

STATUTORY INSTRUMENTS

2001 No. 1085

SOCIAL SECURITY

The Social Security (Inherited SERPS) Regulations 2001

Made - - - - *20th March 2001*

Coming into force - - *6th October 2002*

Whereas a draft of this Instrument was laid before Parliament in accordance with the provisions of section 52(8) of the Welfare Reform and Pensions Act 1999^{M1} and approved by resolution of each House of Parliament:

Now, therefore, the Secretary of State for Social Security, in exercise of the powers conferred on him by sections 52(1), (2) and (9) and 83(1) and (6) of that Act^{M2}, and of all other powers enabling him in that behalf, hereby make the following Regulations:

Marginal Citations

M1 1999 c. 30.

M2 Section 52(9) is cited for the meaning given to “prescribed”.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Inherited SERPS) Regulations 2001 and shall come into force on 6th October 2002.

(2) In these Regulations—

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992^{M3};

“additional pension” means an additional pension derived from contributions or earnings factors in any tax year beginning after 5th April 1978 and ending before the beginning of the tax year beginning 6th April 2002 [^{F1}and an additional pension attributable to units of additional pension (within the meaning of section 14A of the Contributions and Benefits Act)]; and

“pensionable age” has the meaning given by the rules in Part I of Schedule 4 to the Pensions Act 1995^{M4}.

F1 Words in [reg. 1\(2\)](#) inserted (12.10.2015) by [The Pensions Act 2014 \(Consequential Amendments\) \(Units of Additional Pension\) Order 2014 \(S.I. 2014/3213\)](#), arts. 1(2), 5

Marginal Citations

M3 1992 c. 4.

M4 1995 c. 26.

Modification of Part II of the Contributions and Benefits Act

2.—(1) Where, on or after 6th October 2002, a person becomes widowed [^{F2}or a surviving civil partner] and entitled to a widowed parent's allowance or a Category B retirement pension under Part II of the Contributions and Benefits Act by virtue of being a [^{F3}widow or widower][^{F3}widow, widower or surviving civil partner] then, provided that the deceased spouse [^{F4}or civil partner] of that person attained pensionable age before 6th October 2002, any provision of that Part which is listed in paragraph (3) of this regulation shall have effect so that the rate of the additional pension in that pension or allowance, or of any constituent element of an increase in that additional pension, which would, but for this paragraph, be payable to that person under or by virtue of that provision shall be increased by 100 per cent.

(2) Where, on or after 6th October 2002, a person becomes a person of a description specified in Column 1 of the Schedule to these Regulations and entitled to a widowed parent's allowance or a Category B retirement pension under Part II of the Contributions and Benefits Act by virtue of being a [^{F5}widow or widower][^{F5}widow, widower or surviving civil partner], any provision of that Part which is listed in paragraph (3) of this regulation shall have effect so that the rate of the additional pension in that pension or allowance, or of any constituent element of an increase in that additional pension, which would, but for this paragraph, be payable to a person of that description under or by virtue of that provision shall be increased by the percentage specified in Column 2 of that Schedule.

(3) The provisions of Part II of the Contributions and Benefits Act referred to in paragraphs (1) and (2) of this regulation are as follows:

- (a) section 39C (rate of widowed parent's allowance ^{F6} ...) ^{M5F7} ...;
- ^{F8}(b)
- (c) section 48B (Category B retirement pension for widows and widowers) ^{M6};
- (d) section 48BB (Category B retirement pension: entitlement by reference to benefits under section 39A or 39B) ^{M7};
- (e) section 51 ([^{F9}Category B retirement pension for widows, widowers and surviving civil partners who attained pensionable age before 6th April 2010]) ^{M8}; and
- (f) paragraphs 4 to 7 of Schedule 5 (increase of pension where pensioner's deceased spouse [^{F10}or civil partner] has deferred entitlement) ^{M9}.

