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SCHEDULES

SCHEDULE 12

STATE PENSION: AMENDMENTS

PART 2

AMENDMENTS TO DO WITH OLD STATE PENSION SYSTEM

*Graduated retirement benefit*

- 53
- (1) Section 36 of the National Insurance Act 1965 (graduated retirement benefit), so far as continuing in force, is amended as follows.

(2) In subsection (7), for “has attained pensionable age” substitute “ attained pensionable age before 6 April 2016 ”.

(3) In subsection (8), in the definition of “retirement pension”, after “any category” insert “ under the Social Security Contributions and Benefits Act 1992 ”.

Commencement Information

**I1** Sch. 12 para. 53 in force at 6.4.2016, see s. 56(1)(4)

*Category A retirement pensions*

- 54
- The Contributions and Benefits Act is amended as follows.

Commencement Information

**I2** Sch. 12 para. 54 in force at 6.4.2016, see s. 56(1)(4)

- 55
- In section 44(1) (Category A retirement pensions), for paragraph (a) substitute—

“(a) the person attained pensionable age before 6 April 2016,”.

Commencement Information

**I3** Sch. 12 para. 55 in force at 6.4.2016, see s. 56(1)(4)

- 56
- (1) Section 48 (use of former spouse's contributions) is amended as follows.

(2) In subsection (1), after “person” insert “ who attained pensionable age before 6 April 2016 ”.

(3) After subsection (2) insert—

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“(2A) Regulations under subsection (1) may not provide for contributions of a person in respect of times on or after 6 April 2016 to be treated as contributions of another person.”

**Commencement Information**

**I4** Sch. 12 para. 56 in force at 6.4.2016, see s. 56(1)(4)

*Category B retirement pensions*

57 The Contributions and Benefits Act is amended as follows.

**Commencement Information**

**I5** Sch. 12 para. 57 in force at 6.4.2016, see s. 56(1)(4)

58 In section 23A (contributions credits for relevant parents and carers), in subsection (1)(b), after “section 48A” insert “ or 48AA ”.

**Commencement Information**

**I6** Sch. 12 para. 58 in force at 6.4.2016, see s. 56(1)(4)

59 In section 46 (modification of section 45 for calculating additional pension in certain benefits), in subsection (2), omit “48A(4) or” (in both places).

**Commencement Information**

**I7** Sch. 12 para. 59 in force at 6.4.2016, see s. 56(1)(4)

60 For section 48A substitute—

**“48A Category B retirement pension for married person or civil partner**

(1) A married person is entitled to a Category B retirement pension by virtue of the contributions of his or her spouse if—

- (a) the person attained pensionable age before 6 April 2016, and
- (b) the spouse—
  - (i) has attained pensionable age, and
  - (ii) satisfies the relevant contribution condition.

(2) But subsection (1) does not confer a right to a Category B retirement pension on—

- (a) a man whose spouse was born before 6 April 1950, or
- (b) a woman whose wife was born before 6 April 1950.

(3) A person who is a civil partner is entitled to a Category B retirement pension by virtue of the contributions of his or her civil partner (“the contributing civil partner”) if—

- (a) the person attained pensionable age before 6 April 2016, and

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- (b) the contributing civil partner—
    - (i) was born on or after 6 April 1950,
    - (ii) has attained pensionable age, and
    - (iii) satisfies the condition in paragraph 5A of Schedule 3.
- (4) A Category B retirement pension payable under this section is payable at the weekly rate specified in paragraph 5 of Part 1 of Schedule 4.
- (5) A person ceases to be entitled to a Category B retirement pension under this section if—
  - (a) the person's spouse or civil partner dies (but see sections 48B and 51), or
  - (b) the person otherwise ceases to be married or in the civil partnership (but see section 48AA).
- (6) In subsection (1)(b)(ii) “the relevant contribution condition” means—
  - (a) in a case where the spouse was born before 6 April 1945, the conditions in paragraph 5 of Schedule 3;
  - (b) in any other case, the condition in paragraph 5A of Schedule 3.
- (7) For the purposes of any provision of this Act as it applies in relation to this section, no account is to be taken of any earnings factors of the spouse or contributing civil partner for the tax year beginning with 6 April 2016 or any later tax year.
- (8) Section 51ZA contains special rules for cases involving changes in gender.

