HOUSE OF COMMONS LIBRARY

BRIEFING PAPER

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State Pensions 2018: FAQs for MPs

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Summary

This briefing paper looks at some of the FAQs constituents raise with their MPs about State Pensions. For example:

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- What day is the State Pension paid on?
- Are people who were members of contracted-out occupational schemes treated unfairly?
- Can people still claim on the spouse/civil partner's National Insurance record?
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- How have political parties responded to the WASPI campaign?
- Who is entitled to Pension Credit?
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It does not pretend to be comprehensive. The aim is to provide some general information in relation to these FAQs and signpost to more detailed sources of information and advice.

Please note that nothing in this paper should be considered as constituting legal advice. It is not intended to address the specific circumstances of any particular individual. A suitably qualified professional should be consulted if specific advice or information is required.

1. The basic State Pension

1.1 What was it?

The State Pension system for people who reached State Pension age before 6 April 2016 has two tiers:

- The basic State Pension (bSP) - paid at a flat-rate of £125.95 pw for people with 30 'qualifying years' of National Insurance (NI) contributions or credits.
- The additional State Pension, which is partly earnings-related. This was provided through the State Earnings Related Pension Scheme (SERPS) between 1978 and 2002 and the State Second Pension from 2002 to 2016. It was possible to contract-out of it into an occupational pension that met set requirements.

A person who was, or had been, married or in a civil partnership might be able to qualify for a bSP, or an increase to their own bSP, based on the NI record of their spouse or civil partner. This could provide a basic State Pension of up to £75.50 pw for a married person or civil partner and up to £125.95 pw for a widow, widower or surviving civil partner (2018/19 amounts) or person who was divorced or whose civil partnership had been annulled. It was also possible to inherit additional State Pension.

1.2 How did people build entitlement and how can they increase it?

The basic State Pension was awarded to an individual who had claimed it, had reached State Pension age and met the qualifying conditions.[1] Entitlement was based on the number of qualifying years an individual had built up. Gov.UK explains:

> To get the full basic State Pension you need a total of 30 qualifying years of National Insurance contributions or credits. This means you were either:
>
> - working and paying National Insurance
> - getting National Insurance Credits, for example for unemployment, sickness or as a parent or carer
> - paying voluntary National Insurance contributions
>
> If you have fewer than 30 qualifying years, your basic State Pension will be less than £125.95 per week but you might be able to top up by paying voluntary National Insurance contributions.
>
> Get a State Pension statement to find out how many qualifying years you already have.[2]

The amount of additional State Pension entitlement depends on the number of years an individual had paid NI, their earnings and whether they had been contracted-out.[3]

For more information

DWP leaflet, State Pensions – Your Guide (October 2014).

DWP's Decision Makers' Guide, Chapter 75 – Retirement Pension

For policy background - Library Briefing Paper SN-03111 Basic State Pension – contribution conditions (Oct 2014).

1 Social Security Contributions and Benefits Act 1992, s44
2 Gov.UK, The basic State Pension
3 Gov.UK/additional State Pension/what you'll get

There were a number of ways people could increase their entitlement:

> There are ways you can increase your basic State Pension if you:
>
> - aren't eligible for the full amount (£125.95 per week)
> - want to receive more than the full amount
>
> You should get financial advice when planning your retirement income.
>
> **Voluntary National Insurance contributions**
>
> You need 30 years of National Insurance contributions to be eligible for the full basic State Pension.
>
> If you have gaps in your insurance record, you may be able to make voluntary contributions to increase your pension.
>
> **Delay (defer) your State Pension**
>
> Deferring your State Pension could increase your payments when you decide to claim. The basic State Pension increases by 1% for every 5 weeks you defer.
>
> The extra amount is paid with your regular State Pension and can be claimed on top of the full basic State Pension amount.
>
> **Other ways you could increase your pension**
>
> If you're married or in a civil partnership you may be eligible to increase your basic State Pension to [£75.50] per week.Check if you qualify.
>
> You might also qualify for the Additional State Pension or, if you're on a low income, Pension Credit.[4]

For more information, see DWP leaflet, State Pensions – Your Guide (October 2014) and DWP's Decision Makers' Guide, Chapter 75 – Retirement Pension.

What was done to improve women's entitlement?

When the contributory state pension was introduced in 1948, there was provision for married women to opt out and rely on their husband's insurance record for a state pension paid at a reduced rate – 60 per cent of the full State pension. This was based on the assumption that married women would not work full-time and would be financially dependent on their husband's as breadwinners.[5]

For more information

Library Briefing Paper CBP-072896 Women and Pensions (Nov 2015).

Although, the system has evolved a great deal since then – with specific steps taken to improve outcomes – these have tended to lag behind changes in the social and economic position of women.[6] Milestones in policy development have been:

- A package of reforms in the late 1970s intended to deliver comparable treatment for men and women. This included the withdrawal from 1977 of the option for married women to pay reduced rate NICs and the introduction of Home Responsibilities Protection protect the state pension entitlement of people with caring responsibilities.[7]

4 Gov.UK/ the basic State Pension/eligibility
5 DWP, Women and pensions: the evidence, 2005, Chapter 2, p18
6 Ibid, Executive Summary
7 *Better Pensions Fully Protected Against Inflation*, September 1974, Cmnd 5713

- From 2002, the replacement of the State Earnings Related Pension Scheme (SERPS) with a new State Second Pension (S2P), designed to "boost the pension entitlement of those on low incomes and carers."[8] Further changes in the *Pensions Act 2007*, included widening the number of carers who would be credited into S2P.[9]
- From 2010, a reduction in the number of qualifying years for a full bSP to 30, from 44 (men) and 39 (women). This was expected to increase the proportion of women reaching pension age with a full bSP to around 90 per cent by 2025.[10]

The introduction of the new State Pension in 2016 (see below) was expected to bring forward by a decade - to the 2040s - the point at which women get equivalent state pension outcomes to men.[11]

What about women who paid reduced rate NI?

