

2005 No. 1551

SOCIAL SECURITY

The Social Security (Shared Additional Pension) (Miscellaneous Amendments) Regulations 2005

Made - - - - - *9th June 2005*

Laid before Parliament *15th June 2005*

Coming into force in accordance with regulation 1(1)

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 54(1), 113(1), 122(1) and 175(3) of and paragraphs 1, 3 and 5 of Schedule 5A to the Social Security Contributions and Benefits Act 1992(a) and section 1(1), 5(1)(a) to (c) and (g), 7(1), 71(6), 73(1), 189(1), (4) and (5) and 191 of the Social Security Administration Act 1992(b) and after agreement by the Social Security Advisory Committee that proposals to make these Regulations should not be referred to it(c), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Shared Additional Pension) (Miscellaneous Amendments) Regulations 2005 and shall come into force—

- (a) except for regulation 3 on 6th July 2005; and
- (b) regulation 3 on 6th April 2006.

(2) In these Regulations—

“the Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations 1987(d);

“shared additional pension” means a shared additional pension under section 55A of the Social Security Contributions and Benefits Act 1992(e).

Amendment of the Claims and Payments Regulations

2.—(1) The Claims and Payments Regulations are amended in accordance with the following paragraphs.

(2) In regulation 2 (interpretation)—

- (a) in paragraph (1)—

(a) 1992 c.4. Section 54(1) was amended by paragraph 22 of Schedule 12 to the Welfare Reform and Pensions Act 1999 (c.30). Schedule 5A was inserted by s.297 of the Pensions Act 2004 (c.35). Section 122(1) is cited for the meaning ascribed to “prescribe”.

(b) 1992 c.5. Section 73(1) amended by paragraph 49 of Schedule 2 to the Jobseekers Act 1995 (c.18). Section 191 is cited for the meaning ascribed to “prescribe”.

(c) See the Social Security Administration Act 1992, section 173(1)(b).

(d) S.I. 1987/1968.

(e) Sections 55A to C were inserted by the Welfare Reform and Pensions Act 1999 (c.30), Schedule 6, paragraph 3.

- (i) in the definition of “long term benefits”(a) after “retirement pension” insert “a shared additional pension,”; and
 - (ii) immediately before the definition of “state pension credit”(b) insert—
“shared additional pension” means a shared additional pension under section 55A of the Contributions and Benefits Act;” and
 - (b) in paragraph (2)(b)(c) after “Jobseekers Act” add “and a shared additional pension”.
- (3) In regulation 3 (claims not required for entitlement to benefit in certain cases) after paragraph (h)(d) add the following paragraph—
“(i) in the case of a shared additional pension where the beneficiary is in receipt of a retirement pension of any category.”.
- (4) In regulation 4 (making a claim for benefit)—
- (a) in paragraph (6A)(e)—
 - (i) in sub-paragraph (a)(ii) after “category” insert “or a shared additional pension”; and
 - (ii) in sub-paragraph (b) after “retirement pension” insert “or a shared additional pension”; and
 - (b) in paragraph (11)(f) after “graduated retirement benefit” insert “, a shared additional pension”.
- (5) In regulation 13(3)(g) (advance claims and awards) after “or increase,” insert “a shared additional pension,”.
- (6) In regulation 15(1) (advance notice of retirement and claim for and award of pension) after “increase in any such pension,” insert “or a shared additional pension,”.
- (7) For regulation 15B(h) (advance claim for pension following deferment) substitute—

“Advance claim for pension following deferment

15B. Where a person’s entitlement to a Category A or Category B retirement pension or a shared additional pension is deferred in accordance with section 55(3) of the Contributions and Benefits Act(i) (pension increase or lump sum where entitlement to retirement pension is deferred) or section 55C(3) (pension increase or lump sum where entitlement to shared additional pension is deferred) thereof (as the case may be) a claim for—

- (a) a Category A or Category B retirement pension;
- (b) any increase in that pension; and
- (c) a shared additional pension,

may be made at any time not more than 4 months before the date on which the period of deferment, within the meaning of section 55(3) or section 55C(3) (as the case may be), ends.”.

(8) In Schedule 1, Part 1 (benefit claimed and other benefit which may be treated as if claimed in addition or in the alternative) where “a retirement pension of any category” appears the second time in column (1) (benefit claimed), in the corresponding paragraph in column (2) (j)(alternative benefit) after “any other category” insert “, a shared additional pension”.

(9) In Schedule 6 (days for payment of long term benefits) immediately before paragraph 6 insert—

(a) Definition was amended by S.I. 1991/2741, 1999/2358, 2000/1483 and 2002/2497.
(b) Definition was inserted by S.I. 2002/3019.
(c) Paragraph (2) was amended by S.I. 1988/1725, 1996/1460, 1999/2572 and 2002/3019.
(d) Paragraph (h) was added by S.I. 1999/2556 and was amended by S.I. 2001/488 and 2003/1589.
(e) Paragraph (6A) was inserted by S.I. 2003/1632.
(f) Paragraph (11) was added by S.I. 2005/34.
(g) Paragraph (3) was amended by S.I. 1991/2741, 1994/2319, 1999/2572 and 2002/3019.
(h) Regulation 15B was inserted by S.I. 2005/455.
(i) Sections 55 and 55C were substituted by s.297 of the Pensions Act 2004 (c.35).
(j) This paragraph was amended by S.I. 1988/522.

