
DRAFT STATUTORY INSTRUMENTS

2015 No.

The State Pension Regulations 2015

PART 1

General

Citation, commencement, application and interpretation

- 1.—(1) These Regulations may be cited as the State Pension Regulations 2015.
- (2) These Regulations come into force on 6th April 2016.
- (3) These Regulations (except Part 5) do not apply to a person who reaches pensionable age⁽¹⁾ before 6th April 2016.
- (4) In these Regulations, “the 2014 Act” means the Pensions Act 2014.
- (5) For the purposes of these Regulations (except this paragraph), two people are to be treated as if they are not married to each other in relation to times when either of them is married to a third person.

PART 2

Prisoners

Prisoners who are not to be paid state pension

- 2.—(1) Subject to regulation 3, a person is not to be paid a state pension under Part 1 of the 2014 Act (state pension) for any period during which the person is a prisoner⁽²⁾ who is mentioned in paragraph (2).
- (2) Except where paragraph (3) applies, a person is a prisoner for the purposes of paragraph (1) where the person is—
- (a) a prisoner in Great Britain or elsewhere who is imprisoned or detained in legal custody in connection with, or as a result of, criminal proceedings;
 - (b) a prisoner in Great Britain or elsewhere who is unlawfully at large;
 - (c) a prisoner in Great Britain who is being detained—
 - (i) under section 47 of the Mental Health Act 1983 (removal to hospital of persons serving sentences of imprisonment etc)⁽³⁾; and

(1) See section 22(1) of the Pensions Act 2014 for the meaning of “pensionable age”.

(2) See section 19(2) of the Pensions Act 2014 for the meaning of “prisoner”.

(3) 1983 c.20. Section 47 was amended by section 49(3) of, and Schedule 6 to, the Crime (Sentences) Act 1997 (c.43), paragraph 18 of Schedule 10 to the Domestic Violence, Crime and Victims Act 2004 (c.28), paragraph 97 of Schedule 16 to the Armed Forces Act 2006 (c.52) and section 4(7) of, and paragraph 10 of Schedule 1 and Part 1 of Schedule 11 to, the Mental Health Act 2007 (c.12). S.I. 1999/672 transferred functions under section 47 to the National Assembly for Wales.

- (ii) on or before the day which the Secretary of State certifies to be the person's release date (if any) within the meaning in section 50(3) of that Act⁽⁴⁾;
 - (d) a prisoner in Great Britain who is being detained under section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (transfer of prisoners for treatment of mental disorder)⁽⁵⁾.
- (3) Where a person outside Great Britain is a prisoner within paragraph (2)(a) or (b) and, in similar circumstances in Great Britain, the person would not have been a prisoner, the person is not a prisoner within paragraph (2)(a) or (b).

Paying state pension to persons who are remanded in custody

- 3.—(1) Where a person is remanded in custody for an offence, regulation 2(1) does not apply unless a sentence described in paragraph (2) is later imposed on the person for the offence.
- (2) Subject to paragraph (3), the described sentences for the purposes of paragraph (1) are—
- (a) a sentence of imprisonment or detention in legal custody as a result of criminal proceedings;
 - (b) a sentence of detention where the provisions mentioned in regulation 2(2)(c)(i) or (d) apply;
 - (c) a suspended sentence within the meaning in section 189 of the Criminal Justice Act 2003 (suspended sentences of imprisonment)⁽⁶⁾.
- (3) A sentence described in paragraph (2)(a) which is imposed outside Great Britain is not a described sentence for the purposes of paragraph (1) if, in similar circumstances in Great Britain, a sentence described in paragraph (2)(a) would not have been imposed.