As explained above, one feature of the new scheme introduced in 1948 was that women would pay reduce rate NICs in the expectation of deriving entitlement to a state pension on the basis of their husband's contributions.

The option to pay reduced rate NICs was withdrawn from 1977.[12] However, in recognition of the fact that suddenly withdrawing the reduced rate would cause a sharp reduction in take-home pay, it was phased-out for women who had already made an election. Married women and some widows with a reduced rate election in force before 5 April 1978 could retain the election, although it lapsed if they did not pay contributions in two successive tax years. [13]

Some women who had paid reduced rate contributions were later shocked to find they had accrued low state pension entitlements, arguing that the position had not been clear to them.[14] In response to questions on the issue, government ministers have said that women who elected reduced liability had to sign a statement saying that they had read and understood a leaflet explaining the consequences of the choice. There had been publicity campaigns on the issue in 1977, 1989 and 2000.[15] On the other hand, it has also been recognised that the election existed in very different social circumstances and that people did not always fully appreciate the implications.[16]

Except for those covered by transitional protection, there is no option to derive entitlement to the new State Pension introduced in April 2016 based on the NI record of a (former) spouse or civil partner (see below).

For more information

Library Briefing Paper SN 1910 Married women and state pensions (Jan 2014).

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8 DSS, *A new contract for welfare: partnership in pensions*, Cm 4179, December 1998, p 39
9 *Pensions Act 2007*, s3
10 DWP, *Gender Impact Assessment of Pension Reform*, 5 December 2007; See also HC Deb, 26 October 2009, c166W; See also HC Deb, 15 Oct 2009, c1026W
11 Pensions Act 2014, part 1; DWP, Single-tier impact assessment, October 2013, para 86-7
12 *Better Pensions Fully Protected Against Inflation*, September 1974, Cmnd 5713
13 HM Treasury, *Tax Benefit Reference Manual, 2009-10 Edition*, July 2009
14 BBC news, 'A pension of 7 pence a week', 13 December 2002
15 HC Deb 24 October 2002 c 489W; See also HL Deb 16 March 2011 c64GC [Lord Sassoon]; Inland Revenue, NICs for women with reduced elections, CA 13, 2004
16 See, for example, SC Deb 18 March 2004 c233 [Steve Webb]

1.3 Why is there a 25p increase at age 80?

Pensioners aged 80 and over receive an addition of 25 pence to their state pension.[17] The age addition was introduced in 1971, in recognition of "the special claims of very elderly people who on the whole need help rather more than others".[18] It has never been uprated, with successive Governments deciding either to prioritise protecting the level of basic benefits, or choosing to target additional resources at older pensioners by other means – for example, through means-tested benefits or lump sum payments, such as the Winter Fuel Payment.[19] In 2007, the then Pensions Minister, James Purnell said:

> The problem with increasing the age addition is that it would not be a well targeted measure. As, in effect, an increase in the basic state pension, it would be taxed for people who pay tax and means-tested away for those who are on pension credit—and those who are on the guaranteed credit only would gain nothing at all from the increase. That is why the Government, in trying to recognise the needs of older people, have focused on other ways of achieving the same goal.[20]

The Conservative Government elected in 2015 outlined the steps it was taking to protect the incomes of pensioners as follows:

> This Government wants all pensioners to have a decent and secure income in retirement. We are committed to the 'triple lock', the guarantee that the basic and new State Pension will increase by the highest of the growth in average earnings, price increases or 2.5% […] For the poorest pensioners, from April 2016 Pension Credit will top up income to a guaranteed minimum level of £155.60 for a single person and £237.55 for couples. We are protecting key benefits for older people including Winter Fuel Payments, free eye tests, free NHS prescriptions, free bus passes and free television licences for those aged 75 and over.[21]

There is no age addition in the new State Pension introduced for future pensioners from 6 April 2016.[22]

For more information, see

Library Briefing Paper SN-00321 State Pension 25 pence age addition (May 2013)

17 Social Security Contributions and Benefits Act 1992, s79 (1)
18 HC Deb, 3 May 1971, c1019
19 See, for example, HC Deb, 27 April 1977, cc343W; HL Deb 27 April 1995, c 1021; HC Deb 25 March 2003, c 167W
20 HC Deb, 26 June 2007, c312-3
21 PQ24226, 29 January 2016
22 *Pensions Act 2014,* s23 and Sch 12, para 85

2. The additional State Pension

2.1 What is it?

The additional State Pension is the earnings-related tier of the state pension system for people who reached State Pension age before 6 April 2016.

Entitlement depends on the earnings or deemed earnings during their working life since 1978. People built entitlement through the State Earnings Related Pension Scheme (SERPS) between 1978 and 2002 and the State Second Pension (S2P) from 2002 onwards.[23]

The additional State Pension was preceded by Graduated Retirement Benefit, which ran between 1961 and 1975.[24]

2.2 What was contracting-out?

The State Pension was designed to work in conjunction with occupational pensions – providing a minimum level of income, while incentivising individuals to save on top.[25] So, from the time SERPS was introduced in 1978, there was an option to contract-out into an occupational pension that met certain criteria.[26] DWP explains:

> Under the old State Pension rules, up to 5 April 2016, you were able to 'contract out' of the additional State Pension. This meant that you and your employer could pay less NI contributions into the state system. You could not contract out of the basic State Pension. You could only opt out ('contract out') of the additional State Pension, and you could only pay less NI contributions into the state system if you were part of a private pension - such as a workplace or personal pension scheme - that could build up to replace the State Pension you were opting out of.
>
> Find out more about the additional State Pension
>
> You are likely to have been contracted out of the additional State Pension if:
>
> • you are or were in a final salary or career-average pension scheme, or
>
> • before 6 April 2012, you were in some other types of pension scheme at work
>
> Some stakeholder and personal pension schemes were also contracted out.
>
> So, although you may not have realised this, when you were contracted out, depending on the type of pension scheme(s) you belonged to during the period(s) you were contracted out, either:
>
> - you and your employer paid NI at a lower rate than the full standard rate, or