“Shared additional pension

5A. Shared additional pension shall be payable on Mondays, except that—

- (a) where a retirement pension is payable to the claimant, it shall be payable on the same day as the retirement pension; or
- (b) the Secretary of State may, notwithstanding the provisions of sub-paragraph (a), arrange for a shared additional pension to be payable on such other day of the week as he may, in the circumstances of any particular case, determine.”.

Further amendment of the Claims and Payments Regulations

3.—(1) In regulation 30 of the Claims and Payments Regulations (payments on death)—

(a) for paragraph (5B)(a) substitute—

“(5B) Where a claim is made for a shared additional pension under paragraph (5) or for a retirement pension or graduated retirement benefit under paragraphs (5) and (5A), in determining, for the purposes of those paragraphs, the pension or benefit to which the deceased would have been entitled if he had claimed within the prescribed time, the prescribed time shall be the period of 3 months ending on the date of his death and beginning with any day on which, apart from satisfying the condition of making a claim, he would have been entitled to the pension or benefit.”;

(b) in paragraph (5C)—

(i) after “Category B retirement pension” insert “, a shared additional pension”;

(ii) in sub-paragraph (a) omit “or”; and

(iii) after sub-paragraph (a) insert—

“(aa) section 55C thereof (pension increase or lump sum where entitlement to shared additional pension is deferred); or”.

(c) in paragraph (5D)—

(i) after “under” insert “paragraph (5) or under”;

(ii) in sub-paragraph (a) omit “or”; and

(iii) after sub-paragraph (a) insert—

“(aa) paragraph 1(1)(a) of Schedule 5A thereto (electing to have an increase of a shared additional pension), where paragraph 5C(aa) applies; or”.

(2) In Schedule 4 (prescribed times for claiming benefit), after paragraph 14(b), in column (1) (description of benefit) and in the corresponding part of column (2) (prescribed time for claiming benefit) add the following paragraph—

“Shared additional pension

15. As regards any day on which, apart from satisfying the condition of making a claim, the claimant is entitled to the pension, that day and the period of 12 months immediately following it.”.

Amendment of the Social Security Benefit (Persons Abroad) Regulations 1975

4.—(1) The Social Security Benefit (Persons Abroad) Regulations 1975(c) are amended in accordance with the following paragraphs.

(a) Paragraphs (5A) to (5F) were added by S.I. 2005/455.

(b) Paragraphs 13 and 14 were added, with effect from 6th April, 2006, by S.I. 2005/455.

(c) S.I. 1975/563.

(2) In regulation 1(2) (citation, commencement and interpretation) immediately before the definition of “the Special Provisions Regulations” insert—

““shared additional pension” means a shared additional pension under section 55A of the Contributions and Benefits Act;”.

(3) In regulation 4(1)(a) (modification of the Act etc.) after “retirement pension of any category” insert “, a shared additional pension”.

(4) In regulation 5(3)(c)(b) (application of disqualification in respect of up-rating of benefit)—

(a) after “retirement pension of any category” insert “, any additional shared additional pension”; and

(b) after “entitled to a retirement pension” insert “, a shared additional pension”.

Amendment of the Social Security (Overlapping Benefits) Regulations 1979

5. In regulation 2(1) of the Social Security (Overlapping Benefits) Regulations 1979(c) (interpretation)—

(a) in the definition of “personal benefit” after “pension or allowance” insert “, except a shared additional pension,”; and

(b) immediately before the definition of “training allowance” insert—

““shared additional pension” means a shared additional pension under section 55A of the Contributions and Benefits Act;”.

Amendment of the Social Security (Widow’s Benefit and Retirement Pensions) Regulations 1979

6.—(1) The Social Security (Widow’s Benefit and Retirement Pensions) Regulations 1979(d) are amended in accordance with the following paragraphs.

(2) In regulation 1(2) (citation, commencement and interpretation) immediately before the definition of “1914-1918 War Injuries Scheme” insert—

““shared additional pension” means a shared additional pension under section 55A of the Social Security Contributions and Benefits Act 1992;”.

(3) In regulation 2(1)(a)(e) (election to be treated as not having retired) after “retirement pension” insert “or a shared additional pension”.

(4) In regulation 3(a) (provisions applying after election) after “retirement pension”, where it appears the first time and the third time, insert “or a shared additional pension”.