PART 3

Deferral of State Pension

When a choice of lump sum or survivor's pension may be made

- 4.—(1) Where a person falls within section 8(1) of the 2014 Act (choice of lump sum or survivor's pension under section 9 in certain cases), paragraphs (2) and (3) set out the period within which that person is to make any choice under section 8(2) of that Act to be paid—
- (a) a lump sum under section 8 of that Act; or
 - (b) a state pension under section 9 of that Act (survivor's pension based on inheritance of deferred old state pension).
- (2) Where the Secretary of State has issued a notice which confirms that the person may make the choice, the period is three months starting on the date in that notice (or, where there is more than one notice which confirms that the person may make that choice, the date in the most recent such notice).
- (3) Where the person makes the choice before the Secretary of State has issued any such notice, the period—
- (a) starts on the later of the date—
 - (i) the person claims a state pension; or

(4) Section 50(3) was substituted by section 294(3) of the Criminal Justice Act 2003 (c.44).

(5) 2003 asp.13.

(6) 2003 c.44. Section 189 was amended by section 68 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c.10) and S.I. 2005/643.

- (ii) the person's spouse or civil partner died; and
- (b) ends on the date the person makes the choice.
- (4) A person may make a late choice after the period set out in this regulation in circumstances where—
 - (a) the Secretary of State considers it is reasonable in any particular case; and
 - (b) any amount paid by way of (or on account of) a lump sum under section 8(4) of the 2014 Act has been repaid to the Secretary of State—
 - (i) in full; and
 - (ii) in the currency in which that amount was originally paid.
- (5) The amount of any lump sum to be paid to the person under section 8(4) is reduced to nil where the person makes a late choice under paragraph (4) to be paid a state pension under section 9 of the 2014 Act.

How a choice of lump sum or survivor's pension may be made

- 5.—(1) Where a person falls within section 8(1) of the 2014 Act, this regulation sets out the manner in which that person is to make any choice under section 8(2) of that Act to be paid—
- (a) a lump sum under section 8 of that Act; or
 - (b) a state pension under section 9 of that Act.
- (2) The manner is—
- (a) in writing to an office which is specified to the person in writing by the Secretary of State as accepting any such choice; or
 - (b) by telephone to a telephone number which is specified to the person in writing by the Secretary of State as accepting any such choice.
- (3) The person must use the manner set out in paragraph (2)(a) where the Secretary of State directs in any particular case that that manner must be used.

Changing a choice of lump sum or survivor's pension

- 6.—(1) Any choice under section 8(2) of the 2014 Act to be paid—
- (a) a lump sum under section 8 of that Act; or
 - (b) a state pension under section 9 of that Act,
- may be altered in the circumstances specified in paragraph (2).
- (2) The circumstances referred to in paragraph (1) are—
- (a) the person who made the choice has not subsequently died;
 - (b) an application is made to alter the choice;
 - (c) the application is made within—
 - (i) the period of three months starting on the date in the notification issued by the Secretary of State which confirms the choice that has been made; or
 - (ii) such longer period as the Secretary of State considers reasonable in any particular case;
 - (d) the application is made in the manner set out in—
 - (i) regulation 5(2)(a), where the Secretary of State directs in any particular case that the manner in regulation 5(2)(a) must be used; or

- (ii) regulation 5(2)(a) or (b), in all other cases;
 - (e) where the application is to alter the choice so that it becomes a choice to be paid a state pension under section 9 of the 2014 Act, any amount paid by way of (or on account of) a lump sum under section 8 of the 2014 Act has been repaid to the Secretary of State—
 - (i) in full;
 - (ii) within the period mentioned in sub-paragraph (c); and
 - (iii) in the currency in which that amount was originally paid;
 - (f) where the application is to alter the choice so that it becomes a choice to be paid a lump sum under section 8 of the 2014 Act, any amount paid by way of (or on account of) a state pension under section 9 of the 2014 Act would be less than the amount which would be paid as a lump sum under section 8 of the 2014 Act;
 - (g) no previous alteration has been made under this regulation in respect of the same deferral mentioned in section 8(1)(c) of the 2014 Act; and
 - (h) the choice has not been treated as made under regulation 30(5G) of the Social Security (Claims and Payments) Regulations 1987 (payments on death)(7).
- (3) Where the circumstance in paragraph (2)(f) applies, any amount paid by way of (or on account of) a state pension under section 9 of the 2014 Act in respect of the deferral mentioned in section 8(1)(c) of the 2014 Act for which the choice was originally made is to be treated as having been paid on account of the lump sum to be paid under section 8 of the 2014 Act.

