

PENSIONS ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: State Pension

Section 1: Equalisation of and increase in pensionable age for men and women

20. *Section 1* amends the rules for determining state pension age for men and women as set out in paragraph 1 of Schedule 4 to the PA 1995.
21. *Subsection (2)* amends sub-paragraph (1) to provide that only men born before 6 December 1953, rather than those born before 6 April 1959, will reach state pension age on their 65th birthday.
22. *Subsection (3)* omits sub-paragraph (4) as a woman born after 5 April 1955, but before 6 April 1959, will now reach state pension age on her 66th birthday.
23. *Subsection (4)* amends the timetable which sets out when a woman born on a particular date reaches state pension age during the transition from 60 to 65. The transition is accelerated with effect from April 2016, so that it is completed by December 2018. State pension age for women born between 6 April 1953 and 5 December 1953 will now be between age 63 and 65, instead of between 63 and 63 and eight months.
24. *Subsection (5)* replaces the timetable which provides for the transition from 65 to 66 for men and women between April 2024 and April 2026, with the revised timetable which provides for the transition between December 2018 and October 2020. This will apply to men and women born between 6 December 1953 and 5 October 1954.
25. *Subsection (6)* amends sub-paragraph (6), which provides that state pension age is the 66th birthday for men and women falling between the groups affected by the transition from 65 to 66, and from 66 to 67 (which, under the measures introduced by PA 2007, is due to take place between April 2034 and April 2036). With the revisions made by subsection (5), anyone born on or after 6 October 1954 but before 6 April 1968 will now reach state pension age on their 66th birthday.
26. *Section 1* gives effect to *Schedule 1*.

Schedule 1: Equalisation of and increase in pensionable age for men and women: consequential amendments

27. *Schedule 1* amends the definition of “pensionable age” in the following enactments:
 - in performing their duties under the Gas Act 1986, the Secretary of State and Ofgem are required to protect the interests of consumers in relation to the conveyance of gas supply and to have regard to certain vulnerable groups, including pensioners (as defined);
 - under the Consumers, Estate Agents and Redress Act 2007, the National Consumer Council – the statutory body established by that Act to represent consumer’s

interests (known as “Consumer Focus”) – is similarly specifically required to have regard to the interests of consumers who are pensioners in carrying out its functions;

- sections 2A, 2AA and 2D of the SSAA 1992 contain regulation-making powers under which regulations may be made requiring a person, or the partner of a person, claiming one of a specified list of social security benefits to attend a work-focused interview or engage in work-related activity to prepare them for returning to work, if that person (or the partner of that person) is under pensionable age, as defined.
28. *Paragraphs 1, 3 to 5, and 7* amend the definition of “pensionable age” in the above enactments where, for the purposes of ensuring that the relevant provisions apply equally to men and women, a man born before 6 April 1955 is deemed to be of pensionable age if he is the same age as a woman who has reached state pension age. With the acceleration in the timetable for state pension age equalisation, only men born before 6 December 1953 will have a higher state pension age than a woman born on the same day.
29. *Paragraph 6* amends section 126 of the PA 1995 which gives effect to Schedule 4 to that Act. The amendment merely modifies the descriptive words introducing the Schedule. *Paragraph 9(a)* makes an equivalent amendment of section 13 of the PA 2007 to amend the period over which the state pension age will increase from 65 to 68.
30. *Paragraph 9(b)* amends the date from which a number of consequential amendments made by the PA 2007 were to have taken effect. These amendments replace age 65 with “pensionable age” for the purposes of –
- the upper age for qualification for Disability Living Allowance;
 - the minimum age for entitlement to Attendance Allowance;
 - the maximum age for entitlement to Widow’s Pension;
 - the minimum age for entitlement to the savings credit element of Pension Credit; and
 - the minimum age for eligibility for the £10 Christmas Bonus where the sole qualifying benefit is War Disablement Pension.
31. These age thresholds will change in line with state pension age once it exceeds 65. The amendment made by paragraph 9(b) inserts the new date from which that will now take place.

