
EXPLANATORY NOTE

(This note is not part of the Regulations)

The Pensions Act 2014 (c.19) (“the 2014 Act”) creates a new state pension for people reaching pensionable age on or after 6th April 2016 (see Part 1 of that Act). It replaces the existing state pension. These Regulations set out some of the detailed rules relating to the new state pension.

Part 2 contains provisions about prisoners. For these purposes, prisoners are people who are imprisoned, detained in legal custody or unlawfully at large. They can be a prisoner in Great Britain or abroad. These prisoners may not be entitled to be paid any state pension under the 2014 Act.

Regulation 2 lists the prisoners who are not entitled to be paid a state pension. It provides that some prisoners abroad can be paid their state pension if they would not have been imprisoned in Great Britain. Regulation 3 provides that prisoners on remand are not to be paid a state pension if they later receive certain types of sentence.

Part 3 contains provisions about deferral: where a person defers their new state pension and where a person inherits state pension after their deceased spouse or civil partner had deferred their old state pension. A person may defer by choosing not to claim their state pension when they are first entitled to it or by suspending receipt of their state pension after they first claim it. If they defer, they may receive more state pension when they later choose to claim it. Part 3 sets out a number of rules relating to how such deferrals work.

Regulation 4 sets out the period within which a person can choose a lump sum or periodical payment in respect of their deceased spouse or civil partner’s deferred old state pension. It also allows a person to make a late choice (section 8 of the 2014 Act sets out what happens if the person does not make a choice with the period). Regulation 5 provides the manner in which such a choice must be made. Regulation 6 allows the person to alter their choice in certain circumstances. Regulation 7 sets out the manner in which a person can suspend their new state pension after it has been claimed. Regulation 8 specifies the date from which any suspension of state pension begins. Regulation 9 allows a person to cancel the suspension of their state pension by making a claim for it. Regulation 10 determines the amount of extra state pension a person who has deferred their state pension may be entitled to. Regulation 11 lists the days which are not included when calculating the length of time a person has deferred their state pension. Regulation 12 provides that some parts of weeks are to be treated as full weeks for the purposes of determining the period of deferral.

Part 4 specifies that the minimum number of qualifying years for the purposes of entitlement to state pension at the reduced and transitional rates is ten. State pension is payable at either a full, reduced or transitional rate. The reduced rate of state pension is payable where a person has reached pensionable age and has at least the specified minimum number of qualifying years. The transitional rate of state pension is payable where a person has reached pensionable age and has at least the specified minimum number of qualifying years, at least one of which is a “pre-commencement qualifying year” as defined in section 4(4) of the 2014 Act.

Part 5 and the Schedule contain provisions about pension sharing on divorce or dissolution of a civil partnership. They amend the Sharing of State Scheme Rights (Provision of Information and Valuation) (No.2) Regulations 2000 (“the No.2 Regulations”) (S.I. 2000/2914) and the Pensions on Divorce etc. (Pension Sharing) (Scotland) Regulations 2000 (“the Scotland Regulations”) (S.I. 2000/1051). Those Regulations set out the information the Secretary of State must supply to a person or the court in relation to the sharing of rights to an old state pension on divorce or dissolution of a civil partnership and set out the information that must be contained in an agreement entered into as an alternative to pension-sharing through the courts. The amendments are made in consequence of

changes made by sections 13 to 15 of, and Schedules 8 to 11 to, the 2014 Act. Those provisions of the 2014 Act allow for the continuation of state pension sharing on divorce for people who reach state pension age on or after 6th April 2016 and are entitled to the new state pension at the transitional rate. The amendments distinguish rights to an old state pension which are shareable from rights to a new state pension which are shareable.

Paragraph 1(2) to (5) of the Schedule to these Regulations amends the No.2 Regulations. The amendments insert references to “new state scheme pension credit”, “shareable new state scheme rights” and other phrases relating to sharing new state pension. Paragraph 1(10) inserts a new Part which sets out the information the Secretary of State must supply to a person or the court in relation to the sharing of new state scheme rights. It also provides that the valuation of shareable old or new state scheme rights must be calculated and verified in accordance with guidance prepared by the Government Actuary. Paragraph 2 amends the Scotland Regulations in relation to the sharing of state scheme rights and agreements called qualifying agreements (or minutes of agreement) under the Family Law (Scotland) Act 1985 (c.37) which correspond to the provision which may be made in a pension sharing order. It also sets out the information that must be contained in certain qualifying agreements dealing with shareable new state scheme rights.

A full impact assessment has not been published for these Regulations as they have no impact on the private sector or civil society organisations. An assessment has been made of the impact of the introduction of the new state pension. Copies of that impact assessment may be obtained from the Better Regulation Unit of the Department for Work and Pensions, 2D Caxton House, Tothill Street, London SW1 9NA or from the DWP website: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/311316/pensions-act-ia-annex-a-single-tier-state-pension.pdf. (Annex A contains the assessment for new state pension.)