For more information

Gov.UK additional State Pension

DWP, State Pensions: your guide, Nov 2014, p29-31

DWP, Decision Makers' Guide, chapter 75, para 75532-601

Library Briefing Paper CBP-7202 Pensions 2015 (May 2015), section 2.3 (partnership with private pensions)

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23 *Social Security Contributions and Benefits Act 1992*, s44, 44A-C and 45
24 DWP, Decision Makers' Guide, chapter 75, para 75471-75523; *National Insurance Act 1965* s36-37; *Social Security Contributions and Benefits Act 1992*, s62 (1)
25 Sir William Beveridge, Social Insurance and Allied Services, Cmnd 6404, Nov 1942, para 9
26 See Library Briefing Paper CBP-07202 Pensions 2015 (May 2015), section 2.3

- some of the NI contributions you paid were used to contribute to your private pension instead of the additional State Pension.[27]

People can check if they were contracted-out by looking at their payslip or checking with their employer or pension provider.

What did contracted-out schemes have to provide?

For more information, see

HMRC guidance, Contracting-out, April 2017

Pension schemes used for contracting out had to meet certain requirements, which changed over time:

- Initially, it was only possible to contract-out into a scheme that provided a Guaranteed Minimum Pension (GMP), which at least equalled the additional State Pension they would have earned had the remained contracted-in. From April 1997, this was changed to a reference scheme test, "expected (but not guaranteed) to provide pensions broadly equivalent to" those given up by contracting-out.[28]
- From April 1988, it was possible to contract-out into a defined contribution (DC) scheme.[29] Minimum contributions had to be made in return for certain "protected rights" which met certain conditions but with no guarantee that they would produce a pension equal to the State Pension foregone.

The option to contact-out into a DC scheme ended from 6 April 2012 because it had become increasingly difficult to judge whether it was in the individual's interest to do so.[30] Contracting-out was abolished altogether from 6 April 2016 when the new State Pension was introduced.[31]

How did it affect State Pension entitlement?

When people were contracted-out they either paid NICs at a lower rate, or some of the NICs they paid were used to contribute to a private pension instead of their additional State Pension. So, contracting-out meant reduced additional State Pension entitlement. The way in which this works has changed over time:

> Since 1978 it has been possible for employees to opt out of the additional State Pension scheme. This is called 'contracting out' and means their additional State Pension will be reduced.
>
> **The effect on the additional State Pension**
>
> *From 6 April 1978 to 5 April 1997 (SERPS)*
>
> Any additional State Pension earned through SERPS from 6 April 1978 to 5 April 1997 is reduced (which could be to a nil amount) if the person was contracted out at any time during this period.
>
> *From 6 April 1997 until 5 April 2002 (SERPS)*

27 DWP Guidance, Contracting out and why we may have included a Contracted Out pension Equivalent (COPE) amount when you used the online service, April 2017

28 *Pensions Act 1995*, s136; Pensions Bill 2007-08, Impact Assessment, para 2.37

29 DSS, Reform of Social Security, Cmnd 9691, Dec 1985; *Social Security Act 1986*

30 DWP, Security in retirement, May 20015, Cm 6841, para 2.21; *Pensions Act 2007*, s15; SI 2011/1245

31 *Pensions Act 2014*, s24; Library Briefing Paper SN-06525 The new State Pension background (August 2016), section 4.8

SERPS is not paid for any week a person was contracted out.

From 6 April 2002 (State Second Pension)

The State Second Pension is reduced (which could be to a nil amount) if a person is contracted-out.[32]

2.3 How much SERPS can people inherit?

If an individual's spouse or civil partner dies, they may be able to inherit part of their additional State Pension. The exact amount they can inherit will depend on when they reach State Pension age. Gov.UK explains this for people who reached pension age before 6 April 2016:

> If your spouse or civil partner dies, you may be able to inherit part of their Additional State Pension. Contact the Pension Service to check what you can claim and how.
>
> **Maximum State Second Pension you can inherit**
>
> You can inherit up to 50% of your spouse or civil partner's State Second Pension.
>
> **Maximum SERPS pension you can inherit**
>
> The maximum amount of State Earnings-Related Pension Scheme (SERPS) pension you can inherit depends on when your spouse or civil partner died.
>
> If they died before 6 October 2002, you can inherit up to 100% of their SERPS pension.
>
> If they died on or after 6 October 2002, the maximum SERPS pension you can inherit depends on their date of birth.

Man's date of birth	Woman's date of birth	Maximum % of their SERPS you can inherit
5 October 1937 or before	5 October 1942 or before	100%
6 October 1937 to 5 October 1939	6 October 1942 to 5 October 1944	90%
6 October 1939 to 5 October 1941	6 October 1944 to 5 October 1946	80%
6 October 1941 to 5 October 1943	6 October 1946 to 5 October 1948	70%
6 October 1943 to 5 October 1945	6 October 1948 to 6 July 1950	60%
6 October 1945 and after	6 July 1950 and after	50%

> **How it's paid**
>
> Any Additional State Pension you inherit will be paid on top of your State Pension when you reach State Pension age.
>
> If you get your own Additional State Pension, the maximum total Additional State Pension you can get is £172.28 per week.

For more information, see

Library Briefing Paper CBP-07631 Inheriting additional State Pension (June 2016).

