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STATUTORY INSTRUMENTS

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**2005 No. 2677**

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

**PART 5**

**DECISIONS**

**Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations 1999**

9.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations 1999 <sup>M1</sup> shall be amended in accordance with the following paragraphs.

(2) In regulation 1(3) (interpretation)—

(a) after the definition of “financially qualified panel member” insert—

““the Graduated Retirement Benefit Regulations” means the Social Security (Graduated Retirement Benefit) Regulations 2005 <sup>M2</sup>;” and

(b) after the definition of “date of notification” insert—

““the Deferral of Retirement Pensions etc. Regulations” means the Social Security (Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit) (Miscellaneous Provisions) Regulations 2005 <sup>M3</sup>;”.

(3) In regulation 3 (revision of decisions), after paragraph (7C) <sup>M4</sup> insert—

“(7D) Where—

(a) a person elects for an increase of—

(i) a Category A or Category B retirement pension in accordance with paragraph A1 or 3C of Schedule 5 to the Contributions and Benefits Act <sup>M5</sup> (pension increase or lump sum where entitlement to retirement pension is deferred);

(ii) a shared additional pension in accordance with paragraph 1 of Schedule 5A to that Act <sup>M6</sup> (pension increase or lump sum where entitlement to shared additional pension is deferred); or, as the case may be,

(iii) graduated retirement benefit in accordance with paragraph 12 or 17 of Schedule 1 to the Graduated Retirement Benefit Regulations (further provisions replacing section 36(4) of the National Insurance Act 1965: increases of graduated retirement benefit and lump sums);

(b) the Secretary of State decides that the person or his partner is entitled to state pension credit and takes into account the increase of pension or benefit in making or superseding that decision; and

- (c) the person's election for an increase is subsequently changed in favour of a lump sum in accordance with regulation 5 of the Deferral of Retirement Pensions etc. Regulations or, as the case may be, paragraph 20D of Schedule 1 to the Graduated Retirement Benefit Regulations<sup>M7</sup>,

the Secretary of State may revise the state pension credit decision.

(7E) Where—

- (a) a person is awarded a Category A or Category B retirement pension, shared additional pension or, as the case may be, graduated retirement benefit;
- (b) an election is made, or treated as made, in respect of the award in accordance with paragraph A1 or 3C of Schedule 5 or paragraph 1 of Schedule 5A to the Contributions and Benefits Act or, as the case may be, in accordance with paragraph 12 or 17 of Schedule 1 to the Graduated Retirement Benefit Regulations; and
- (c) the election is subsequently changed in accordance with regulation 5 of the Deferral of Retirement Pensions etc. Regulations or, as the case may be, paragraph 20D of Schedule 1 to the Graduated Retirement Benefit Regulations,

the Secretary of State may revise the award.”.

(4) In regulation 6 (supersession of decisions), after paragraph (2)(n)<sup>M8</sup> insert—

“(o) is a decision that a person is entitled to state pension credit and—

- (i) the person or his partner makes, or is treated as having made, an election for a lump sum in accordance with—
- (aa) paragraph A1 or 3C of Schedule 5 to the Contributions and Benefits Act<sup>M9</sup>,
- (bb) paragraph 1 of Schedule 5A to that Act<sup>M10</sup>; or, as the case may be,
- (cc) paragraph 12 or 17 of Schedule 1 to the Graduated Retirement Benefit Regulations;

or

- (ii) such a lump sum is repaid in consequence of an application to change an election for a lump sum in accordance with regulation 5 of the Deferral of Retirement Pensions etc. Regulations or, as the case may be, paragraph 20D of Schedule 1 to the Graduated Retirement Benefit Regulations.”.

(5) In regulation 7 (date from which a decision superseded under section 10 takes effect), after paragraph (7) insert—

“(7A) Where a decision is superseded in accordance with regulation 6(2)(o), the superseding decision shall take effect from the day on which a lump sum, or a payment on account of a lump sum, is paid or repaid if that day is the first day of the benefit week but, if it is not, from the next following such day.”.

(6) After regulation 13 insert—

**“Retirement pension after period of deferment**

**13A.—**(1) This regulation applies where—

- (a) a person claims a Category A or Category B retirement pension, shared additional pension or, as the case may be, graduated retirement benefit;
- (b) an election is required by, as the case may be—

- (i) paragraph A1 or 3C of Schedule 5 to the Contributions and Benefits Act (pension increase or lump sum where entitlement to retirement pension is deferred);
  - (ii) paragraph 1 of Schedule 5A to that Act (pension increase or lump sum where entitlement to shared additional pension is deferred); or, as the case may be,
  - (iii) paragraph 12 or 17 of Schedule 1 to the Graduated Retirement Benefit Regulations (further provisions replacing section 36(4) of the National Insurance Act 1965: increases of graduated retirement benefit and lump sums); and
- (c) no election is made when the claim is made.
- (2) In the circumstances specified in paragraph (1) the Secretary of State may decide the claim before any election is made, or is treated as made, for an increase or lump sum.
- (3) When an election is made, or is treated as made, the Secretary of State shall revise the decision which he made in pursuance of paragraph (2).”.

