
STATUTORY INSTRUMENTS

2005 No. 2677

**The Social Security (Deferral of Retirement Pensions,
Shared Additional Pension and Graduated Retirement
Benefit) (Miscellaneous Provisions) Regulations 2005**

PART 3

DEFERRAL OF GRADUATED RETIREMENT BENEFIT

Amendment of the Social Security (Graduated Retirement Benefit) Regulations 2005

7.—(1) The Social Security (Graduated Retirement Benefit) Regulations 2005^{M1} shall be amended in accordance with the following paragraphs.

(2) In Schedule 1 (increases of graduated retirement benefit and lump sums)—

(a) in paragraph 2(1), omit “, on claiming his pension either”;

(b) in paragraph 12—

(i) for sub-paragraph (2) substitute—

“(2) The election referred to in sub-paragraph (1) shall be made—

(a) on the date on which he claims graduated retirement benefit; or

(b) within the period after claiming graduated retirement benefit prescribed in paragraph 20B,

and in the manner prescribed in paragraph 20C.”;

(ii) in sub-paragraph (4), for “and within the time specified in regulations made under paragraph A1(4) of Schedule 5” substitute “, manner and within the period prescribed, in paragraph 20D”;

(c) in paragraph 17—

(i) for sub-paragraph (3), substitute—

“(3) The election referred to in sub-paragraph (2) shall be made within the period prescribed in paragraph 20B and in the manner prescribed in paragraph 20C.”;

(ii) in sub-paragraph (4), for “(3)(b)” substitute “(3)”;

(iii) for sub-paragraph (5) substitute—

“(5) A person who has made an election under sub-paragraph (2) (including one that the person is treated by sub-paragraph (4) as having made) may change the election in the circumstances, manner and within the period prescribed in paragraph 20D.”.

(d) after paragraph 20, insert—

“PART 2A

ELECTIONS UNDER PART 2

Scope and interpretation

20A.—(1) This Part applies in respect of elections which a person makes or is treated as having made under Part 2.

(2) In this Part, “elector” means the person who may make an election under paragraph 12(1) or 17(2).

Timing of election

20B.—(1) The period for making an election under paragraph 12(1) is, subject to sub-paragraph (4), three months starting on the date shown on the notice issued by the Secretary of State following the claim for graduated retirement benefit, confirming that the elector is required to make that election.

(2) The period for making an election under paragraph 17(2) is, subject to sub-paragraph (4), three months starting on the date shown on the notice issued by the Secretary of State following W's claim for a Category A or Category B retirement pension or, if later, the date of S's death, confirming that the elector is required to make that election^{M2}.

(3) Where more than one notice has been issued by the Secretary of State in accordance with sub-paragraph (1) or (2), the periods prescribed in those sub-paragraphs shall only commence from the date shown on the latest such notice.

(4) The periods specified in sub-paragraphs (1) and (2) may be extended by the Secretary of State if he considers it reasonable to do so in any particular case.

(5) Nothing in this paragraph shall prevent the making of an election on or after claiming graduated retirement benefit or, as the case may be, Category A or Category B retirement pension, but before the issue of the notice referred to in sub-paragraph (1) or (2).

Manner of making election

20C. An election under paragraph 12(1) or 17(2) may be made—

- (a) in writing to an office specified by the Secretary of State for accepting such elections; or
- (b) except where the Secretary of State directs in any particular case that the election must be made in accordance with sub-paragraph (a), by telephone call to the telephone number specified by the Secretary of State.

Change of election

20D.—(1) Subject to sub-paragraphs (2) and (6), this paragraph applies in the case of an election which—

- (a) has been made under paragraph 12(1) or 17(2); or
 - (b) has been treated as made under paragraph 12(3) or 17(4).
- (2) This paragraph does not apply in the case of an election which is—
- (a) made, or treated as made, by an elector who has subsequently died; or

- (b) treated as having been made by virtue of regulation 30(5D) or (5F) of the Social Security (Claims and Payments) Regulations 1987.
- (3) An election specified in sub-paragraph (1) may be changed by way of application made no later than the last day of the period specified in sub-paragraph (4).
- (4) The period specified for the purposes of sub-paragraph (3) is, subject to sub-paragraph (5), three months after the date shown on the written notification issued by the Secretary of State to the elector, confirming the election which the elector has made or is treated as having made.
- (5) The period specified in sub-paragraph (4) may be extended by the Secretary of State if he considers it reasonable to do so in any particular case.
- (6) An election specified in sub-paragraph (1) may not be changed where—
 - (a) there has been a previous change of election under this paragraph in respect of the same period of deferment;
 - (b) the application is to change the election to one under paragraph 12(1)(a) or 17(2)(a) and any amount paid to him by way of, or on account of, a lump sum pursuant to paragraph 15 or 19, has not been repaid in full to the Secretary of State within the period specified in sub-paragraph (4) or, as the case may be, (5); or
 - (c) the application is to change the election to one under paragraph 12(1)(b) or 17(2)(b) and the amount actually paid by way of an increase of graduated retirement benefit, or actually paid on account of such an increase, would exceed the amount to which the elector would be entitled by way of a lump sum.
- (7) For the purposes of sub-paragraph (6)(b), repayment in full of the amount paid by way of, or on account of, a lump sum shall only be treated as having occurred if repaid to the Secretary of State in the currency in which that amount was originally paid.
- (8) Where the application is to change the election to one under paragraph 12(1)(b) or 17(2)(b) and sub-paragraph (6)(c) does not apply, any amount paid by way of an increase of graduated retirement benefit, or on account of such an increase, in respect of the period of deferment for which the election was originally made, shall be treated as having been paid on account of the lump sum to which the elector is entitled under paragraph 15 or 19.
- (9) An application under sub-paragraph (3) to change an election may be made—
 - (a) in writing to an office specified by the Secretary of State for accepting such applications; or
 - (b) except where the Secretary of State directs in any particular case that the application must be made in accordance with paragraph (a), by telephone call to the telephone number specified by the Secretary of State.”.
- (3) In Schedule 2 (modification of Schedule 1), omit paragraphs 5 and 10.

Marginal Citations

- M1** [S.I.2005/454](#). Schedule 1 has effect by virtue of section 36(4) of the [National Insurance Act 1965 \(c. 51\)](#) as amended by those Regulations. Section 36 of that Act was repealed by the [Social Security Act 1973 \(c. 38\)](#) with effect from 6th April 1975 but continues in force by virtue of regulations made under Schedule 3 to the [Social Security \(Consequential Provisions\) Act 1975 \(c. 18\)](#) or under Schedule 3 to the [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#).
- M2** “W” and “S” have the same meaning for the purposes of this sub-paragraph as for the purposes of paragraph 17 of Schedule 1 to those Regulations.

Changes to legislation:

There are currently no known outstanding effects for the The Social Security (Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit) (Miscellaneous Provisions) Regulations 2005, PART 3.