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STATUTORY INSTRUMENTS

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**2011 No. 634**

**SOCIAL SECURITY**

**The Social Security (Deferral of Retirement Pensions) Regulations 2011**

<i>Made</i>	- - - -	<i>3rd March 2011</i>
<i>Laid before Parliament</i>		<i>10th March 2011</i>
<i>Coming into force</i>	- -	<i>6th April 2011</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 122(1) and 175(1) and (3) of, and paragraphs 2(2), 3B(5)(b)(iii) and 7B(5)(b)(iii) of Schedule 5 to, the Social Security Contributions and Benefits Act 1992(1).

The Social Security Advisory Committee has agreed that proposals in respect of these Regulations should not be referred to it(2).

**Citation and commencement**

1. These Regulations may be cited as the Social Security (Deferral of Retirement Pensions) Regulations 2011 and shall come into force on 6th April 2011.

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

2.—(1) Regulation 4 of the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1979 (days to be treated as days of increment)(3) is amended as follows.

(2) In paragraph (1)(b)(iii) for “and” substitute “or”.

(3) After paragraph (1)(b)(iii) insert—

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- (1) 1992 c. 4. Schedule 5 was amended by paragraph 42 of Schedule 8 to the Pension Schemes Act 1993 (c. 48); paragraph 40 of Schedule 1 to the Social Security (Incapacity for Work) Act 1994 (c. 18); paragraphs 6 and 21(15) of Part 2 of Schedule 4 and Part 2 of Schedule 7 to the Pensions Act 1995 (c. 26); section 39(1) and (2)(c) of the Child Support, Pensions and Social Security Act 2000 (c. 19); Schedule 6 to the Tax Credits Act 2002 (c. 21); paragraphs 2 to 14 of Part 1 of Schedule 11 to the Pensions Act 2004 (c. 35); paragraphs 8, 19 and 20 of Schedule 1 and Schedule 7 to the Pensions Act 2007 (c. 22) and by paragraph 5 of Part 1 of the Schedule to S.I. 2005/2053. Section 122(1) is cited because of the meaning ascribed to the word “prescribe”.
- (2) Section 173(1)(b) of the Social Security Administration Act 1992 (c.5) provides that regulations which would otherwise be referable to the Social Security Advisory Committee may not be so referred with the agreement of that Committee. These Regulations would otherwise be referable by virtue of section 172 of that Act.
- (3) S.I. 1979/642. Relevant amending instruments are: S.I. 1989/1642; S.I. 1991/2742; S.I. 1996/1345; S.I. 1999/2422; S.I. 2005/453; S.I. 2005/1551; S.I. 2005/2878; S.I. 2006/516 and S.I. 2009/2206.

- “(iv) state pension credit under section 1 of the State Pension Credit Act 2002(4); and”.
- (4) At the end of paragraph (1)(d)(ii) insert—
- “; and
- (e) in the case of a person who was a member of a couple, the other member of the couple was not in receipt of—
- (i) income support under section 124 of the Social Security Contributions and Benefits Act 1992(5);
  - (ii) income-based jobseeker’s allowance under section 1 of the Jobseekers Act 1995(6);
  - (iii) state pension credit under section 1 of the State Pension Credit Act 2002; or
  - (iv) income-related employment and support allowance under section 1 of the Welfare Reform Act 2007(7).”.
- (5) After paragraph (4) insert—
- “(5) In paragraph (1), “couple” has the meaning given by section 137(1) of the Social Security Contributions and Benefits Act 1992(8).”.
- (6) This regulation applies only in respect of a day falling on or after 6th April 2011.

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

**3.—(1)** Regulation 3 of the Social Security (Deferral of Retirement Pensions) Regulations 2005 (amount of retirement pension not included in the calculation of the lump sum)(9) is amended as follows.

- (2) After paragraph (1)(a)(iii) insert—
- “(iv) state pension credit under section 1 of the State Pension Credit Act 2002;”.
- (3) After paragraph (1)(a) insert—
- “(aa) in the case of a deferrer who was a member of a couple, the other member of the couple was in receipt of—
- (i) income support under section 124 of the Act;
  - (ii) income-based jobseeker’s allowance under section 1 of the Jobseekers Act 1995;
  - (iii) state pension credit under section 1 of the State Pension Credit Act 2002; or
  - (iv) income-related employment and support allowance under section 1 of the Welfare Reform Act 2007;”.
- (4) In paragraphs (2) and (4), after “paragraph (1)(a)” insert “or (aa)”.
- (5) After paragraph (5) insert—
- “(5A) In paragraph (1), “couple” has the meaning given by section 137(1) of the Act.”.
- (6) This regulation applies only in respect of an accrual period, or part of an accrual period, falling on or after 6th April 2011.

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(4) 2002 c. 16.

(5) 1992 c. 4.

(6) 1995 c. 18.

(7) 2007 c. 5.

(8) Relevant amendment to section 137(1) is paragraph 46(1) and (3) of Part 3 of Schedule 24 to the Civil Partnership Act 2004 (c. 33).

(9) S.I. 2005/453. Regulation 3 was amended by S.I. 2005/1551 and S.I. 2005/2878.

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

3rd March 2011

*Steve Webb*  
Minister for Pensions,  
Department for Work and Pensions

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1979 (S.I. 1979/642) (the "1979 Regulations") and the Social Security (Deferral of Retirement Pensions) Regulations 2005 ( S.I. 2005/453) (the "2005 Regulations").

If a person defers entitlement to a state pension, that person may become entitled to a higher rate of state pension or a lump sum ("deferral benefits"), which accrue over time while the benefit remains unclaimed.

These Regulations amend regulation 4 of the 1979 Regulations and regulation 3 of the 2005 Regulations to provide that:

- a person does not accrue any deferral benefits while that person is in receipt of state pension credit;
- a person does not accrue any deferral benefits where that person is the member of a couple and the other member of the couple is in receipt of income support, income-based jobseeker's allowance, state pension credit or income-related employment and support allowance.

A full impact assessment has not been produced for this instrument as it has no impact on the private or voluntary sector.