How entitlement to a state pension may be suspended

- 7.—(1) A person who has become entitled to a state pension under Part 1 of the 2014 Act may opt to suspend their entitlement if they give notice to the Secretary of State.
- (2) The manner in which the notice must be given is—
- (a) in writing to an office which is specified to the person in writing by the Secretary of State as accepting any such notice; or
 - (b) by telephone to a telephone number which is specified to the person in writing by the Secretary of State as accepting any such notice.
- (3) But the person must use the manner set out in paragraph (2)(a) where the Secretary of State directs in any particular case that that manner must be used.

Date from which a suspension of a state pension begins

- 8.—(1) Where a person exercises their option to suspend their entitlement to a state pension under Part 1 of the 2014 Act, the suspension takes effect from the date set out in this regulation.
- (2) The date is any date which the person specifies that is—
- (a) not before the date on which the option was exercised; and
 - (b) not after 28 days starting with the date on which the option was exercised.
- (3) Where the person does not specify a date in accordance with paragraph (2), the date is the date on which the option was exercised.

(7) [S.I. 1987/1968](#). Regulation 30(5G) was inserted by [S.I. 2005/3078](#).

Cancelling a suspension of a state pension

9.—(1) Where a person has opted to suspend their entitlement to a state pension under Part 1 of the 2014 Act, the person may cancel the exercise of that option in relation to the whole of, or part of, a past period referred to in paragraph (3).

(2) The person cancels the suspension by making a claim for their state pension whilst their state pension is suspended.

(3) The past period mentioned in paragraph (1) is any period of up to 12 months before the date on which the person cancels the suspension.

Percentage for the weekly rate of increases resulting from deferral of state pension

10. For the purposes of section 17(4) of the 2014 Act (effect of pensioner postponing or suspending state pension), the specified percentage is one-ninth of 1%.

Days which are not included in determining the period of deferral

11.—(1) In the circumstances set out in paragraph (2), a day does not count in determining a number of whole weeks for the purposes of section 17(3) of the 2014 Act.

(2) The circumstances mentioned in paragraph (1) are where the day is—

(a) a day on which the person whose entitlement to a state pension under Part 1 of the 2014 Act is deferred has received any of the following benefits—

- (i) state pension credit under section 1 of the State Pension Credit Act 2002 (entitlement to state pension credit)(**8**);
- (ii) income support under section 124 of the Contributions and Benefits Act (income support)(**9**);
- (iii) an income-related employment and support allowance (which means an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance)(**10**));
- (iv) an income-based jobseeker's allowance within the meaning in section 1(4) of the Jobseekers Act 1995 (the jobseeker's allowance)(**11**);
- (v) universal credit under Part 1 of the Welfare Reform Act 2012 (universal credit)(**12**);
- (vi) a carer's allowance under section 70 of the Contributions and Benefits Act (carer's allowance)(**13**);
- (vii) an unemployability supplement within the meaning in regulation 2(1) of the Social Security (Overlapping Benefits) Regulations 1979 (interpretation)(**14**);
- (viii) severe disablement allowance under section 68 of the Contributions and Benefits Act (entitlement and rate of severe disablement allowance)(**15**);

(8) 2002 c.16.

(9) See section 22(1) of the Pensions Act 2014 for the definition of “the Contributions and Benefits Act”. Section 124 was amended by paragraph 30 of Schedule 2 and Schedule 3 to the Jobseekers Act 1995 (c.18), paragraph 28 of Schedule 8 to the Welfare Reform and Pensions Act 1999, paragraph 2 of Schedule 2 and Schedule 3 to the State Pension Credit Act 2002 (c.16), paragraph 42 of Schedule 24 to the Civil Partnership Act 2004, paragraph 9(9) and (10) of Schedule 3 and Schedule 8 to the Welfare Reform Act 2007 (c.5), section 3 of the Welfare Reform Act 2009 (c.24) and section 58(2) of the Welfare Reform Act 2012 (c.5).

