

2005 No. 455

SOCIAL SECURITY

**The Social Security (Claims and Payments) Amendment
Regulations 2005**

Made - - - - - *3rd March 2005*

Laid before Parliament *10th March 2005*

Coming into force in accordance with regulation 1(1)

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 5(1)(a) to (c) and (g), 189(1), (4) and (5) and 191 of the Social Security Administration Act 1992(a) and after agreement by the Social Security Advisory Committee that proposals to make these Regulations should not be referred to it(b), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Claims and Payments) Amendment Regulations 2005 and shall come into force—

- (a) for the purposes of this regulation and regulation 2, on 6th April 2005,
- (b) for the purposes of regulation 6, on 6th July 2005, and
- (c) for all other purposes, on 6th April 2006.

(2) In these Regulations “the Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations 1987(c).

Insertion of regulation 15B into the Claims and Payments Regulations

2. Before regulation 16 of the Claims and Payments Regulations(d) insert the following regulation—

“Advance claim for pension following deferment

15B. Where a person’s entitlement to a Category A or Category B retirement pension is deferred in accordance with section 55(3) of the Contributions and Benefits Act(e) (pension increase or lump sum where entitlement to retirement pension is deferred) a claim for—

- (a) a Category A or Category B retirement pension; and

(a) 1992 c. 5; section 191 is cited because of the meaning it gives to “prescribe”.
(b) See Social Security Administration Act 1992, section 173(1)(b).
(c) S.I. 1987/1968.
(d) S.I. 1988/1725 inserted regulation 15A which was revoked by S.I.1991/2284.
(e) Section 55 was substituted by the Pensions Act 2004 (c. 35), section 297.

(b) any increase in that pension,
may be made any time not more than 4 months before the date on which the period of
deferment, within the meaning of section 55(3), ends.”.

Amendment of regulation 19 of the Claims and Payments Regulations

3. In regulation 19 of the Claims and Payments Regulations(a) (time for claiming benefit), in
paragraph (3)(b) omit sub-paragraphs (c) and (f).

Amendment of regulation 30 of the Claims and Payments Regulations

4. In regulation 30 of the Claims and Payments Regulations(c) (payments on death)—

- (a) in paragraph (5) (posthumous claims) before “Where the conditions” insert “Subject to
paragraphs (5A) to (5F),”, and
- (b) after paragraph (5) insert—

“(5A) Subject to paragraphs (5B) to (5F), a claim may be made in accordance with
paragraph (5) on behalf of the deceased for a Category A or Category B retirement pension
or graduated retirement benefit provided that the deceased was not married on the date of
his death.

(5B) In determining for the purposes of paragraphs (5) and (5A) the benefit to which the
deceased would have been entitled if he had claimed within the prescribed time, the
prescribed time shall be the period of three months ending on the date of his death and
beginning with any day on which, apart from satisfying the condition of making a claim, he
would have been entitled to the pension or benefit.

(5C) Paragraph (5D) applies where, throughout the period of 12 months ending with the
day before the death of the deceased person, his entitlement to a Category A or a Category
B retirement pension or to graduated retirement benefit was deferred in accordance with, as
the case may be—

- (a) section 55 of the Contributions and Benefits Act(d) (pension increase or lump sum
where entitlement to retirement pension is deferred); or
- (b) section 36(4A) of the National Insurance Act 1965(e) (deferment of graduated
retirement benefit).

(5D) Where a person claims under paragraphs (5) and (5A) the deceased shall be treated
as having made an election in accordance with, as the case may be—

- (a) paragraph A1(1)(a) of Schedule 5 to the Contributions and Benefits Act(f)
(electing to have an increase of pension), where paragraph (5C)(a) applies; or
- (b) paragraph 12(1)(a) of Schedule 1 to the Social Security (Graduated Retirement
Benefit) Regulations 2005(g) (electing to have an increase of benefit), where
paragraph (5C)(b) applies.

(5E) Paragraph (5F) applies where—

- (a) the deceased person was a widow or widower (“W”) who was married to the other
party of the marriage (“S”) when S died;
- (b) throughout the period of 12 months ending with the day before S’s death, S’s
entitlement to a Category A or a Category B retirement pension or to graduated

(a) Regulation 19 was substituted by S.I. 1997/793.

