

SCHEDULES

SCHEDULE 12

STATE PENSION: AMENDMENTS

PART 1

AMENDMENTS TO DO WITH NEW STATE PENSION SYSTEM

The Forfeiture (Northern Ireland) Order 1982 (NI 14)

1. In Article 6 of the Forfeiture (Northern Ireland) Order 1982 (Commissioner to decide whether forfeiture rule applies to social security benefits), in the definition of “relevant enactment” in paragraph (5), after the entry relating to the Pension Schemes (Northern Ireland) Act 1993 insert—

“Part 1 of the Pensions Act (Northern Ireland) 2015.”

The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)

2. The Contributions and Benefits Act is amended as follows.

3. In section 1 (outline of contributory system), in subsection (1)(a), after “this Act” insert “or any other Act or Northern Ireland legislation”.

4. In section 13 (Class 3 contributions), in subsection (2), omit “contribution”.

5. After section 19A insert—

“19B Extended meaning of benefit” etc. in Part 1

19B. In this Part references to “benefit” or “contributory benefit” include benefit under Part 1 of the Pensions Act (Northern Ireland) 2015.”

6.—(1) Section 22 (earnings factors) is amended as follows.

(2) In subsection (2)—

(a) in paragraph (a), omit the final “and”;

(b) after paragraph (b) insert “; and

(c) establishing entitlement to a state pension under Part 1 of the Pensions Act (Northern Ireland) 2015 and, where relevant, calculating the rate of a state pension under that Part.”

(3) After subsection (5) insert—

“(5ZA) Regulations may provide for crediting—

(a) for 1987-88 or any subsequent tax year, earnings or Class 2 or Class 3 contributions, or

(b) for any earlier tax year, contributions of any class,

for the purposes of bringing an earnings factor for that tax year to a figure which will make that year a “qualifying year”, “pre-commencement qualifying year” or “post-commencement qualifying year” of a person for the purposes of Part 1 of the Pensions Act (Northern Ireland) 2015 (see sections 2(4) and 4(4) of that Act).

(5ZB) Regulations under subsection (5ZA) must provide for crediting a person with such contributions as may be specified in respect of periods on or after 6 April 1975 during which the person was—

(a) a spouse or civil partner of a member of Her Majesty’s forces,

(b) accompanying the member on an assignment outside the United Kingdom, and

(c) not of a description specified in the regulations.”.

7. In section 121(1) (interpretation), in the definition of “benefit”, after paragraph (c) insert—

“(For the meaning of benefit” in Part 1, see also section 19B).”.

The Social Security Administration (Northern Ireland) Act 1992 (c. 8)

8. The Administration Act is amended as follows.

9. In section 1 (entitlement to benefit dependent on claim), in subsection (4), before paragraph (a) insert—

“(zb) state pension or a lump sum under Part 1 of the Pensions Act (Northern Ireland) 2015;”.

10. In section 5 (regulations about claims for and payments of benefits), in subsection (2), before paragraph (a) insert—

“(zb) state pension or a lump sum under Part 1 of the Pensions Act (Northern Ireland) 2015;”.

11. In section 69 (overpayments - general), in subsection (11), before paragraph (a) insert—

“(za) state pension or a lump sum under Part 1 of the Pensions Act (Northern Ireland) 2015;”.

12. In section 71 (overlapping benefits - general)—

(a) in subsection (1), after “adjusting” insert “state pension under Part 1 of the Pensions Act (Northern Ireland) 2015 or”;

(b) in subsection (4), before paragraph (a) insert—

“(za) state pension under Part 1 of the Pensions Act (Northern Ireland) 2015;”.

13. In section 115CA (interpretation of Part 6), in subsection (1), before paragraph (i) insert—

“(hl) Part 1 of the Pensions Act (Northern Ireland) 2015;”.

14. In section 116B (supply of other government information for fraud prevention and verification), in subsection (3)(b), before “or this Act” insert “, Part 1 of the Pensions Act (Northern Ireland) 2015”.

15. In section 118 (regulations as to notification of deaths), in subsection (1), before “and this Act” insert “, Part 1 of the Pensions Act (Northern Ireland) 2015”.

16. After section 130AB insert—

“130AC Revaluation for transitional pensions under Pensions Act (Northern Ireland) 2015

(1) Whenever the Secretary of State makes an order under section 148AC of the Great Britain Administration Act (revaluation for transitional pensions under Pensions Act 2014), the Department may make a corresponding order for Northern Ireland.

(2) The percentage specified in an order under subsection (1) is the “revaluing percentage” for the purposes of paragraph 6(5) of Schedule 1 to the Pensions Act (Northern Ireland) 2015.”.