DWP, State Pension entitlements derived from a current or former spouse's or civil partner's National Insurance contributions, 2013

[32] DWP, A detailed guide to State Pensions for advisers and others, NP46, August 2008, p38; See also DWP, The new State Pension Transition and Contracting-Out, July 2015, para 8

> **If you get Widowed Parent's Allowance**
>
> You may inherit Additional State Pension before you reach State Pension age. You'll stop receiving it if your Widowed Parent's Allowance ends.
>
> You may receive it again when you reach State Pension age if you were over 45 when you were entitled to Widowed Parent's Allowance.
>
> If your Widowed Parent's Allowance or Bereavement Allowance ended before you were 55, you'll receive less Additional State Pension.
>
> **When you can't inherit Additional State Pension**
>
> You can't inherit your spouse or civil partner's Additional State Pension if you remarry or form another civil partnership before you reach State Pension age.
>
> The date you reach State Pension age also affects whether you can inherit Additional State Pension.
>
> **If you reached State Pension age before 6 April 2010**
>
> You can't inherit your spouse or civil partner's Additional State Pension if they died before they reached their State Pension age and after you reached yours.
>
> This doesn't apply if you're a woman who was married to:
>
> - a man
> - a woman who legally changed their gender from male to female during your marriage.[33]

The rules for people who reach State Pension age after 6 April 2016 are discussed below.

Why is there a maximum?

There is a cap on the total amount of SERPS – inherited and in their own right - an individual can receive. This is intended to ensure that an individual who inherits SERPS does not receive more in total than someone could have built up in their own right:

> 7.1 Where a pensioner is entitled to combine his or her own Additional State Pension with that inherited from their late spouse or civil partner the total amount payable is capped. The cap is equivalent to the amount of Additional State Pension which a person reaching State Pension age in the year in which entitlement to the inherited Additional State Pension arises would have accrued if they had earnings at 53 times the Upper Earnings Limit throughout their working life.
>
> 7.2 This rule has been applied to Additional State Pension since 1979 when the first Additional State Pensions became payable. It was put in place to ensure security following bereavement, but without exceeding the pension a person could realistically build up on their own contribution record. In this respect it mirrors the cap applied to basic pension which restricts the total amount payable by way of own and inherited pension to the full rate of basic pension.[34]

33 Gov.UK/additional state pension/inheriting

34 Explanatory Memorandum to SI 2010 No. 426

What about people who also have a contracted-out pension?

Individuals may have a deduction made from their SERPS in respect of any Guaranteed Minimum Pension (that part of an occupational pension that relates to having been contracted-out between 1978 and 1997) that they built up in their own right or inherited.

A Social Security Commissioner's decision from 2006 explained that, in such cases, the maximum SERPS entitlement is calculated and then contracted-out deductions made:

> 21. Widows and other survivors who inherit pensions also have the inherited pensions set against their entitlement to additional pension […] The GMPs for both the pensions to which a widow is personally entitled directly and those to which she is entitled by inheritance are to be deducted from the maximum entitlement of the widow under section 52. In other words, the widow's maximum entitlement is calculated before, not after, any additional pension is deducted. This may mean that the widow's total additional pension is limited by the "prescribed maximum" before the occupational pensions are offset.[35]

The rationale is that the contracted-out occupational pensions were funded through reduced NI contributions:

> Those rules reflect the receipt by her of a widow's pension from her late husband's occupational pension scheme as well as receipt of her own occupational pension scheme. Parliament has provided that both should be taken into account as both were contracted-out schemes for which lower levels of national insurance contribution were payable.[36]

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[35] CP 3577-2006
[36] Ibid para 41

3. The new State Pension

3.1 How is it different from the old system?

A new State Pension (nSP) was introduced from 6 April 2016 for people reaching State Pension age (SPA) from that date. People who had already reached SPA continue to get their pension under the 'old rules' (see above).[37] The nSP is different in a number of ways:

- It is set above the basic means-tested guarantee - at £164.35 pw in 2018/19;
- Thirty-five qualifying years are needed for the full amount (although transitional arrangements mean that not everyone with 35 qualifying years in April 2016 will receive this amount);
- It is single-tier, so the option to 'contract-out' has ended; and
- The ability to derive an entitlement based on the NI record of a former spouse or civil partner has been removed, with limited transitional protection.

For more on the policy development, see Library Briefing Papers

SN-06525 The new State Pension background

CBP-07414 The new State Pension – transitional issues (August 2016)

The rules are explained on Gov.UK – the new State Pension – in DWP leaflet -your new State Pension explained (November 2017) and there is detailed guidance is in DWP's Decision Makers' Guide, Chapter 74: State Pension.

Individuals wanting advice on the specifics of their case should contact a Citizens Advice Bureau or local welfare rights advice centre.

3.2 How do people build entitlement?

The answer to this question is complicated by the fact that – although people require 35 qualifying years for the full amount of the nSP - transitional arrangements to deal with past NI records (see below) mean that in the short-term people with 35 qualifying years may get more or less than this. Gov.UK explains:

> Your new State Pension is based on your National Insurance record when you reach State Pension age.
>
> You'll usually need to have 10 qualifying years on your National Insurance record to get any new State Pension.
>
> You may get less than the new full State Pension if you were contracted out before 6 April 2016.
>
> You may get more than the new full State Pension if you would have had over a certain amount of Additional State Pension under the old rules.[38]

As for the old basic State Pension, entitlement is based on an individual's NI record:

> You'll need 35 qualifying years to get the new full State Pension if you don't have a National Insurance record before 6 April 2016.

37 *Pensions Act 2014* (PA 2014), s1
38 Gov.UK The new State Pension/Your National Insurance record and your State Pension

Qualifying years if you're working

When you're working you pay National Insurance and get a qualifying year if:

- you're employed and earning over £162 a week from one employer
- you're self-employed and paying National Insurance contributions

You might not pay National Insurance contributions because you're earning less than £162 a week. You may still get a qualifying year if you earn between £116 and £162 a week from one employer.

