
STATUTORY INSTRUMENTS

2010 No. 1794

SOCIAL SECURITY

The Social Security (Exemption from Claiming Retirement Pension) Regulations 2010

<i>Made</i>	- - - -	<i>12th July 2010</i>
<i>Laid before Parliament</i>		<i>15th July 2010</i>
<i>Coming into force</i>	- -	<i>2nd November 2010</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 1(1), 189(1) and (4) to (6) and 191 of the Social Security Administration Act 1992(1).

In accordance with section 173(1)(b) of that Act, the Secretary of State has obtained the agreement of the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it.

Citation and commencement

1. These Regulations may be cited as the Social Security (Exemption from Claiming Retirement Pension) Regulations 2010 and come into force on 2nd November 2010.

Amendment of the Social Security (Claims and Payments) Regulations 1987

2.—(1) The Social Security (Claims and Payments) Regulations 1987(2) are amended as follows.

(2) In regulation 3 (claims not required for entitlement to benefit in certain cases)(3), before paragraph (a) insert—

“(za) in the case of a Category A or B retirement pension, where the beneficiary is a person to whom regulation 3A applies;”.

(3) After regulation 3 insert—

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- (1) 1992 c. 5. Section 189(1) and (4) to (6) were amended by paragraph 109(a) and (c) to (e) of Schedule 7 and Schedule 8 to the Social Security Act 1998 (c.14), paragraph 57(1) and (2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2), and Schedule 6 to the Tax Credits Act 2002 (c.21). Section 191 is an interpretation provision and is cited for the meaning of the word “prescribe”. The definition of “prescribe” was amended by paragraphs 2 and 10 of Schedule 5 to the Welfare Reform Act 2007 (c.5).
- (2) S.I. 1987/1968.
- (3) Regulation 3 was amended by S.I. 1989/136, 1990/2208, 1996/1460, 1999/2556, 1999/3178, 2000/1483, 2001/488, 2003/1589, 2005/1551, 2007/2470, 2008/441, 2008/1554, 2008/2667 and 2009/1490.

“Notification that claim not required for entitlement to a Category A or B retirement pension

3A.—(1) Subject to paragraph (4), this regulation applies to a beneficiary who has received, on or before the day provided for in paragraph (2), a written notification from the Secretary of State that no claim is required for a Category A or B retirement pension.

(2) The day referred to in paragraph (1) is—

- (a) the day which falls 2 weeks before the day on which the beneficiary reaches pensionable age; or
- (b) such later day as the Secretary of State may consider reasonable in any particular case or class of case.

(3) The Secretary of State may give a notification under paragraph (1) only in a case where, on the day which falls 8 weeks before the day on which the beneficiary reaches pensionable age, the beneficiary—

- (a) is in receipt of an exempt benefit, or would be in receipt of it but for that benefit not being payable as a result of the application of any of the legislation listed in paragraph (7); and
- (b) is neither entitled to, nor awaiting the determination of a claim for, a non-exempt benefit.

(4) Receipt of a written notification under paragraph (1) does not affect the requirement that a beneficiary who—

- (a) before reaching pensionable age, informs the Secretary of State that they want their entitlement to a Category A or B retirement pension to be deferred in accordance with section 55(3)(a) of the Contributions and Benefits Act⁽⁴⁾; or
- (b) after reaching pensionable age, elects to be treated as not having become entitled to either a Category A or B retirement pension in accordance with regulation 2 of the Social Security (Widow’s Benefit and Retirement Pensions) Regulations 1979⁽⁵⁾,

must make a claim in order subsequently to be entitled to a Category A or B retirement pension.

(5) For the purposes of paragraph (3)(a), a beneficiary who is in receipt of an exempt benefit includes a beneficiary who—

- (a) has been awarded such a benefit on or before the day which falls 8 weeks before the day on which the beneficiary reaches pensionable age; and
- (b) has not yet received the first payment of that benefit.

