
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations modify the provisions relating to the deferral of entitlement to retirement pension that are inserted in Schedule 5 to the Social Security Contributions and Benefits Act 1992 (“the 1992 Act”) by Schedule 11 to the Pensions Act 2004 (c. 35) (“the 2004 Act”). They also modify the new Schedule 5A relating to the deferral of entitlement to shared additional pension that is inserted in the 1992 Act by Schedule 11 to the 2004 Act.

In particular, they make transitional arrangements arising from a change in the incremental rate from $\frac{1}{7}$ th per cent. to $\frac{1}{5}$ th per cent. and from the introduction of an option to choose a lump sum when a person defers entitlement to their pension for at least 12 months.

Regulations 2(2) and 3(2) ensure that a person must have deferred their entitlement to their pension for at least 12 months after 5th April 2005 to be able to elect to receive a lump sum and they can either elect to receive increments in respect of their entire period of deferment or increments only in respect of the period up to 5th April 2005 and a lump sum in respect of the remainder of the period.

Regulations 2(3) and 3(3) allow a person to receive increments in certain circumstances, even if the amount of the aggregate of the increments is not enough to increase the rate of the pension by 1 per cent.

Regulations 2(4) and 3(4) provide that a lump sum can, if greater, consist of the total amount of pension a person would have received in the previous 12 months had his claim for retirement pension or shared additional pension commenced from that earlier date. This may arise for transitional cases because the increments accrued in respect of the period prior to 6th April 2005 (when no lump sum could be accrued) would necessarily form part of the weekly pension and hence be included in the calculation of pension arrears where a person claims from an earlier date. Regulations 2(4) and 3(4) also ensure that the lump sum starts to accrue from the first pension pay day following 5th April 2005.

Regulation 2(5) to (7) makes corresponding provision for calculating entitlement to a lump sum or increments for the surviving spouse when the deceased was deferring entitlement to retirement pension and his or her period of deferment spans 6th April 2005.

A full Regulatory Impact Assessment has not been produced for this Instrument as it has no impact on the costs of business.