^{F11}(4) Where, on or after 6th April 2006, a person becomes a person of a description specified in Column 1 of the Schedule to these Regulations and entitled to a widowed person's [^{F12}or surviving civil partner's] lump sum under paragraph 7A of Schedule 5 to the Contributions and Benefits Act, paragraph 7B(3) of Schedule 5 to that Act shall have effect so that the half of the additional pension specified in paragraph (b) of the definition of "P" is increased by the percentage specified in Column 2 of the Schedule to these Regulations.]

- F2** Words in reg. 2(1) inserted (E.W.S.) (5.12.2005) by [The Social Security \(Inherited SERPS\) \(Amendments relating to Civil Partnership\) Regulations 2005 \(S.I. 2005/3030\)](#), regs. 1, **2(2)(a)(i)**
- F3** Words in reg. 2(1) substituted (E.W.S.) (5.12.2005) by [The Social Security \(Inherited SERPS\) \(Amendments relating to Civil Partnership\) Regulations 2005 \(S.I. 2005/3030\)](#), regs. 1, **2(2)(a)(ii)**
- F4** Words in reg. 2(1) inserted (E.W.S.) (5.12.2005) by [The Social Security \(Inherited SERPS\) \(Amendments relating to Civil Partnership\) Regulations 2005 \(S.I. 2005/3030\)](#), regs. 1, **2(2)(a)(iii)**

- F5** Words in reg. 2(2) substituted (E.W.S.) (5.12.2005) by The Social Security (Inherited SERPS) (Amendments relating to Civil Partnership) Regulations 2005 (S.I. 2005/3030), regs. 1, **2(2)(b)**
- F6** Words in reg. 2(3)(a) omitted (6.4.2017 coming into force in accordance with art. 1-3) by virtue of The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2017 (S.I. 2017/422), arts. 1(2), **19(a)**
- F7** Words in reg. 2(3)(a) omitted (6.4.2017 coming into force in accordance with art. 1-3) by virtue of The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2017 (S.I. 2017/422), arts. 1(2), **19(b)**
- F8** Reg. 2(3)(b) omitted (6.4.2016 coming into force in accordance with art. 1(2)(b)) by virtue of The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2015 (S.I. 2015/1985), arts. 1(2)(b), **22(a)**
- F9** Words in reg. 2(3)(e) substituted (6.4.2016 coming into force in accordance with art. 1(2)(b)) by The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2015 (S.I. 2015/1985), arts. 1(2)(b), **22(b)**
- F10** Words in reg. 2(3)(f) inserted (E.W.S.) (5.12.2005) by The Social Security (Inherited SERPS) (Amendments relating to Civil Partnership) Regulations 2005 (S.I. 2005/3030), regs. 1, **2(2)(c)**
- F11** Reg. 2(4) added (E.W.S.) (6.4.2005) by The Social Security (Inherited SERPS) (Amendment) Regulations 2005 (S.I. 2005/811), regs. 1, **2(a)**
- F12** Words in reg. 2(4) inserted (E.W.S.) (5.12.2005) by The Social Security (Inherited SERPS) (Amendments relating to Civil Partnership) Regulations 2005 (S.I. 2005/3030), regs. 1, **2(2)(d)**

Marginal Citations

- M5** Section 39C was inserted by section 55 of the Welfare Reform and Pensions Act 1999 (c. 30) and amended by section 35(4) of the Child Support, Pensions and Social Security Act 2000 (c. 19).
- M6** Section 48B was amended by paragraph 6 of Schedule 8 to the Welfare Reform and Pensions Act 1999.
- M7** Section 48BB was inserted by section 56 of the Welfare Reform and Pensions Act 1999. Sections 39A to 39C were inserted by section 55 of that Act.
- M8** Section 51 was amended by section 127(2) of the Pensions Act 1995 and by section 35(13) of the Child Support, Pensions and Social Security Act 2000. See paragraph 3(3) of Schedule 4 to the Pensions Act 1995 for the application of section 51 to men who attain pensionable age on or after 6th April 2010.
- M9** Paragraphs 4 to 7 of Schedule 5 were substituted or amended by paragraph 21(13), (15) and (17) of Schedule 4 to the Pensions Act 1995.