#### **48AA Category B retirement pension for divorcee or former civil partner**

- (1) A person who has been in a marriage that has been dissolved is entitled to a Category B retirement pension by virtue of the contributions of his or her former spouse if—
  - (a) the person attained pensionable age—
    - (i) before 6 April 2016, and
    - (ii) before the marriage was dissolved, and
  - (b) the former spouse—
    - (i) attained pensionable age before the marriage was dissolved, and
    - (ii) satisfied the relevant contribution condition.
- (2) But subsection (1) does not confer a right to a Category B retirement pension on—
  - (a) a man whose former spouse was born before 6 April 1950, or
  - (b) a woman whose former wife was born before 6 April 1950.
- (3) A person who has been in a civil partnership that has been dissolved is entitled to a Category B retirement pension by virtue of the contributions of his or her former civil partner if—
  - (a) the person attained pensionable age—
    - (i) before 6 April 2016, and
    - (ii) before the civil partnership was dissolved, and
  - (b) the former civil partner—

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- (i) was born on or after 6 April 1950,
  - (ii) attained pensionable age before the civil partnership was dissolved, and
  - (iii) satisfied the condition in paragraph 5A of Schedule 3.
- (4) During any period when the person's former spouse or civil partner is alive, a Category B retirement pension payable under this section is payable at the weekly rate specified in paragraph 5 of Part 1 of Schedule 4.
- (5) During any period after the person's former spouse or civil partner is dead, a Category B retirement pension payable under this section is payable at the weekly rate of the basic pension specified in section 44(4).
- (6) In subsection (1)(b)(ii) “the relevant contribution condition” means—
- (a) in a case where the former spouse was born before 6 April 1945, the conditions in paragraph 5 of Schedule 3;
  - (b) in any other case, the condition in paragraph 5A of Schedule 3.
- (7) For the purposes of any provision of this Act as it applies in relation to this section, no account is to be taken of any earnings factors of the former spouse or civil partner for the tax year beginning with 6 April 2016 or any later tax year.
- (8) A voidable marriage or civil partnership which has been annulled is to be treated for the purposes of this section as if it had been a valid marriage or civil partnership which was dissolved at the date of annulment.
- (9) Section 51ZA contains special rules for cases involving changes in gender.”

#### Commencement Information

**18** Sch. 12 para. 60 in force at 6.4.2016, see s. 56(1)(4)

61 (1) Section 48B (Category B retirement pension for widows and widowers) is amended as follows.

(2) For subsections (1) to (1A) substitute—

“(1) A person (“the pensioner”) whose spouse died while they were married is entitled to a Category B retirement pension by virtue of the contributions of his or her spouse if—

- (a) the pensioner attained pensionable age—
  - (i) before 6 April 2016, and
  - (ii) before the spouse died, and
- (b) the spouse satisfied the relevant contribution condition.

(1ZA) But subsection (1) does not confer a right to a Category B retirement pension on—

- (a) a man who attained pensionable age before 6 April 2010, or
- (b) a woman who attained pensionable age before 6 April 2010 and whose spouse was a woman.

(1ZB) In subsection (1)(b) “the relevant contribution condition” means—

- (a) in a case where the spouse—

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- (i) died before 6 April 2010, or
    - (ii) died on or after that date having attained pensionable age before that date,
  - the conditions in paragraph 5 of Schedule 3, and
  - (b) in any other case, the condition in paragraph 5A of Schedule 3.
- (1A) A person (“the pensioner”) whose civil partner died while they were civil partners of each other is entitled to a Category B retirement pension by virtue of the contributions of his or her civil partner if—
- (a) the pensioner attained pensionable age—
    - (i) on or after 6 April 2010 but before 6 April 2016, and
    - (ii) before the civil partner died, and
  - (b) the civil partner satisfied the relevant contribution condition.
- (1B) In subsection (1A)(b) “the relevant contribution condition” means—
- (a) in a case where the deceased civil partner attained pensionable age before 6 April 2010, the conditions in paragraph 5 of Schedule 3, and
  - (b) in any other case, the condition in paragraph 5A of Schedule 3.”
- (3) After subsection (3) insert—
- “(3A) For the purposes of any provision of this Act as it applies in relation to this section, no account is to be taken of any earnings factors of the deceased for the tax year beginning with 6 April 2016 or any later tax year.”
- (4) For subsection (4) substitute—
- “(4) A woman (“the pensioner”) whose husband died before she attained pensionable age is entitled to a Category B retirement pension by virtue of the contributions of her husband if—
- (a) she attained pensionable age before 6 April 2016, and
  - (b) the condition in subsection (5) is satisfied.
- (4A) A man (“the pensioner”) whose wife died before he attained pensionable age is entitled to a Category B retirement pension by virtue of the contributions of his wife if—
- (a) he attained pensionable age on or after 6 April 2010 but before 6 April 2016, and
  - (b) the condition in subsection (5) would have been satisfied on the assumption mentioned in subsection (7).”
- (5) In subsection (6), after “subsection (4)” insert “ or (4A) ”.
- (6) In subsection (7), for “(4)” substitute “ (4A) ”.
- (7) After subsection (8) insert—
- “(9) Section 51ZA contains special rules for cases involving changes in gender.”

