Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The State Pension Regulations 2015. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

2015 No. 173

SOCIAL SECURITY

The State Pension Regulations 2015

Made - - - - 9th February 2015

Coming into force - - 6th April 2016

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 55A(6) and 175(4) of the Social Security Contributions and Benefits Act 1992 [F1], sections 23(1)(a), (b)(ii) and (c)(i) and (2), 48(1)(f)(ii) and 49(4) and (4A) of the Welfare Reform and Pensions Act 1999 [F2] and sections 2(3), 4(2), 8(3), (7) and (8), 16(1) and (6), 17(4) and (5), 18(1), 19(1) and (3), 22(1) and 54(5) and (6) of, and paragraph 4 of Schedule 8 and paragraph 4 of Schedule 10 to, the Pensions Act 2014 [F3].

The Social Security Advisory Committee has agreed that the proposals in respect of Part 5 of these Regulations should not be referred to it [F4].

The remainder of these Regulations have not been referred to the Social Security Advisory Committee because they are made before the end of the period of six months beginning with the coming into force of the provisions of the Pensions Act 2014 under which they are made [F5].

In accordance with section 83(11) of the Welfare Reform and Pensions Act 1999, due to the exercise of powers to make regulations under Part 4 of that Act, the Secretary of State has consulted such persons as he considers appropriate about Part 5 of these Regulations [F6].

A draft of these Regulations has been laid before Parliament in accordance with section 54(2)(a) of the Pensions Act 2014 and approved by a resolution of each House of Parliament.

F1 1992 c.4. Section 55A was inserted by paragraph 3 of Schedule 6 to the Welfare Reform and Pensions Act 1999 (c.30). Subsection (6) was substituted by section 41(3) of the Child Support, Pensions and Social Security Act 2000 (c.19). There are relevant amendments to section 55A made by section 15 of, and paragraph 5 of Schedule 11 to, the Pensions Act 2014 (c.19). Section 175(4) was amended by paragraph 29(4) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2).

F2 1999 c.30. Section 23(1)(a) and (b) was amended by section 261(1) of, and paragraphs 157(2) to (5) of Schedule 27 to, the Civil Partnership Act 2004 (c.33). It was also amended by section 261(4) of, and paragraph 1 of Schedule 30 to, that Act. Section 48(1)(f) was amended by paragraph 161(4)(a) and (b) of Schedule 27 to that Act. Section 49(4) and (4A) was substituted by section 41(1) of the Child Support, Pensions and Social Security Act 2000. There are relevant amendments to section 49 made by section 15 of, and paragraph 12 of Schedule 11 to, the Pensions Act 2014.

F3 2014 c.19. Section 22(1) is cited for the meaning it gives to “regulations”.

F4 *See* sections 170, 172(1) and 173(1)(b) of the Social Security Administration Act 1992 (c.5). There are relevant amendments to section 170 made by paragraph 24 of Schedule 12 to the Pensions Act 2014.
F5 *See* section 173(5) of the Social Security Administration Act 1992.
F6 The requirement to consult under section 83(11) applies only to the provisions in paragraphs 1(5)(a) and 2 of the Schedule to these Regulations. The Secretary of State consulted about those provisions and all the other provisions on sharing state pension in regulation 14 of, and the Schedule to, these Regulations.

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 [F7] before 6th April 2016.

[[F8]In these Regulations—

"the 1965 Act" means the National Insurance Act 1965;

"the 2014 Act" means the Pensions Act 2014;

"deferral period" means the period during which a person's entitlement to a state pension under Part 1 of the 2014 Act is deferred;

"graduated retirement benefit" means any benefit under section 36 (graduated retirement benefit) or 37 (special provisions as to graduated retirement benefit for widows) of the 1965 Act.**]**

(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.

F7 *See* section 22(1) of the Pensions Act 2014 for the meaning of "pensionable age".
F8 Reg. 1(4) substituted (6.4.2016 immediately after S.I. 2015/173 comes into force) by The State Pension and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/199), **reg. 2** (with reg. 1(5))

[[F9]PART 1A

Full rate of State Pension

F9 Reg. 1A inserted (6.4.16 coming into force in accordance with art. 1(2)) by The State Pension (Amendment) Regulations 2016 (2016/227) reg. 1(2), 2

Full rate of state pension

1A. The full rate of the state pension for the purposes of section 3(1) of the 2014 Act (full rate of state pension) is **[**[F10]£179.60**]** per week.**]**

F10 Sum in Reg. 1A substituted (with effect in accordance with arts. 1(4)(5), 7 of the amending S.I.) by The Social Security Benefits Up-rating Order 2021 (S.I. 2021/162), arts. 1(3)(c), **6(2)**

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 [F11] 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) [F12]; and

(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 [F13];

(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) [F14].

(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).

[[F15](4) In determining a person's rights to relevant benefits for the purposes of this regulation, regulation 13 of the State Pension Regulations 2015 (minimum number of qualifying years), and any provisions in Northern Ireland which correspond to that regulation, shall not have effect.**]**

F11 *See* section 19(2) of the Pensions Act 2014 for the meaning of "prisoner".

F12 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.

F13 Section 50(3) was substituted by section 294(3) of the Criminal Justice Act 2003 (c.44).

F14 2003 asp.13.

F15 Reg. 13 excluded by S.I. 2007/1398, reg. 2(4) as inserted (6.4.2016 coming into force in accordance with art. 1(2)(b)) by The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2015 (S.I. 2015/1985), arts. 1(2)(b), **30(3)**

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 **[**F16section 286 of the Sentencing Code**]** (suspended sentences of imprisonment).

(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.

F16 Words in reg. 3(2)(c) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 427** (with Sch. 27); S.I. 2020/1236, reg. 2

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

(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