Qualifying years if you're not working

You may get National Insurance credits if you can't work - eg because of illness or disability, or if you're a carer or you're unemployed.

For example, you can get National Insurance credits if you:

- claim Child Benefit for a child under 12 (or under 16 before 2010)
- get Jobseeker's Allowance or Employment and Support Allowance
- get Carer's Allowance

You're not working or getting National Insurance credits

You might be able to pay voluntary National Insurance contributions if you're not in one of these groups but want to increase your State Pension amount.

Gaps in your National Insurance record

You can have gaps in your National Insurance record and still get the full new State Pension.

You can get a State Pension statement which will tell you how much State Pension you may get. You can then apply for a National Insurance statement from HM Revenue and Customs (HMRC) to check if your record has gaps.

You may be able to make voluntary National Insurance contributions if you have gaps in your National Insurance record that would prevent you from getting the full new State Pension.[39]

Does requiring 35 qualifying years for the nSP amount to 'moving the goalposts'?

People sometimes argue that the Government has 'moved the goalposts', because 35 'qualifying years' are required for a full nSP, compared to the 30 for the old basic State Pension.

Initially – in its 2011 Green Paper - the Coalition Government proposed requiring 30 qualifying years for a full nSP. However, by the time of its White Paper in 2013, it said it had decided on 35.[40] It argued that this struck the right balance, because:

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39 Gov.UK The new State Pension/Your National Insurance record and your State Pension

40 Cm 8503, April 2011, p30; Cm 8528, January 2013, p91

- The nSP also incorporates the additional State Pension, to which people could build entitlement through working life;
- NI credits cover many of the circumstances where people are not able to work; and
- In a working life, which can be as long as 50 years, it still leaves flexibility to have about 15 non-qualifying years.[41]

People are sometimes concerned that this means the 'goal posts have been moved' and they will be worse off than they would have been under the old system. However, to ensure this is not the case, a check is done in April 2016 and (provided they have at least ten qualifying years) if their entitlement under the old system at that point was higher, that will form their 'starting amount' for the new State Pension - see DWP, Your State Pension explained, November 2017, page 3.[42]

Nonetheless, the change in policy does mean that that fewer people reaching State Pension age in 2020 qualify for the full amount: 85%, compared to around 90% with 30 qualifying years.[43]

Can people still claim based on their spouse or civil partner's NI record?

No – with the exception of those covered by transitional protection.

The old system included provision for an individual to derive entitlement to the bSP based on the NI record of their spouse or civil partner.[44] However, except for those covered by limited transitional arrangements, individuals are expected to qualify for the nSP on the basis of their own NI record. The 2013 White Paper explained the rationale:

> 25. In addition to adding to the complexity of the current system, these arrangements often mean that women have had low entitlement to state pension for much of their retirement, but then gain significantly after the death of their partner, which of course cannot be predicted.
>
> 26. The single-tier pension has been designed to ensure the large majority of individuals will be able to get the full rate in their own right. In steady state, there will be no rationale for allowing people to inherit or derive state pension income based on the National Insurance record of their spouse or civil partner.[45]

However, there is transitional protection for married women or widows who opted to pay reduced rate NI contributions (the 'married women's stamp' – see above) in the last 35 years. This is because they were considered to have "entered into a deal" with the State whereby they would pay a lower rate of NI, in the expectation that - although they would not build up a pension in their own right - they would get "something based on [their] husband's rights."[46]

For more on the background, see

Library Briefing Papers

SN-01910 Married women and State Pensions (October 2014), section 1.1

CBP-07414 The new State Pension – transitional issues (August 2016), section 3.2.

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41 PBC Deb 2 July 2013 c141-2
42 *Pensions Act 2014*, s4
43 Cm 8528, January 2013, p91; DWP factsheet, 2013, para 17
44 *Social Security Contributions and Benefits Act 1992*, s48-51; DWP, The 'old' State Pension - your guide, (Oct 2014)
45 DWP, The single-tier pension: a simple foundation for saving, Annex 3.D, Cm 8528, January 2013
46 PBC Deb 3 July 2013 c191

When the legislation was before Parliament, concern was expressed about the impact on people who were not covered by the transitional arrangements but had nonetheless expected to claim on the basis of their spouse/civil partner's record.[47] However, the Government argued that there was "no longer a substantial need for the provisions."[48]

Can people still inherit additional State Pension?

A feature of the old system was that people could inherit additional State Pension from a late spouse or civil partner. It is not a feature of the new system, although there is some transitional protection, depending on when the survivor and deceased reach SPA:[49]

- Where the **contributor reached SPA or died in the old system and the dependant reached SPA in the nSP**. The basic principle is that the dependant is entitled to an inherited amount equivalent to what they would have been entitled to had the old system had continued.
- Where the **survivor reached SPA in the old system and the deceased reached SPA in the new one, or died under SPA after April 2016**, the old rules continue to apply, but only contributions made by the deceased before April 2016 will count. The maximum amount the survivor will be able to inherit is 50% because the deceased's SPA will be after 5 October 2010.
- Where both the **contributor and dependant reach SPA in the nSP,** the dependant can inherit half the contributor's 'protected payment.' The term 'protected payment' refers to any amount the contributor had built up by April 2016 under the old system that was in excess of the full amount of the new State Pension - £164.35 pw.[50]
- Section 7 (4) provides for a cap to be set in regulations on the amount that can be inherited. However, no such regulations have been made.[51]

Individuals might also be able to inherit extra State Pension or a lump sum if their late spouse/civil partner had put off claiming their State Pension.[52]

The Government said that the impact would depend on individual circumstances:

> While people may lose the ability to inherit additional pension from a spouse or civil partner, they may nevertheless suffer no overall notional loss due to gaining from another aspect of the reform package.[53]