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#### Commencement Information

**I9** Sch. 12 para. 61 in force at 6.4.2016, see s. 56(1)(4)

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- 62 (1) Section 48BB (Category B retirement pension: entitlement by reference to widowed parent's allowance or bereavement allowance where no dependent children) is amended as follows.
- (2) In subsection (1), for “who has attained pensionable age” substitute “ who attained pensionable age before 6 April 2016 ”.
- (3) In subsection (3), for “who has attained pensionable age” substitute “ who attained pensionable age before 6 April 2016 ”.

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**Commencement Information**

**I10** Sch. 12 para. 62 in force at 6.4.2016, see s. 56(1)(4)

- 63 (1) Section 48C (Category B retirement pension: general) is amended as follows.
- (2) In subsection (3), for “sections 48A(4)(b) and” substitute “ section ”.
- (3) In subsection (4), omit “48A(4),”.

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**Commencement Information**

**I11** Sch. 12 para. 63 in force at 6.4.2016, see s. 56(1)(4)

- 64 For section 51 substitute—

**“51 Category B retirement pension for widows, widowers and surviving civil partners who attained pensionable age before 6 April 2010**

- (1) A person (“the pensioner”) whose spouse died while they were married is entitled to a Category B retirement pension if—
- (a) they were both over pensionable age at the time of the death,
  - (b) the pensioner attained pensionable age before 6 April 2010, and
  - (c) the spouse satisfied the relevant contribution condition.
- (2) But subsection (1) does not confer a right to a Category B retirement pension on—
- (a) a woman whose husband has died, or
  - (b) a man whose wife died before 6 April 1979.
- (3) In subsection (1)(c) “the relevant contribution condition” means—
- (a) in a case where the spouse attained pensionable age before 6 April 2010, the conditions in paragraph 5 of Schedule 3, and
  - (b) in a case where the spouse attained pensionable age on or after 6 April 2010, the condition in paragraph 5A of Schedule 3.
- (4) A person (“the pensioner”) whose civil partner died while they were civil partners of each other is entitled to a Category B retirement pension if—
- (a) they were both over pensionable age at the time of the death,
  - (b) the pensioner attained pensionable age before 6 April 2010, and
  - (c) the deceased civil partner satisfied the relevant contribution condition.

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- (5) In subsection (4)(c) “the relevant contribution condition” means—
- (a) in a case where the deceased civil partner attained pensionable age before 6 April 2010, the conditions in paragraph 5 of Schedule 3, and
  - (b) in a case where the deceased civil partner attained pensionable age on or after 6 April 2010, the condition in paragraph 5A of Schedule 3.
- (6) The weekly rate of a person's Category B retirement pension under this section is to be determined in accordance with sections 44 to 45AA and Schedule 4A as they apply in the case of a Category A retirement pension taking references in those sections to the pensioner as references to the spouse or deceased civil partner.
- (7) But in the case of—
- (a) a man whose wife dies after 5 October 2002,
  - (b) a surviving party to a marriage of a same sex couple, or
  - (c) a surviving civil partner,
- any amount of additional pension falling to be calculated under subsection (6) is to be halved.
- (8) For the purposes of any provision of this Act as it applies in relation to this section, no account is to be taken of any earnings factors of the spouse or deceased civil partner for the tax year beginning with 6 April 2016 or any later tax year.
- (9) Subject to the provisions of this Act, a person becomes entitled to a Category B retirement pension under this section on the day on which the conditions of entitlement become satisfied and the entitlement continues throughout the person's life.
- (10) Section 51ZA contains special rules for cases involving changes in gender.”