Section 2: Abolition of certain additions to the state pension

32. *Section 2* amends section 150 of the SSAA 1992 and Schedule 5 to the SSCBA 1992. This section removes the provision from the state for new awards of small “top-up” amounts to a person’s state pension from the specified date, where that person is a member of a salary-related contracted-out scheme who has delayed taking their private pension and earned “increments” on their Guaranteed Minimum Pension (GMP), or is the survivor of such a member. (The GMP is the minimum pension a scheme is required by law to pay to an individual who was in contracted-out employment between 1978 and 1997.)
33. The small “top-up” amounts, referred to as “Payable Up-rated Contracted-out Deduction Increments” (PUCODIs) are paid by the State to take account of the fact that the occupational pension scheme is only responsible for providing limited indexation on the extra amounts gained by the individual for postponing their private pension – the GMP increments. For example, schemes are not required to provide any indexation on GMP increments accrued between 1978 and 1988, but must provide indexation at the rate of the general level of prices in Great Britain (changed from RPI to CPI in April 2011) capped at three per cent for accruals between 1988 and 1997. Hence the state will index any GMP increments at the rate of RPI/CPI for any 1978 to 1988 accruals,

and in the event that RPI/CPI exceeds three per cent by anything over three per cent for accruals between 1988 and 1997.

34. PUCODIs do not apply to any periods of contracted out employment after April 1997 as the requirement to provide a GMP was replaced with the requirement to provide benefits which are broadly equivalent to those provided under the Reference Scheme Test.
35. Awards which have been made and are in payment before this date will not be affected.
36. *Section 2* gives effect to *Schedule 2*.

Schedule 2: Abolition of certain additions to the state pension: consequential amendments etc

37. *Schedule 2* makes amendments in the SSCBA 1992 which are consequential on section 2, and repeals amending enactments which are now spent.

Section 3: Consolidation of additional pension

38. *Section 3* gives effect to *Schedule 3*.

Schedule 3: Consolidation of additional pension

39. *Schedule 3* makes amendments to remove the references in the SSCBA 1992 and other relevant enactments (as inserted by the PA 2008) that link the start date for additional state pension consolidation to the flat rate introduction year. The amendments provide a power to set the consolidation start date by order.
40. The consolidation of additional state pension is a measure to provide a single value for a person's additional pension, the method for calculation of which has changed over time, so as to enable easier prediction of entitlement in retirement. The flat rate of additional pension is a measure by which, instead of bands of different rates by which additional pension is calculated, one flat rate is applicable. These measures were introduced to simplify the additional pension by the PA 2007 and the PA 2008; both are yet to have effect.
41. Consolidation will have no impact on a person's overall state pension income over the course of their retirement, but can affect the income flow for people who have been contracted-out.
42. In payment contracted-out pension rights are offset against additional state pension entitlement built up before 1997, meaning a number of people gain additional state pension for that period at some time after pensionable age. This is because differences in the way private pension schemes increase rights in accrual and pensions in payment, compared to the state scheme, can mean that at state pension age a person's additional state pension entitlement for that period might be small, or non-existent, but increase later on in retirement.
43. Under consolidation, actuarial factors would be applied to a person's contracted-out pension rights in order to smooth the disparities in entitlement that occur during retirement. This is likely to affect around 11 million people who built up contracted-out pension rights between 1978 and 1997. As a result, there are short-term costs to the Exchequer associated with consolidation, in that some additional state pension entitlement for the pre-1997 period would be brought forward to state pension age to smooth income over retirement.
44. This Schedule also removes the references which define those to whom the consolidation would apply, that is, those reaching state pension age from 6 April 2020, instead providing a power to set the relevant retirement date by way of order.
45. These measures provide flexibility to determine when the short-term costs outlined above will be incurred.