(6) For the purposes of this regulation—

“exempt benefit” means any of the following—

- (a) an employment and support allowance;
- (b) income support;
- (c) a jobseeker’s allowance;
- (d) long-term incapacity benefit;
- (e) state pension credit; and

“non-exempt benefit” means any of the following—

- (a) carer’s allowance;
- (b) short-term incapacity benefit;

(4) 1992 c. 4. Section 55(3)(a) was amended by paragraph 7 of Schedule 1 to the Pensions Act 2007 (c. 22).

(5) S.I. 1979/642. Regulation 2 was amended by S.I. 1989/1642, 2005/453, 2005/1551 and 2009/2206.

- (c) severe disablement allowance;
 - (d) widowed mother's allowance;
 - (e) widow's pension.
- (7) The legislation referred to in paragraph (3)(a) is—
- (a) section 19 of the Jobseekers Act(6)(circumstances in which a jobseeker's allowance is not payable);
 - (b) section 20A of that Act(7)(denial or reduction of joint-claim jobseeker's allowance);
 - (c) regulations made by virtue of any of the following provisions of the Jobseekers Act—
 - (i) section 8(2)(a)(8)(attendance, information and evidence);
 - (ii) section 17A(5)(d)(9)(schemes for assisting persons to obtain employment: "work for your benefit" schemes etc.);
 - (iii) paragraph 7(1)(a) of Schedule A1(10)(persons dependent on drugs etc.);
 - (d) regulation 18 of the Social Security (Incapacity for Work) (General) Regulations 1995(11)(disqualification for misconduct etc.); and
 - (e) regulation 157 of the Employment and Support Allowance Regulations (disqualification for misconduct etc.)."

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

Steve Webb
Minister of State,
Department for Work and Pensions

12th July 2010

(6) 1995 c.18. Section 19 was amended by paragraph 67(1) and (2)(b) of Schedule 1 to the Employment Rights Act 1996 (c.18), paragraph 141 of Schedule 7 to the Social Security Act 1998 (c.14) and paragraph 12 of Schedule 7 to the Welfare Reform and Pensions Act 1999 (c.30).

(7) Section 20A was inserted by paragraph 13 of Schedule 7 to the Welfare Reform and Pensions Act 1999.

(8) Section 8 was amended by paragraph 7 of Schedule 7 and paragraph 29(3) of Schedule 8 to the Welfare Reform and Pensions Act 1999 and section 33 of the Welfare Reform Act 2009 (c.24).

(9) Section 17A was inserted by section 1(1) and (2) of the Welfare Reform Act 2009.

(10) Schedule A1 was inserted by paragraph 2 of Schedule 3 to the Welfare Reform Act 2009.

(11) S.I. 1995/311. Regulation 18 was amended by S.I. 1995/987, 1996/3207 and 1999/2422.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Claims and Payments) Regulations 1987 (S.I. 1987/1968). They add a further category of case in which it will not be a condition of entitlement to benefit that a claim be made. A person will not need to make a claim for a Category A or B retirement pension where they have received a notification from the Secretary of State that no claim is required, except where the person defers their entitlement to such a pension or elects to be treated as having not retired.

This exemption from making a claim only applies where such a notification is received by the day falling 2 weeks before the day on which the person reaches pensionable age, or by such later date as the Secretary of State considers reasonable in any particular case or class of case.

A notification may only be given where on the day which falls 8 weeks before the day on which the person reaches pensionable age they are—

- (a) in receipt of an employment and support allowance, income support, a jobseeker's allowance, long-term incapacity benefit or state pension credit (or would be in receipt of any of those benefits but for the application of any of the legislation listed in paragraph (7) of the new regulation 3A); and
- (b) not entitled to, or awaiting the determination of a claim for, carer's allowance, short-term incapacity benefit, severe disablement allowance, widowed mother's allowance, or widow's pension.

Pensionable age for men and women is determined in accordance with paragraph 1 of Schedule 4 to the Pensions Act 1995 (c.26). Pensionable age for men is currently 65. Pensionable age for women increases from 60 to 65 between April 2010 and March 2020.

A full impact assessment has not been produced for this instrument as it has no impact on the private or voluntary sectors.