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**Commencement Information**

**I12** Sch. 12 para. 64 in force at 6.4.2016, see s. 56(1)(4)

65 After section 51 insert—

**“51ZA Special provision for married person whose spouse changed gender**

- (1) Section 48A(2)(b) does not prevent a woman from being entitled to a Category B retirement pension under that section in a case where—
- (a) her spouse is a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
  - (b) the marriage subsisted before the time when that certificate was issued.
- (2) Section 48AA(2)(b) does not prevent a woman from being entitled to a Category B retirement pension under that section in a case where—

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- (a) her former spouse was, at the time the marriage was dissolved, a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
  - (b) the marriage subsisted before the time when that certificate was issued.
- (3) Section 48B(1ZA)(b) does not prevent a woman from being entitled to a Category B retirement pension under that section in a case where—
- (a) her dead spouse was, at the time of death, a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
  - (b) the marriage subsisted before the time when that certificate was issued,
- and in such a case the reference in section 48B(1ZB)(a)(ii) to the spouse having attained pensionable age before 6 April 2010 is to be read as a reference to the spouse having been born before 6 April 1945.
- (4) Section 51(1) does not confer a right to a Category B retirement pension on a woman if—
- (a) her dead spouse was, at the time of death, a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
  - (b) the marriage subsisted before the time when that certificate was issued.”

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**Commencement Information**

**I13** Sch. 12 para. 65 in force at 6.4.2016, see s. 56(1)(4)

- 66 In section 52(3) (special provision for surviving spouses) for “prescribed maximum” substitute “maximum amount specified in regulations”.

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**Commencement Information**

**I14** Sch. 12 para. 66 in force at 6.4.2016, see s. 56(1)(4)

- 67 (1) Schedule 3 (contribution conditions for entitlement to benefit) is amended as follows.
- (2) In paragraph 5, for sub-paragraph (1) substitute—
- “(1) This paragraph sets out the contribution conditions for—
- (a) a widowed mother's allowance, a widowed parent's allowance or a widow's pension;
  - (b) a Category A retirement pension (other than one in relation to which paragraph 5A applies);
  - (c) a Category B retirement pension in the cases provided for by any of sections 48A to 51ZA.”
- (3) In paragraph 5A(1), for paragraphs (b) and (c) substitute—
- “(b) a Category B retirement pension in the cases provided for by any of sections 48A to 51ZA.”

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**I15** Sch. 12 para. 67 in force at 6.4.2016, see s. 56(1)(4)

68 In Part 1 of Schedule 4 (rates of certain benefits), in paragraph 5, for “section 48A(3)” substitute “ section 48A(4) or 48AA(4) ”.

**Commencement Information**

**I16** Sch. 12 para. 68 in force at 6.4.2016, see s. 56(1)(4)

69 In Schedule 4A (additional pension: accrual rates for purposes of section 45(2)(c)), in paragraph 1(2), omit “, 48A(4)” (in both places).

**Commencement Information**

**I17** Sch. 12 para. 69 in force at 6.4.2016, see s. 56(1)(4)

70 In section 150 of the Administration Act (annual up-rating of benefits), in subsection (1), after paragraph (ab) insert—  
“(ac) specified in regulations under section 52(3) of that Act;”.

**Commencement Information**

**I18** Sch. 12 para. 70 in force at 6.4.2016, see s. 56(1)(4)

71 In section 46 of the Pension Schemes Act 1993 (effect of entitlement to guaranteed minimum pensions on payment of social security benefits), in subsection (6)(b)(iii), omit “48A,”.

**Commencement Information**

**I19** Sch. 12 para. 71 in force at 6.4.2016, see s. 56(1)(4)

72 In section 128 of the Pensions Act 1995 (additional pension: calculation of surpluses), in subsection (6), omit “48A,”.

**Commencement Information**

**I20** Sch. 12 para. 72 in force at 6.4.2016, see s. 56(1)(4)

73 In Schedule 4 to the Pensions Act 1995 (equalisation of, and increase in, pensionable age for men and women), omit paragraph 3(2) and (3).

**Commencement Information**

**I21** Sch. 12 para. 73 in force at 6.4.2016, see s. 56(1)(4)

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- 74 In section 577 of the Income Tax (Earnings and Pensions) Act 2003 (United Kingdom social security pensions), in the definition of “state pension” in subsection (2)—
- (a) in paragraph (a), after “48A,” insert “ 48AA, ”;
  - (b) in paragraph (b), after “1992” insert “ or any provision under the law of Northern Ireland that corresponds to section 48AA of SSCBA 1992 ”.

**Commencement Information**

**I22** Sch. 12 para. 74 in force at 6.4.2016, see s. 56(1)(4)

- 75 In Schedule 24 to the Civil Partnership Act 2004, omit paragraphs 25(6) and 28(6).

**Commencement Information**

**I23** Sch. 12 para. 75 in force at 6.4.2016, see s. 56(1)(4)

- 76 In Schedule 5 to the Gender Recognition Act 2004 (benefits and pensions), in paragraph 8(1)(a) and (3), after “48A,” insert “ 48AA, ”.