For more information see

DWP, Your State Pension explained (November 2017), section 9

DWP, State Pension entitlements derived from a current or former spouse's or civil partner's National Insurance contributions (Jan 2013)

Library Briefing Paper CBP-07631 Inheriting additional State Pension (June 2016)

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47 HC 1000, April 2013, para 155
48 Cm 8620, May 2013, p 20
49 *Pensions Act 2014*, s7 and Sch 3; DWP, The new State Pension, April 2016, p9
50 DWP, *The single-tier pension: a simple foundation for saving*, Cm 8528, January 2013, para 86 and Annex3, p12; *Pensions Act 2014*, s5 and Sch 1 and 2; DWP's Decision Maker's Guide, para 74326-33
51 DWP, Decision Makers' Guide, para 74306
52 DWP, Your State Pension Explained, April 2017, section 9; DWP, Decision Makers' Guide, (para 74302ff)
53 DWP, Single-tier pension: a simple foundation for private saving: impact assessment, October 2013, para 92

In a response to the Work and Pensions Select Committee in June 2016, the Government said it was working to raise awareness and understanding of these changes.[54] It produced a factsheet to inform the debates on the legislation.[55]

Why is there a minimum qualifying period?

A minimum of ten qualifying years are required to be entitled to any nSP.[56] Years of residence in another EEA country, or one with which the UK has a reciprocal agreement, count towards the minimum qualifying period but entitlement is based on UK contributions alone.[57]

A minimum contribution requirement was part of the old State Pension system before 6 April 2010 but was removed on the grounds that it was more likely to affect some ethnic minority women who faced cultural barriers to work and that some people got no pension at all despite having nine qualifying years.[58]

The Coalition Government's rationale for re-introducing a minimum contribution requirement for the nSP was to target spending on those who have made a "significant economic or social contribution to this country during their working lives."[59]

3.3 What about NI records before 2016?

Transitional arrangements to deal with past NI records mean that not everyone with at least 35 qualifying years will get the full amount of the new State Pension in April 2016.

Under these arrangements, a comparison was made in April 2016 of the amounts individuals had built up under the 'old' system and what they would have built up under the new one had it been in force throughout.[60] DWP explains:

> **3b What is the 'starting amount' for the new State Pension?**
>
> If you have qualifying years on your National Insurance record as at 5 April 2016, we work out a 'starting amount' for you for the new State Pension. This is the higher of either:
>
> • the amount you would get under the previous State Pension up to 6 April 2016, or
>
> • the amount you would get ion your record to 6 April 2016 if the new State Pension had been in place at the start of your working life.
>
> Both amounts will reflect any periods when you have been contracted out of the Additional State Pension. Your 'starting amount' can be less than, more than or equal to the full new State Pension.

For more information, see

Gov.UK, The new State Pension – how its calculated

DWP, State Pension – your guide, April 2017 – section 3

Library Briefing Paper SN-06525 The new State Pension – transitional issues (August 2016)

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54 Government response to the Work and Pensions Select Committee's Eight Report of 2015-16, Communication of the new state pension (June 2016)
55 DWP, State Pension entitlements derived from a current or former spouse's or civil partner's National Insurance contributions (January 2013).
56 *State Pension Regulations 2015 (SI 2015/173,* reg 13
57 Explanatory Memorandum to SI 2015/173, para 7.23
58 *Pensions Act 2007*, s1; Cm 6841, May 2006, para 3.97
59 Cm 8528, Jan 2013, p 92
60 *Pensions Act 2014*, s4-6, Sch 1.

If your 'starting amount' is less than the full amount of the new State Pension –

Each 'qualifying year' you add to your National Insurance record after 5 April 2016 will add a certain amount (about £4.70 a week, this is £164.35 divided by 35) to your 'starting amount', until you reach the full amount of the new State Pension or you reach State Pension age, whichever happens first.

If your 'starting amount' is more than the full amount of the new State Pension –

You will get this higher amount when you reach State Pension age. It will be possible to have a starting amount higher than the full new State Pension if you have some Additional State Pension. The difference between the full new State Pension and your 'starting amount' is called your 'protected payment'.

If your 'starting amount' is the equal to the full new State Pension -

You will get the full new State Pension when you reach State Pension age.[61]

Do people who had built up more than the full nSP before 2016 lose out?

When presenting the Government's reform proposals to Parliament in 2013, the then Pensions Minister Steve Webb said contributions already made would be recognised:

> Of course, national insurance contributions paid and that would, under the current system, have led to entitlement to a second state pension will be recognised. For example, when we introduce single tier, someone who retires in 2018 who has £160 in the current system will still get a pension of £160.[62]

The mechanism for this is the check made in April 2016 of rights under the new system with rights under the old one – see above.

However, two features of the new system mean that, as time goes on, such individuals may be losers compared to the position if the old system had continued:

- They cannot build up any more entitlement after April 2016 – in contrast to the old system, where you could continue to build additional State Pension entitlement throughout working life.
- The 'protected payment' (the amount in excess of the full nSP in April 2016) is revalued in line with the Consumer Prices Index until State Pension age – in contrast to the old system where the pension would have been revalued by earnings growth, which tends to be higher.[63]

Steve Webb explained that this was one of the trade-offs:

> A higher flat rate pension is affordable only because, in the long term, people will not become entitled to very large earnings-related pensions through the state system. In a world where everyone will be automatically enrolled into a workplace pension with a contribution from their employer, it no longer makes sense

61 DWP, State Pension – your guide, April 2017
62 HC Deb, 14 January 2013, c606
63 DWP, Impact of the nSP – longer term effects, 2016

> for the state to run its own separate earnings-related pension scheme. Higher earners are among those being automatically enrolled, with substantial employer contributions, so those who earn the most while they are working will continue to be the best off in retirement.[64]

Why is a there a deduction for some people with occupational pensions?