(b) Paragraph (3) was amended by S.I. 2000/1483, 2002/ 2497, 3019 and 2660 and 2004/1821.

(c) Relevant amendments to regulation 30 were made by S.I. 1988/1725, 1990/2208, 1991/2741, 1993/2113, 1996/1460 and
2002/3019.

(d) Section 55 was substituted by the Pensions Act 2004 (c. 35), section 297.

(e) 1965 c. 51; section 36 is continued in force and modified by S.I. 1978/393; subsection (4A) was inserted by S.I. 2005/454.

(f) Paragraph A1 was inserted by the Pensions Act 2004, Schedule 11, paragraph 4.

(g) S.I. 2005/454; Schedule 1 has effect by virtue of section 36(4) of the National Insurance Act 1965 as amended by S.I.
2005/454.

retirement benefit was deferred in accordance with, as the case may be, paragraph (5C)(a) or (b); and

(c) W made no statutory election in consequence of the deferral.

(5F) Where a person claims under paragraphs (5) and 5(A) the deceased (“W”) shall be treated as having made an election in accordance with, as the case may be—

(a) paragraph 3C(2)(a) of Schedule 5 to the Contributions and Benefits Act(a) electing to have an increase of pension), where paragraph (5C)(a) applies; or

(b) paragraph 17(2)(a) of Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005 (electing to have an increase in benefit), where paragraph (5C)(b) applies.”.

Amendment of Schedule 4 to the Claims and Payments Regulations

5. In Schedule 4 to the Claims and Payments Regulations (prescribed times for claiming benefit), after paragraph 12(b), in column (1) (description of benefit) and in the corresponding part of column (2) (prescribed time for claiming benefit) add the following paragraphs—

“**13.** Retirement pension of any category.

As regards any day on which, apart from satisfying the condition of making a claim, the claimant is entitled to the pension, that day and the period of 12 months immediately following it.

14. Graduated retirement benefit(c).

As regards any day on which, apart from satisfying the condition of making a claim, the claimant is entitled to benefit, that day and the period of 12 months immediately following it.”.

Transitional provisions

6.—(1) A claim for a retirement pension of any category or graduated retirement benefit made during the period from 6th April 2005 to 5 April 2006 in respect of any day in that period shall be treated as made on that day if on that day, apart from satisfying the condition of making a claim, the claimant satisfies the other conditions of entitlement for that pension or benefit or both.

(2) Where paragraph (1) applies regulation 19 of the Claims and Payments Regulations (time for claiming benefit) shall not apply.

(3) This regulation shall not apply to claims for a Category A or Category B retirement pension or graduated retirement benefit made in accordance with regulation 30(5) of the Claims and Payments Regulations (payments on death: claims on behalf of the deceased).

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

Malcolm Wicks
Minister of State,
Department for Work and Pensions

3 March 2005

(a) Paragraph 3A was inserted by the Pensions Act 2004, Schedule 11, paragraph 9.

(b) Paragraph 12 was added by S.I. 2004/1821.

(c) Graduated retirement benefit is payable under section 36 of the National Insurance Act 1965 (c. 51); section 36 is continued in force, subject to modifications, by S.I. 1978/393, regulation 3.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Claims and Payments) Regulations 1987 in respect of claims for retirement pension or graduated retirement benefit.

Regulation 2 provides for claims for a Category A or B retirement pension or graduated retirement benefit to be made in advance of the date on which a period of deferment ends.

Regulations 3 and 5 provide that the time for claiming retirement pension or graduated retirement benefit for any day on which the claimant is entitled to the pension or benefit is the period of 12 months immediately following that day, instead of the period of 3 months beginning with that day. Regulation 6 introduces the 12 month period gradually as a transitional measure.

Regulation 4 makes further provision for claims for a Category A or B retirement pension and graduated retirement benefit made on behalf of a person who has died. A person may make such a claim if the deceased was not married at the time of death. A maximum of 3 months' arrears of pension or benefit may be claimed. Where there is a claim on behalf a person who deferred his entitlement during the 12 months before his death he will be treated as having made an election in favour of an increase rather than a lump sum in respect of the deferment.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the cost of business.

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