**Commencement Information**

**I24** Sch. 12 para. 76 in force at 6.4.2016, see s. 56(1)(4)

- 77 In Schedule 4 to the Marriage (Same Sex Couples) Act 2013, omit paragraphs 11, 12, 13 and 16.

**Commencement Information**

**I25** Sch. 12 para. 77 in force at 6.4.2016, see s. 56(1)(4)

*Category C retirement pensions: repeal of spent provisions*

- 78 The Contributions and Benefits Act is amended as follows.

**Commencement Information**

**I26** Sch. 12 para. 78 in force at 6.4.2016, see s. 56(1)(4)

- 79 In section 63(f)(i) (descriptions of non-contributory benefits), for the words from “payable” to “widows” substitute “ payable in certain cases to a widow whose husband was over pensionable age on 5 July 1948 or to a woman whose marriage to a husband who was over pensionable age on that date was terminated otherwise than by his death ”.

**Commencement Information**

**I27** Sch. 12 para. 79 in force at 6.4.2016, see s. 56(1)(4)

- 80 (1) Section 78 (Category C retirement pensions etc) is amended as follows.

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(2) Omit subsections (1), (2) and (5).

(3) In subsections (7) and (8), omit “Category C or”.

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**Commencement Information**

**I28** Sch. 12 para. 80 in force at 6.4.2016, see s. 56(1)(4)

81 In Part 3 of Schedule 4 —

- (a) omit paragraph 6 (rate of Category C retirement pension);
- (b) in paragraph 7 (rate of Category D retirement pension), for the text in the second column substitute the amount specified in paragraph 6 as the higher rate for a Category C retirement pension immediately before 6 April 2016.

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**Commencement Information**

**I29** Sch. 12 para. 81 in force at 6.4.2016, see s. 56(1)(4)

82 In section 150A of the Administration Act (annual up-rating), in subsection (10), in the definition of “the specified amounts in the case of Category B, C or D retirement pensions” —

- (a) in paragraph (a), omit the final “and”;
- (b) in paragraph (b), for “amounts specified in paragraphs 6 and 7” substitute “amount specified in paragraph 7”;
- (c) at the end of paragraph (b) insert “, and
- (c) any amount specified in regulations under section 78(9) of the Contributions and Benefits Act for a Category C retirement pension;”.

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**Commencement Information**

**I30** Sch. 12 para. 82 in force at 6.4.2016, see s. 56(1)(4)

83 In Schedule 5 to the Gender Recognition Act 2004 (benefits and pensions) omit paragraph 11 and the heading above it.

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**Commencement Information**

**I31** Sch. 12 para. 83 in force at 6.4.2016, see s. 56(1)(4)

*Category D retirement pensions*

84 In section 78(3) of the Contributions and Benefits Act (entitlement to a Category D retirement pension), for “and satisfies” substitute “, who reached pensionable age before 6 April 2016 and who satisfies”.

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#### Commencement Information

**I32** Sch. 12 para. 84 in force at 6.4.2016, see s. 56(1)(4)

#### *Age addition*

- 85 In sections 63(g) and 79(1) of the Contributions and Benefits Act (age addition), after “retirement pension of any category” insert “ under this Act ”.

#### Commencement Information

**I33** Sch. 12 para. 85 in force at 6.4.2016, see s. 56(1)(4)

#### *Christmas bonus*

- 86 In section 150(2) of the Contributions and Benefits Act (Christmas bonus: interpretation), for the definition of “retirement pension” substitute—

““retirement pension” means—

- (a) a state pension under Part 1 of the Pensions Act 2014,
- (b) a retirement pension under this Act, or
- (c) graduated retirement benefit.”

#### Commencement Information

**I34** Sch. 12 para. 86 in force at 6.4.2016, see s. 56(1)(4)

#### *Transition: same sex marriages*

- 87 (1) If marriage of same sex couples is not lawful under the law of Scotland when the amendments made by this Part of this Schedule come into force then, under the law of Scotland, references in the amendments to a married person do not include a person married to someone of the same sex; and related expressions (such as “spouse”) are to be read accordingly.
- (2) See also Part 1 of Schedule 2 to the Marriage (Same Sex Couples) Act 2013 (power to provide for English and Welsh marriages of same sex couples to be treated in Scotland as civil partnerships).

#### Commencement Information

**I35** Sch. 12 para. 87 in force at 6.4.2016, see s. 56(1)(4)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act modified by [S.S.I. 2024/62 art. 2](#)
- Act modified by [S.I. 2024/149 art. 2](#)