Under the old system, some people were contracted-out of the earnings-related part of the State Pension (the additional State Pension) into a private (occupational or personal) pension. Where an individual was contracted-out, they and their employer paid lower NI contributions (via a 'contracted-out rebate') in recognition of the fact that the individual was foregoing additional State Pension rights and instead building up a private pension.

The nSP is single-tier and there is no option to contract out. However, the transition to the new system needed to take account of past periods of contracting out. Had it not done so, people who had been contracted-out would effectively have been provided for twice - with their contracted-out private pension *and* the additional State Pension they had contracted-out of.

To avoid this, a deduction is made from their nSP. This is intended to be broadly equivalent in value to the workplace pension the rebate funded and consistent with the rules of the old system. To ensure individuals are not worse off, a check was made in April 2016 and, if they would have received a higher amount under the old system, that higher amount is their starting rate for the nSP.[65]

In addition, from April 2016, people may be able to build up 'qualifying years' under the new system, effectively allowing them to 'work off' the deduction. This feature of the system means that people who have 'contracted-out' are in fact on average gainers from the introduction of the nSP.[66]

In 2015, former Pensions Minister Steve Webb said that although people who had been contracted-out tended to gain from the nSP, they often did not see it that way:

> They don't perceive it because they say, "He is getting a flat rate and I am not," but I am getting the lower rate plus my teacher's pension, and now I will get a better State Pension plus my teacher's pension[67]

For more information, see

DWP leaflet, Your State Pension explained (November 2017) section 7

DWP, Contracting out and why we may have used a Contracted-out Pension Equivalent (COPE) amount when you used the online service (April 2017)

DWP, The New State Pension transition and contracting-out factsheet, July 2015

[64] HC Deb, 14 January 2013, c607
[65] PA 2014, s5 and Sch 1
[66] Oral evidence to the Work and Pensions Committee 25 November 2015, Q24 [Steve Webb]; IFS, A single-tier pension: what does it really mean? July 2013).
[67] Evidence to the Work and Pensions Select Committee, November 2015, Q24

Will people with GMPs still get full uprating?

A Guaranteed Minimum Pension (GMP) is what occupational pension schemes were required to provide as a condition of contracting-out between 1978 and 1997. The intention behind GMPs was to ensure the individual was not worse off than they would have been had they remained contracted-in.

Under the 'old' system (which continues for people who reached State Pension age before 6 April 2016), responsibility for uprating GMPs was divided between the occupational pension scheme and the State. The way this worked was that the scheme is required to uprate GMP rights accrued between 1998 and 1997, subject to a 3 per cent cap. DWP then recalculates the state pension payable each year (deducting the GMP from the additional State Pension they individual would have earned had they remained contracted-in). The effect is to ensure the full GMP is uprated by prices.

For people reaching State Pension age after 6 April 2016, part of these arrangements remains in place (i.e. the requirement to uprate GMPs accrued between 1998 and 1997, up to 3%). However, there is no additional State Pension and so the annual recalculation of the State Pension will not take place. This does not necessarily mean the individual will be worse off. Steve Webb said:

> Basically, there are a set of people with GMPs who gain—small GMPs because they will get triple lock on the next £40-odd—and people with huge GMPs will probably lose.[68]

A March 2016 NAO report found that the impact of the nSP reforms on people with GMPs would vary widely.

For more information see

NAO, The impact of state pension reforms on people with Guaranteed Minimum Pension, HC 907, 2015-16, p12; and

DWP, Impact of the new State Pension (nSP) on an Individual's Pension Entitlement (Jan 2016), p20-1.

3.4 Were the reforms unfair to current pensioners?

The nSP is for people who reach SPA on or after 6 April 2016. People who attained their State Pension age on 6 April 2016 continue to receive their State Pension under the old rules.[69]

The Government's reason for targeting the reforms at future pensioners was that they are being asked to take greater personal responsibility to save for their retirement through the policy of auto-enrolment. It hoped that the nSP would be simpler, making it easier for people to understand how much they could expect to receive.[70]

In the 2015 Parliament, many MPs were contacted by pensioners who thought this was unfair – in some cases pointing to the fact that the nSP was set at a higher level than the old basic State Pension (£164.35 and £125.95 pw in 2018/19). However, because the nSP incorporates the additional State Pension as well as the basic State Pension, this is not comparing like with like. The State Pension reforms were designed to be

68 HC Deb 6 January 2014 c51W; Evidence to the Work and Pensions Committee, 1 December 2015, Q2 [Steve Webb]
69 PA 2014, s1 (2)
70 HC Deb, 4 April 2011, c795 [Steve Webb]

cost neutral – which means that some people get slightly more than if the current system continued and some slightly less:

- Factors that could lead to a **lower outcome** under the new system compared to the old one, had it continued: the introduction of a minimum qualifying period; and the ending of the rules allowing individuals to derive entitlement on the basis of a (former) spouse or civil partner's contributions.
- Factors that could lead to a **higher outcome** include: having built up low entitlement to the additional State Pension under the old system (for example, if you had caring responsibilities before 2002 or were self-employed) or having been contracted-out (if you are able to build up more qualifying years from April 2016).[71]

Where people are gainers from the introduction of the new system, their gains are relatively modest -around £8 pw (2014/15 earnings terms) for the 650,000 women reaching SPA over that period.[72]

Nonetheless, the Government estimated that topping up the gross State Pension entitlement of all people who had already reached SPA before implementation to the full amount of the nSP would have a considerable cost - around £10bn pa in the early years.[73]

The Pensions Policy Institute found that introducing the nSP for all, rather than just future pensioners, would have reduced pensioner poverty further.[74]