Signed by authority of the Secretary of State for Social Security.

Jeff Rooker
Minister of State,
Department of Social Security

Changes to legislation: There are currently no known outstanding effects for the The Social Security (Inherited SERPS) Regulations 2001. (See end of Document for details)

SCHEDULE

[^{F15}Regulation 2(2)] [^{F15}Regulation 2(2) and (4)]

INCREASES IN ADDITIONAL PENSION OF PERSONS OF A SPECIFIED DESCRIPTION [^{F13}AND IN THE PROPORTION OF ADDITIONAL PENSION USED IN THE CALCULATION OF A WIDOWED PERSON'S [^{F14}OR SURVIVING CIVIL PARTNERS'S] LUMP SUM PAYABLE TO SUCH PERSONS]

- F13** Words in heading to Sch. added (E.W.S.) (6.4.2005) by [The Social Security \(Inherited SERPS\) \(Amendment\) Regulations 2005 \(S.I. 2005/811\)](#), regs. 1, **2(c)**
- F14** Words in heading to Sch. inserted (E.W.S.) (5.12.2005) by [The Social Security \(Inherited SERPS\) \(Amendments relating to Civil Partnership\) Regulations 2005 \(S.I. 2005/3030\)](#), regs. 1, **2(3)(a)**
- F15** Words in Sch. substituted (E.W.S.) (6.4.2005) by [The Social Security \(Inherited SERPS\) \(Amendment\) Regulations 2005 \(S.I. 2005/811\)](#), regs. 1, **2(b)**

<i>Column 1</i> <i>Description of person</i>	<i>Column 2</i> <i>Percentage increase</i>
A person who is the [^{F16} widow or widower][^{F16} widow, widower or surviving civil partner] of a person who attained pensionable age on or after 6th October 2002 but before 6th October 2004 or who would have, but for their death, attained pensionable age during that period.	80%
A person who is the [^{F16} widow or widower][^{F16} widow, widower or surviving civil partner] of a person who attained pensionable age on or after 6th October 2004 but before 6th October 2006 or who would have, but for their death, attained pensionable age during that period.	60%
A person who is the [^{F16} widow or widower][^{F16} widow, widower or surviving civil partner] of a person who attained pensionable age on or after 6th October 2006 but before 6th October 2008 or who would have, but for their death, attained pensionable age during that period.	40%
A person who is the [^{F16} widow or widower][^{F16} widow, widower or surviving civil partner] of a person who attained pensionable age on or after 6th October 2008 but before 6th October 2010 or who would have, but for their death, attained pensionable age during that period.	20%

F16 Words in Sch. substituted (5.12.2005) by [The Social Security \(Inherited SERPS\) \(Amendments relating to Civil Partnership\) Regulations 2005 \(S.I. 2005/3030\)](#), regs. 1, **2(3)(b)**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 52(2) of the Welfare Reform and Pensions Act 1999 and are subject to the affirmative resolution procedure.

The regulations provide for an increase in the rate of the additional pension under the State Earnings Related Pension Scheme (SERPS) to which persons of a specified description would otherwise be entitled under or by virtue of certain provisions of Part II of the Social Security Contributions and Benefits Act 1992 (“the 1992 Act”) in the event that they are widowed on or after 6th October 2002 which is the date on which the maximum amount of the additional pension which may be inherited by a surviving spouse under SERPS is reduced from 100% to 50% by virtue of provision made in section 39(1) of the Child Support, Pensions and Social Security Act 2000.

Regulation 1 provides for citation, commencement and interpretation.

Regulation 2 and the Schedule modify certain provisions of Part II of the 1992 Act by increasing the rate of the additional pension, or of any constituent element of an increase in that pension, which would otherwise be payable to persons of a specified description under or by virtue of those provisions in the event that they are widowed on or after 6th October 2002.

These Regulations do not impose any costs on business.

Changes to legislation:

There are currently no known outstanding effects for the The Social Security (Inherited SERPS) Regulations 2001.