

2016 No. 408

PENSIONS

The Pensions Act 2014 (Transitional and Transitory Provisions) Order 2016

Made - - - - *21st March 2016*

Coming into force - - *6th April 2016*

The Secretary of State for Work and Pensions makes the following Order in exercise of the power conferred by section 56(8) of the Pensions Act 2014(a).

Citation, commencement and cessation

1.—(1) This Order may be cited as the Pensions Act 2014 (Transitional and Transitory Provisions) Order 2016.

(2) This Order comes into force on 6th April 2016.

(3) Article 2 of this Order ceases to have effect on the day on which section 30 of the Pensions Act 2014 (bereavement support payment) comes fully into force.

Transitory provision

2. Section 36(1)(a) of the Social Security Contributions and Benefits Act 1992 (bereavement payment)(b) is to be read as if after “under section 44 below” the words “or a state pension under Part 1 of the Pensions Act 2014” appear.

Transitional provisions

3.—(1) This article applies to a case in which the spouse or civil partner mentioned in paragraph 3(1) of Schedule 3 to the Pensions Act 2014 (survivor’s pension: inherited amount where dead spouse or civil partner was in the old state pension system) died—

(a) on or after 6th April 2016; but

(b) before the day on which section 30 of the Pensions Act 2014 comes fully into force.

(2) In a case to which this article applies—

(a) paragraph 3(1)(d) of Schedule 3 to the Pensions Act 2014 is to be read as if it provides—

“(d) the pensioner would, on reaching pensionable age, have been entitled to a Category B retirement pension under section 48BB of the Contributions and Benefits Act if in subsections (1) and (3) of that section the words “before 6 April 2016” were omitted.”; and

(a) 2014 c.19.

(b) 1992 c.4. Section 36(1) was substituted by section 54(1) of the Welfare Reform and Pensions Act 1999 (c.30) and amended by paragraph 16(2) of Schedule 24 to the Civil Partnership Act 2004 (c.33).

(b) paragraph 3(2) of that Schedule is to be read as if it provides—

“(2) The inherited amount is equal to the weekly rate at which that Category B retirement pension would have been payable on the day on which the pensioner reached pensionable age if any element of the rate attributable to the basic pension were ignored.”.

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

21st March 2016

Altmann
Minister of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes transitional and transitory provision in connection with the coming into force of Part 1 of the Pensions Act 2014 (c.19). Part 1 creates a new state pension for people reaching pensionable age on or after 6th April 2016. Part 1 comes fully into force on 6th April 2016 in accordance with section 56(4) of the Pensions Act 2014. Part 5 of the Pensions Act 2014 creates a new bereavement support payment for people whose spouse or civil partner dies. Part 5 does not come into force on 6th April 2016 – it comes into force on such day as the Secretary of State may appoint in accordance with section 56(1) of the Pensions Act 2014.

Part 1 is worded on the assumption that Part 5 will come into force on 6th April 2016. Transitional provisions are required so that Part 1 applies correctly for certain cases that arise in respect of the period from 6th April 2016 until Part 5 comes into force. Without the transitional provisions, there would be a gap from 6th April 2016 when Part 1 comes into force. Certain cases arising in respect of that gap would get less new state pension than they should do.

The cases are where a person’s spouse or civil partner dies between 6th April 2016 and the date Part 5 comes into force (the cases are set out in article 3(1)). Such a person may be entitled to one of the existing bereavement benefits which are being replaced by new bereavement support payment. If the person is entitled to one of those existing benefits, they should also get an inherited amount as part of their new state pension under paragraph 3 of Schedule 3 to the Pensions Act 2014 (assuming they satisfy the other conditions of entitlement). Without the transitional provisions, they would not get their inherited amount because paragraph 3 would refer to bereavement support payment before Part 5 comes into force. The transitional provision in article 3(2)(a) ensures they get their inherited amount by providing that paragraph 3 does not refer to bereavement support payment for these cases. The transitional provision in article 3(2)(b) ensures their inherited amount is calculated by reference to the rate of inherited old additional state pension applicable for a person who received the existing bereavement benefit.

The new bereavement support payment in Part 5 of the Pensions Act 2014 replaces the existing bereavement payment in section 36 of the Social Security Contributions and Benefits Act 1992 (c.4). When Part 5 comes into force, paragraph 8 of Schedule 16 to the Pensions Act 2014 repeals section 36. Paragraph 8 of Schedule 16 is worded on the assumption that Part 5 will come into force at the same time as Part 1. Transitory provisions are required because section 36 is not repealed at the same time as Part 1 comes into force. This means a person will be unable to get bereavement payment under section 36 if their deceased spouse or civil partner was entitled to an old state pension (as now), but will be able to get a bereavement payment if their deceased spouse or civil partner was entitled to a new state pension. Section 36 therefore needs to refer to new state pension for a transitory period until paragraph 8 of Schedule 16 repeals section 36. Without the transitory provision in article 2, some people would be able to get bereavement payment in addition to new state pension when no-one would be able to get bereavement payment in addition to old state pension.

A full impact assessment has not been published for this Order as it has no impact on the private sector or civil society organisations.

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