

2006 No. 516

SOCIAL SECURITY

**The Social Security (Deferral of Retirement Pensions etc.)
Regulations 2006**

<i>Made</i> - - - -	<i>27th February 2006</i>
<i>Laid before Parliament</i>	<i>6th March 2006</i>
<i>Coming into force</i> - -	<i>6th April 2006</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 62(1)(a) and (c), 122(1) and 175(3) of, and paragraphs A1(3)(a), 2(2) and 3C(4)(a) of Schedule 5 and paragraph 1(3)(a) of Schedule 5A to, the Social Security Contributions and Benefits Act 1992(a), sections 71(6)(b), 189(1) and (4) and 191 of the Social Security Administration Act 1992(b) and section 315(2) of, and paragraph 27 of Schedule 11 to, the Pensions Act 2004(c).

The Social Security Advisory Committee has agreed that proposals in respect of regulations 2 and 4 to 6 should not be referred to it(d).

Citation and commencement

1. These Regulations may be cited as the Social Security (Deferral of Retirement Pensions etc.) Regulations 2006 and shall come into force on 6th April 2006.

Amendment of the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1979

2. For regulation 4(1)(b)(ii) of the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1979(e) (days to be treated as days of increment), substitute—

- “(ii) graduated retirement benefit where that person's period of deferment ended on or before 5th April 2006; or
- (iii) an unemployability supplement; and”.

(a) 1992 c.4. Section 62(1) is amended by paragraph 7 of Schedule 4 to the Pensions Act 1995 (c.26), paragraph 17 of Schedule 11 to the Pensions Act 2004 (c.35) and by S.I.2005/2053. Paragraphs A1 and 3C of Schedule 5 are inserted and Schedule 5A added respectively by paragraphs 4, 9 and 15 of Schedule 11 to the Pensions Act 2004. Paragraph 2(2) of Schedule 5 is amended by paragraph 6(2) of Schedule 4 to the Pensions Act 1995. Section 122(1) is cited for the meaning it gives to “prescribe”.

(b) 1992 c.5. Section 191 is cited for the meaning it gives to “prescribe”.

(c) 2004 c.35.

(d) See section 173(1)(b) of the Social Security Administration Act 1992.

(e) S.I.1979/642. The relevant amending instrument is S.I.1992/1695.

Amendment of the Social Security (Retirement Pensions etc.) (Transitional Provisions) Regulations 2005

3. In the modification made by regulation 2(4)(a) of the Social Security (Retirement Pensions etc.) (Transitional Provisions) Regulations 2005(a) (modification of Schedule 5 to the Act), after the words “retirement pension” insert “(excluding any increase under section 83, 84 or 85)”.

Amendment of the Social Security (Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit) (Miscellaneous Provisions) Regulations 2005

4. In regulation 5(2)(b) of the Social Security (Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit) (Miscellaneous Provisions) Regulations 2005(b) (change of election), for “regulation 30(5D) or (5F)” substitute “regulation 30(5E) or (5G)”.

Amendment of the Social Security (Graduated Retirement Benefit) Regulations 2005

5. In paragraph 20D(2)(b) of Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005(c) (change of election), for “regulation 30(5D) or (5F)” substitute “regulation 30(5E) or (5G)”.

Amendment of the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988

6. In regulation 5 of the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988(d) (offsetting prior payment against subsequent award)—

(a) in paragraph (1)(e), for “and (2A)” substitute “, (2A) and (6)”; and

(b) after paragraph (5), add—

“(6) Subject to regulation 6, any sums under—

(a) Schedule 5 or 5A to the Contributions and Benefits Act (pension increases or lump sum where entitlement to retirement pension or shared additional pension is deferred); or

(b) Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005 (increases or lump sum where entitlement to graduated retirement benefit is deferred),

paid pursuant to a decision which is subsequently revised under section 9 of the Social Security Act 1998(f), superseded under section 10 of that Act or overturned on appeal, shall be offset against any sums due under the subsequent determination and, except to the extent that the sum exceeds the amount now due, shall be treated as properly paid on account of it.”.

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

Stephen C. Timms

Minister of State,

Department for Work and Pensions

27th February 2006

(a) S.I.2005/469 to which there is an amendment which is not relevant to these Regulations.

(b) S.I.2005/2677.

(c) S.I.2005/454. Schedule 1 to those Regulations has effect by virtue of section 36(4) of the National Insurance Act 1965 (c.51) as amended by those Regulations. Section 36 of that Act was repealed by the Social Security Act 1973 (c.38) with effect from 6th April 1975 but continues in force by virtue of regulations made under Schedule 3 to the Social Security (Consequential Provisions) Act 1975 (c.18) or under Schedule 3 to the Social Security (Consequential Provisions) Act 1992 (c.6). Paragraph 20D of Schedule 1 is inserted by S.I.2005/2677.

(d) S.I.1988/664. Regulation 5 was amended by S.I.1999/2571.

(e) Paragraph (1) was amended by S.I. 1999/2571.

(f) 1998 c.14.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply in relation to the deferral of retirement pensions, shared additional pension and graduated retirement benefit.

Regulation 2 ensures that in the provision relating to which days are days of increment, increments may, in respect of periods of deferment ending on or after 6th April 2006, accrue in respect of days where a person is both deferring entitlement to his Category A or Category B retirement pension and receiving graduated retirement benefit. That regulation also removes an otiose reference to injury benefit in that provision.

Regulation 3 ensures that in calculating the amount of a lump sum payable to a person whose period of deferment spans 6th April 2005, in all cases, the amount of any increase of retirement pension payable under section 83, 84 or 85 of the Social Security Contributions and Benefits Act 1992 (c.4) in respect of an adult dependant, shall be excluded when determining the total amount of retirement pension which would have been payable to the person in the previous 12 months if his entitlement had not been deferred.

Regulations 4 and 5 correct erroneous cross references to provisions in the Social Security (Claims and Payments) Regulations 1987 (S.I.1987/1968) in provisions relating to changes of elections to receive either an increase in a pension or benefit or a lump sum.

Regulation 6 amends regulation 5 of the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988 (S.I.1988/664) so that sums paid following deferral of entitlement to retirement pension, shared additional pension or graduated retirement benefit and which are made under a decision which is subsequently revised, superseded or overturned on appeal, must be offset against such payments as are due under the subsequent determination.

A full Regulatory Impact Assessment has not been produced for this instrument as it has no impact on the cost of business, charities or voluntary bodies.

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