17. After section 132A insert—

“132B Up-rating of transitional state pensions under Pensions Act (Northern Ireland) 2015

132B. Whenever the Secretary of State makes an order under section 151A of the Great Britain Administration Act (up-rating of transitional state pensions under Pensions Act 2014), the Department may make a corresponding order for Northern Ireland.”.

18.—(1) Section 135A (power to anticipate pensions up-rating order) is amended as follows.

(2) In subsection (1)(a)—

(a) for “150 or 150A” substitute “150, 150A or 151A”;

(b) in sub-paragraph (i), after “by way of” insert “state pension under the Pensions Act (Northern Ireland) 2015;”.

(3) In subsection (2), after “an award is made of” insert “a state pension;”.

19.—(1) Section 143 (general financial arrangements) is amended as follows.

(2) In subsection (1), before paragraph (a) insert—

“(za) state pension and lump sums under Part 1 of the Pensions Act (Northern Ireland) 2015;”.

(3) In subsection (2)(a), after “Contributions and Benefits Act” insert “, Part 1 of the Pensions Act (Northern Ireland) 2015”.

(4) In subsection (3)(b), after “that Act” insert “or Part 1 of the Pensions Act (Northern Ireland) 2015”.

20. In section 149 (Social Security Advisory Committee), in subsection (5) in the definition of “the relevant enactments”, before paragraph (b) insert—

“(am) the provisions of Part 1 of the Pensions Act (Northern Ireland) 2015;”.

21.—(1) Section 155 (reciprocal agreements) is amended as follows.

(2) In subsection (3)(a), before “and the Contributions and Benefits Act” insert “, Part 1 of the Pensions Act (Northern Ireland) 2015”.

(3) In subsection (4), before paragraph (b) insert—

“(ag) to Part 1 of the Pensions Act (Northern Ireland) 2015;”.

(4) In subsection (5)—

(a) after “Act 2007” insert “or Part 1 of the Pensions Act (Northern Ireland) 2015”;

(b) after paragraph (ac) insert—

“(ad) state pension under Part 1 of the Pensions Act (Northern Ireland) 2015;”.

22. In section 163 (inalienability), in subsection (1), before paragraph (a) insert—

“(zb) state pension under Part 1 of the Pensions Act (Northern Ireland) 2015;”.

23. In section 166 (Assembly control of orders and regulations), in subsection (2) (b) after “132A,” insert “132B,”.

24. In section 167(1) (interpretation), in the definition of “benefit”, before “a jobseeker’s allowance” insert “state pension under Part 1 of the Pensions Act (Northern Ireland) 2015,”.

The Social Security (Northern Ireland) Order 1993 (NI 2)

25. In Article 4 of the Social Security (Northern Ireland) Order 1993 (payments into National Insurance Fund out of appropriated money) in paragraph (1) in the

definition of “estimated benefit expenditure”, in paragraph (a) after “paragraphs” insert “(za)”.

The Pensions (Northern Ireland) Order 1995 (NI 22)

26. In Schedule 2 to the 1995 Order (pensionable age), in paragraph 1, for “and Part 1 of the Welfare Reform Act (Northern Ireland) 2007” substitute “, Part 1 of the Welfare Reform Act (Northern Ireland) 2007 and the Pensions Act (Northern Ireland) 2015”.

The Social Security (Northern Ireland) Order 1998 (NI 10)

27. The Social Security (Northern Ireland) Order 1998 is amended as follows.

28. In Article 4 (use of computers), in paragraph (2) at the end insert “or

(m) Part 1 of the Pensions Act (Northern Ireland) 2015.”.

29. In Article 9 (decisions by the Department)—

(a) in paragraph (3), before sub-paragraph (b) insert—

“(ab) state pension or a lump sum under Part 1 of the Pensions Act (Northern Ireland) 2015;”;

(b) in paragraph (4), before “other than” insert “or Part 1 of the Pensions Act (Northern Ireland) 2015”.

30. In Article 12 (regulations with respect to decisions), in paragraph (3), in the definition of “the current legislation”, at the end insert “and Part 1 of the Pensions Act (Northern Ireland) 2015”.

31. In Article 27 (restrictions on entitlement to benefit in certain cases of error), in paragraph (7), in the definition of “benefit”, after paragraph (f) insert “and

(g) state pension or a lump sum under Part 1 of the Pensions Act (Northern Ireland) 2015.”.

32. In Article 28 (correction of errors in decisions etc.), in paragraph (3) at the end insert “or

(j) Part 1 of the Pensions Act (Northern Ireland) 2015.”.

33. In Schedule 3 (decisions against which an appeal lies), before paragraph 7 insert—

“State pension: prisoners and overseas residents

6C. A decision that a state pension under Part 1 of the Pensions Act (Northern Ireland) 2015 is not payable by reason of section 19 of that Act (prisoners).