(10) 2007 c.5. See in particular the definition of “income-related allowance” in section 1(7) of the Welfare Reform Act 2007.

(11) 1995 c.18. The definition of “income-based jobseeker's allowance” was amended by paragraph 2(4)(a) of Schedule 7 to the Welfare Reform and Pensions Act 1999.

(12) 2012 c.5.

(13) Section 70 was amended by S.I.s 1994/2556, 2002/1457, 2011/2426 and 2013/388 and 796.

(14) S.I. 1979/597.

(15) Section 68 has effect by virtue of S.I. 2000/2958.

- (ix) a widow's pension under section 39 of the Contributions and Benefits Act (rate of widowed mother's allowance and widow's pension)(16);
- (x) a widowed mother's allowance under section 37 of the Contributions and Benefits Act (widowed mother's allowance)(17);
- (xi) incapacity benefit under section 30A of the Contributions and Benefits Act (incapacity benefit: entitlement)(18);
- (b) a day on which a person—
 - (i) has received an increase of any of the benefits mentioned in sub-paragraph (a) in respect of the person whose entitlement to a state pension under Part 1 of the 2014 Act is deferred; and
 - (ii) is married to, in a civil partnership with or residing with the person whose entitlement to a state pension under Part 1 of the 2014 Act is deferred; or
- (c) a day on which the person whose entitlement to a state pension under Part 1 of the 2014 Act is deferred would not, if their entitlement was not deferred, be paid that state pension because they were a prisoner (see section 19 of the 2014 Act (prisoners) and regulations 2 and 3).

Part weeks treated as whole weeks in determining the amount of entitlement during deferral

12.—(1) In the circumstances set out in paragraph (2), a part of a week is to be treated as a whole week for the purposes of section 17(3) of the 2014 Act.

(2) The circumstances mentioned in paragraph (1) are where there is a part of a week in the total period during which the person's entitlement to a state pension was deferred, after any days have been discounted under regulation 11.

PART 4

Minimum Qualifying Period

Minimum number of qualifying years

13.—(1) For the purposes of section 2(3) of the 2014 Act (entitlement to state pension at full or reduced rate), the minimum number of qualifying years(19) for a state pension payable at the reduced rate is ten.

(2) For the purposes of section 4(2) of the 2014 Act (entitlement to a state pension at transitional rate), the minimum number of qualifying years for a state pension payable at the transitional rate is ten.

(16) Section 39 was amended by paragraph 17 of Schedule 12 to the Welfare Reform and Pensions Act 1999, paragraph 27 of Schedule 3 to the Tax Credits Act 2002 (c.21), section 6(5) of, and paragraph 3 of Schedule 2 and Schedule 7 to, the Pensions Act 2007 (c.22) and paragraph 3 of Schedule 4 to the Pensions Act 2008 (c.30).

(17) Section 37 was amended by paragraph 2 of Schedule 1 to the Child Benefit Act 2005 (c.6), section 50 of, and Schedule 8 to, the Welfare Reform Act 2007, paragraph 18 of Schedule 24 and Schedule 30 to the Civil Partnership Act 2004 and S.I. 2014/560.

(18) Section 30A was inserted by section 1 of the Social Security (Incapacity for Work) Act 1994 (c.18) and amended by section 64 of the Welfare Reform and Pensions Act 1999 and paragraph 14 of Schedule 24 to the Civil Partnership Act 2004.

(19) See section 2(4) of the Pensions Act 2014 for the definition of "qualifying year".

PART 5

Amendments to other legislation

Sharing of state pension scheme rights

14. The Schedule to these Regulations (which makes amendments relating to the sharing of state pension rights) has effect.

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

Date

Name
Minister of State,
Department for Work and Pensions