#### Marginal Citations

- M1** S.I. 1999/991.
- M2** S.I. 2005/454.
- M3** S.I. 2005/2677.
- M4** Paragraph (7C) is inserted by S.I.2005/337.
- M5** Paragraphs A1 and 3C are inserted respectively by paragraphs 4 and 9 of Schedule 11 to the [Pensions Act 2004 \(c. 35\)](#).
- M6** [Schedule 5A](#) is inserted by paragraph 15 of Schedule 11 to the Pensions Act 2004.
- M7** [Paragraph 20D](#) is inserted by S.I.2005/2677 .
- M8** Sub-paragraph (n) is inserted by S.I.2005/337.
- M9** Paragraphs A1 and 3C are inserted respectively by paragraphs 4 and 9 of Schedule 11 to the [Pensions Act 2004 \(c. 35\)](#).
- M10** [Schedule 5A](#) is inserted by paragraph 15 of Schedule 11 to the Pensions Act 2004.

#### Amendment of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001

**10.**—(1) The Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 <sup>M11</sup> shall be amended in accordance with the following paragraphs.

(2) In regulation 4 (revision of decisions), after paragraph (7C) <sup>M12</sup> insert—

“(7D) Where—

(a) a person elects for an increase of—

- (i) a Category A or Category B retirement pension in accordance with paragraph A1 or 3C of Schedule 5 to the Contributions and Benefits Act <sup>M13</sup> (pension increase or lump sum where entitlement to retirement pension is deferred);
- (ii) a shared additional pension in accordance with paragraph 1 of Schedule 5A to that Act <sup>M14</sup> (pension increase or lump sum where entitlement to shared additional pension is deferred); or, as the case may be,
- (iii) graduated retirement benefit in accordance with paragraph 12 or 17 of Schedule 1 to the Social Security (Graduated Retirement Benefit)

Regulations 2005 <sup>M15</sup> (further provisions replacing section 36(4) of the National Insurance Act 1965: increases of graduated retirement benefit and lump sums);

(b) the relevant authority decides that the person or his partner is entitled to housing benefit or council tax benefit and takes into account the increase of pension or benefit in making or superseding that decision; and

(c) the person's election for an increase is changed so that he is entitled to a lump sum, the relevant authority may revise the housing benefit or council tax benefit decision.”.

(3) In regulation 7 (decisions superseding earlier decisions), after paragraph (2)(i) <sup>M16</sup> insert—

“(j) where—

(i) the claimant or his partner makes, or is treated as having made, an election for a lump sum in accordance with—

(aa) paragraph A1 or 3C of Schedule 5 to the Contributions and Benefits Act;

(bb) paragraph 1 of Schedule 5A to that Act; or, as the case may be,

(cc) paragraph 12 or 17 of Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005;

or

(ii) such a lump sum is repaid in consequence of an application to change an election for a lump sum in accordance with regulation 5 of the Social Security (Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit) (Miscellaneous Provisions) Regulations 2005 <sup>M17</sup> or, as the case may be, paragraph 20D of Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005 <sup>M18</sup>”.

(4) In regulation 8 (date from which decision superseding an earlier decision takes effect), after paragraph (14) <sup>M19</sup> insert—

“(14A) Where a decision is superseded in accordance with regulation 7(2)(j), the superseding decision shall take effect from the day on which a lump sum, or a payment on account of a lump sum, is paid or repaid if that day is the first day of the benefit week but, if it is not, from the next following such day.”.

#### Marginal Citations

**M11** [S.I. 2001/1002](#).

**M12** Paragraph (7C) is inserted by [S.I.2003/2275](#).

**M13** Paragraphs A1 and 3C are inserted respectively by paragraphs 4 and 9 of Schedule 11 to the [Pensions Act 2004 \(c. 35\)](#).

**M14** [Schedule 5A](#) is inserted by paragraph 15 of Schedule 11 to the Pensions Act 2004.

**M15** [S.I. 2005/454](#).

**M16** Sub-paragraph (i) is inserted by [S.I.2003/2275](#).

**M17** [S.I.2005/2677](#).

**M18** [Paragraph 20D](#) is inserted by [S.I.2005/2677](#).

**M19** Paragraph (14) is inserted by [S.I.2003/2275](#).

**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 5.