-paragraph (3), after "following—", there were inserted—
- "(a) one half of the appropriate amount; and".
- (3) Paragraph 6 applies as if—
- (a) in sub-paragraph (2), after paragraph (a), there were inserted—
- "(b) the appropriate amount; and";
- (b) in sub-paragraph (3), after paragraph (b), there were inserted—
- "(c) the appropriate amount reduced by the amount of any increases under section 109 of the Pensions Act; and";
- (c) in sub-paragraph (4), after paragraph (a), there were inserted—
- "(b) one half of the appropriate amount; and".

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- (4) Paragraph 6A applies as if in sub-paragraph (2), after paragraph (a), there were inserted—
- “(b) one half of the appropriate amount; and”.
- (5) In paragraphs 5A to 6A as modified by this paragraph, the “appropriate amount” means the greater of—
- (a) the amount by which the deceased person’s Category A or Category B retirement pension had been increased under section 150(1)(e) of the Administration Act; or
- (b) the amount by which his or her Category A or Category B retirement pension would have been so increased had he or she died immediately before the surviving spouse or civil partner became entitled to a Category A or Category B retirement pension.
- (6) In sub-paragraph (1)(a) the reference to becoming entitled to a pension before 6 April 2012 includes a reference to becoming entitled on or after that day to the payment of a pension in respect of a period before that day.”

Pension Schemes Act 1993 (c. 48)

- 95 Section 46A of the Pension Schemes Act 1993 (retirement in tax year after 5 April 2020) is repealed.

Pensions Act 2008 (c. 30)

- 96 In the Pensions Act 2008, the following are repealed—
- (a) sections 102 and 103 (consolidation of additional pension);
- (b) Schedule 3 (consolidation of additional pension);
- (c) in Schedule 4 (minor and consequential amendments)—
- paragraph 4(2)(b) and (3)(b);
- paragraph 6(3);
- paragraph 7(a);
- paragraph 8(a);
- paragraph 9(2)(c);
- paragraph 10;
- paragraphs 13 to 22.

Pensions Act 2011 (c. 19)

- 97 In the Pensions Act 2011, the following are repealed—
- (a) section 2(5) to (9) and Schedule 2 (abolition of certain additions to the state pension);
- (b) section 3 and Schedule 3 (consolidation of additional pension).