(5) In regulation 4 (days to be treated as days of increment) after paragraph (3) add—

“(4) For the purposes of paragraph 3 of Schedule 5A to the Social Security Contributions and Benefits Act 1992 a day shall be treated as a day of increment in relation to any person if it is a day in that person’s period of deferment, other than a Sunday, in respect of which if that person had not deferred his entitlement to a shared additional pension he would have been entitled to it (and would not have been disqualified from receiving it by reason of imprisonment or detention in legal custody).”.

Amendment of the Social Security (General Benefit) Regulations 1982

7.—(1) The Social Security (General Benefit) Regulations 1982(f) are amended in accordance with the following paragraphs.

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- (a) Paragraph (1) was amended by S.I. 1992/1700 and 2000/2876.
(b) Paragraph (3)(c) was amended by S.I. 1989/1642 and 1992/1700.
(c) S.I. 1979/597. Definition was amended by S.I. 1996/1345.
(d) S.I. 1979/642.
(e) Paragraph (1)(a) was amended by S.I. 1989/1642 and 2005/453.
(f) S.I. 1982/1408.

(2) In regulation 1(2) (citation, commencement and interpretation) immediately before the definition of “standard rate of increase” insert—

““shared additional pension” means a shared additional pension under section 55A of the Social Security Contributions and Benefits Act 1992;”.

(3) In regulation 2(2)(a) (exceptions from disqualification for imprisonment etc.) after “maternity allowance,” insert “a shared additional pension,”.

Amendment of the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988

8. In regulation 5(2) of the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988(b) (offsetting prior payments against subsequent award), in Case 1 (payment pursuant to a decision which is revised or superseded, or overturned on appeal), after “benefit” insert “or by way of a shared additional pension under section 55A of the Contributions and Benefits Act”.

Amendment of the Social Security (Deferral of Retirement Pensions) Regulations 2005

9.—(1) The Social Security (Deferral of Retirement Pensions) Regulations 2005(c) are amended in accordance with the following paragraphs.

(2) In regulation 1(2) (citation, commencement and interpretation) after the definition of “retirement pension” add—

““shared additional pension” means a shared additional pension under section 55A of the Act.”.

(3) In regulation 2 (beginning of accrual period)—

- (a) after “Schedule 5” insert “and paragraph 5 of Schedule 5A”;
- (b) after “retirement pension” each time it appears insert “or a shared additional pension”; and
- (c) after “paragraph 5” insert “or 5A”.

(4) In regulation 3 (amount of retirement pension not included in the calculation of the lump sum)—

- (a) in sub-paragraph (1)(a)(i) after “disability living allowance” insert “, a shared additional pension”;
- (b) after paragraph (1) insert—

“(1A) For the purposes of the calculation of the lump sum under paragraph 5 of Schedule 5A to the Act, the amount of a shared additional pension to which a person (“the deferrer”) would have been entitled for the accrual period if his entitlement had not been deferred shall not include any such pension where, for the entire accrual period, the deferrer would have been disqualified for receiving shared additional pension by reason of imprisonment or detention in legal custody.”;

- (c) in paragraph (3)—
 - (i) after “paragraph (1)(d)” insert “or a shared additional pension as specified in paragraph (1A)”; and
 - (ii) after “paragraph (1)” insert “or a shared additional pension not included by paragraph (1A)”; and
- (d) in paragraph (8) after “retirement pension” insert “or a shared additional pension”.

(a) Paragraph(2) was amended by S.I. 1983/186, 1984/1303, 1991/2742, 1995/829, 1996/425 and 2000/1483.

(b) S.I. 1988/664. Paragraph (2) was amended by S.I. 1999/1958, 1999/2422, 1999/2739, 1999/2860 and 1999/3178.

(c) S.I. 2005/453.

Transitional provisions

10.—(1) Subject to paragraph (2) a claim for a shared additional pension made during the period from 6th July 2005 to 5th April 2006 in respect of any day in the period from 6th April 2005 to 5th April 2006 shall be treated as made on that day if on that day, apart from satisfying the condition of making a claim, the claimant satisfies the other conditions of entitlement for that pension.

(2) Where a claim for a shared additional pension is made in accordance with regulation 30(5) of the Claims and Payments Regulations (payments on death), the prescribed time shall be the period of 3 months ending on the date of the deceased's death and beginning on any day on which, apart from satisfying the condition of making a claim, he would have been entitled to the pension.

Signed by authority of the Secretary of State for Work and Pensions.

9 June 2005

Stephen C. Timms
Minister of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provisions for the harmonisation of the rules for claiming and paying Shared Additional Pension with those relating to Retirement Pension and Graduated Retirement Benefit.

Regulation 2 amends the Social Security (Claims & Payments) Regulations 1987 and comes into force on 6th July 2005.

Regulation 3 makes further amendments to the Social Security (Claims & Payments) Regulations 1987 but does not come into force until 6th April 2006.

Regulations 4 to 9 harmonise various rules from 6th July 2005.

Regulation 10 provides transitional provisions

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the cost of business.

STATUTORY INSTRUMENTS

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Amendments) Regulations 2005**

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