
EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes transitional and transitory provision in connection with the coming into operation of Part 1 of the Pensions Act (Northern Ireland) 2015 (“the 2015 Act”). Part 1 creates a new state pension for people reaching pensionable age on or after 6th April 2016. Part 1 comes fully into operation on 6th April 2016 in accordance with section 53(3) of the 2015 Act. Part 5 of the 2015 Act creates a new bereavement support payment for people whose spouse or civil partner dies. Part 5 does not come into operation on 6th April 2016 – it comes into operation on such day as the Department may appoint in accordance with section 53(1) of the 2015 Act.

Part 1 is worded on the assumption that Part 5 will come into operation 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 operation. Without the transitional provisions, there would be a gap from 6th April 2016 when Part 1 comes into operation. 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 operation (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 the 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 2015 Act (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 operation. 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 2015 Act replaces the existing bereavement payment in section 36 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992. When Part 5 comes into operation, paragraph 8 of Schedule 16 to the 2015 Act repeals section 36. Paragraph 8 of Schedule 16 is worded on the assumption that Part 5 will come into operation 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 operation. 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. This ensures people entitled to an old state pension and those entitled to a new state pension are treated in the same way.