6D. A decision that a person is not entitled to increases in the rate of a state pension under Part 1 of the Pensions Act (Northern Ireland) 2015 by reason of regulations under section 20 of that Act (overseas residents).”.

The Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4)

34.—(1) Section 38 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (disclosure of state pension information) is amended as follows.

(2) In subsection (7), after paragraph (a) insert—

“(aa) the amount of any state pension under Part 1 of the Pensions Act (Northern Ireland) 2015 a present or future entitlement to which has already accrued to that individual;

(ab) a projection of the amount of any state pension under Part 1 of the Pensions Act (Northern Ireland) 2015 to which that individual is likely to become entitled, or might become entitled in particular circumstances;”.

(3) In subsection (11), in the definition of “lump sum”, after “under” insert “section 8 of the Pensions Act (Northern Ireland) 2015 or”.

The Social Security Fraud Act (Northern Ireland) 2001 (c. 17)

35. The Social Security Fraud Act (Northern Ireland) 2001 is amended as follows.

36. In section 5A (definitions), in the definition of “disqualifying benefit”, before paragraph (a) insert—

“(zb) state pension or a lump sum under Part 1 of the Pensions Act (Northern Ireland) 2015 or under Part 1 of the Pensions Act 2014;”.

37. In section 9 (power to supplement and mitigate loss of benefit provisions), in subsection (3), before paragraph (c) insert—

“(bf) state pension or a lump sum under Part 1 of the Pensions Act (Northern Ireland) 2015 or under Part 1 of the Pensions Act 2014;”.

The State Pension Credit Act (Northern Ireland) 2002 (c. 14)

38. The State Pension Credit Act (Northern Ireland) 2002 is amended as follows.

39. In section 7 (fixing of claimant’s retirement provision for assessed income period), in subsection (6)(a), after “benefit under” insert “Part 1 of the Pensions Act (Northern Ireland) 2015 or”.

40. In section 16 (meaning of “retirement pension income”), in subsection (1), before paragraph (a) insert—

“(za) a state pension under Part 1 of the Pensions Act (Northern Ireland) 2015 or under Part 1 of the Pensions Act 2014;”.

The Gender Recognition Act 2004 (c. 7)

41. The Gender Recognition Act 2004 is amended as follows.

42. In section 23(3) and (4) of that Act (power to modify statutory provisions) “enactment” includes sections 11 and 12 of, and Schedules 6 and 7 to, this Act.

43.—(1) Schedule 5 (benefits and pensions) is amended as follows.

(2) After paragraph 6A insert—

“6B Pension under Part 1 of the Pensions Act (Northern Ireland) 2015

(1) Any question—

(a) whether the person is entitled to a state pension under Part 1 of the Pensions Act (Northern Ireland) 2015 for any period after the certificate is issued, and

(b) (if so) the rate at which the person is so entitled for the period,

is to be decided as if the person’s gender were the acquired gender.

(2) Accordingly, if (immediately before the certificate is issued) the person—

(a) is a woman entitled to a state pension under Part 1 of the Pensions Act (Northern Ireland) 2015, but

(b) has not attained the age of 65,

the person ceases to be so entitled when it is issued.

(3) And, conversely, if (immediately before the certificate is issued) the person—

(a) is a man who has attained the age at which a woman of the same age attains pensionable age, but

(b) has not attained the age of 65,

the person is to be treated for the purposes of Part 1 of the Pensions Act (Northern Ireland) 2015 as attaining pensionable age when it is issued.

(4) But sub-paragraph (1) does not apply if and to the extent that the decision of any question to which it refers is affected by the payment or crediting of contributions, or the crediting of earnings, in respect of a period ending before the certificate is issued.

(5) If the person’s acquired gender is the male gender, sections 11 and 12 of, and Schedules 6 and 7 to, the Pensions Act (Northern Ireland) 2015 (effect of reduced rate elections) apply in relation to the person as they apply in relation to a woman (but only once the person has reached pensionable age for a man).

(6) Paragraph 10 makes provision about deferment of state pensions under Part 1 of the Pensions Act (Northern Ireland) 2015.”.

(3) In paragraph 10, in sub-paragraph (1), after paragraph (za) insert—

“(zb) a state pension under Part 1 of the Pensions Act (Northern Ireland) 2015,”.

The Welfare Reform Act (Northern Ireland) 2015

44. In section 97 of the Welfare Reform Act (Northern Ireland) 2015 (benefit cap), in subsection (8), before paragraph (a) insert—

“(za) state pension under Part 1 of the Pensions Act (Northern Ireland) 2015;”.