71 HC Deb 29 January 2013 c784W; DWP, Impact of the new State Pension – longer term effects, January 2016, p7
72 DWP, Updating impact of the single-tier pension reforms, July 2014
73 DWP, Cost of paying £140 a week State Pension to all pensioners retiring before 2016/16, April 2011; Gross State Pension is the sum of an individual's own basic State Pension, derived rights to basic State Pension and inherited Additional Pension
74 PPI, The implications of Government policy for future levels of pensioner poverty, July 2011

4. Other State Pension issues

4.1 Why can't people receive Carers' Allowance and State Pension?

For more information see

Library Briefing Paper SN-06349 Carers' Allowance and Retirement Pension (May 2015)

Carer's Allowance cannot be paid in addition to the Retirement Pension. This is because of the "overlapping benefits" rule, which is that a person cannot receive more than one of a list of income maintenance benefits. To do so would breach a long-standing principle of the social security system that "double provision should not be made for the same contingency."[75]

A Parliamentary Written Answer from April 2017 explained:

> Where a carer's State Pension is less than Carer's Allowance, State Pension is paid and topped up with Carer's Allowance to the basic weekly rate of Carer's Allowance, which is currently £62.70 a week.
>
> However, where the State Pension paid is higher than £62.70, social security rules operate to prevent Carer's Allowance and State Pension being paid together, since they are designed to meet the same need i.e. to help maintain income. Paying both benefits together would represent duplicate provision. The relevant legislation is *The Social Security (Overlapping Benefits) Regulations 1979* (regulation 4) […]
>
> Where Carer's Allowance cannot be paid, the person will keep underlying entitlement to the benefit. This gives access to the additional amount for carers in Pension Credit, worth up to £34.95 a week, and even if a pensioner's income is above the limit for Pension Credit, he or she may still be able to receive Housing Benefit.[76]

As this explains for lower income pensioners an "underlying entitlement" to Carer's Allowance can give access to carer additions to means-tested benefits such as Pension Credit.[77]

4.2 What if people have been insured in other countries?

As an EU Member State, the UK is part of a system to co-ordinate the social security entitlements for people moving within the EU. The rules also apply to EEA countries and Switzerland. These rules enable periods of insurance to be aggregated, so an individual who has worked in other Member States can make one application to the relevant agency in the country of residence - in the UK, the International Pension Centre. This agency then notifies details of the countries in which the person has been insured. Each Member State in which the person was insured then calculates its pro-rata contribution and puts that amount into payment.

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75 National Insurance Advisory Committee, Report on overlapping benefit regulations, HC 36, 1948/49

76 PQ 71855, 27 April 2017; HC Deb 10 June 2013 c195W

77 *State Pension Credit Act 2002*, s2(8); State Pension Credit Regulations 2002, (SI 2002/1792) reg 6 & Sch I Part II; DWP, A detailed guide to Pension Credit for advisers and others, July 2016, p11

A person may also be entitled to a pro rata State Pension where they have been insured in both the UK and one of the following non-EEA countries: Barbados, Bermuda, Cyprus, Israel, Jamaica, Jersey and Guernsey, Malta, Mauritius, Philippines, Switzerland, Turkey, or the United States of America.[78] However, a claim will need to be paid from each country separately – see Gov.UK/new State Pension/living and working overseas.[79]

The International Pension Centre can give advice and information about pensions if you have lived abroad. It can be called on 0191 218 777 Monday to Friday 8 am to 6pm.

4.3 How is the State Pension uprated?

The statutory requirement is to uprate the **new State Pension** at least in line with earnings.[80] In recent years, governments have made a commitment over and above this to uprate it by the 'triple lock' - the highest of earnings, prices or 2.5%. The 26 June 2017 agreement between the Conservative and Democratic Unionist Parties said both parties had agreed that there would be "no change to Pensions Triple Lock."[81]

For more information see

Library Briefing Papers SN-05649 State Pension uprating and

CBP-07812 State Pension triple lock (June 2017)

Different parts of the **old State Pension** are uprated in different ways:

- The statutory requirement is to uprate the old basic State Pension at least in line in line with earnings.[82] However, there is a government commitment over and above this to uprate it by the triple lock (see above).[83]
- Other parts of the old State Pension – such as the additional State Pension and any extra pension earned by deferring a State Pension claim - must be uprated at least in line with prices.[84] Since 2011, the measure of prices has been the Consumer Prices Index.[85]

4.4 Why is it frozen in some other countries?

The UK State Pension is payable overseas but only uprated annually if the individual is resident in an EEA country or one with which the UK has a reciprocal social security agreement requiring this.[86]

For more information see

Library Briefing Paper SN-01457 Frozen overseas pensions (March 2018)

This means that in some countries – most notably, Australia, New Zealand, Canada and South Africa - an individual's pension frozen, i.e. paid at the same rate as it was when they first became entitled, or the date they left the UK if they were already pensioners then. If they return

78 DWP, Decision Makers' Guide, 076120
79 For more detail, see DWP, Decision Makers' Guide para 076050-111
80 *Pensions Act 2014*, s23 and Sch 12 (14)
81 The agreement is to remain in place for the length of the Parliament and can be reviewed by the mutual consent of both parties
82 *Social Security Administration Act 1992*, s150A (1)
83 The Coalition: Our Programme for Government, May 2010; HM Treasury, Summer Budget 2015, 8 July 2015, HC 264, para 1.139; HL Deb 28 April 2016 c1235
84 *Social Security Administration Act 1992*, s150 (1)
85 HM Treasury, Budget 2010, HC 61, June 2010, para 1.106-7
86 *Social Security Contributions and Benefits Act 1992*, s113; Social Security Benefit (Persons Abroad) Regulations 1975 (SI 1975/563)

to the UK, their State Pension can be paid at the current rate. DWP Decision Makers' Guide explains:

> 075796 If a person whose rate of RP has been frozen visits GB
>
> 1. whilst in GB that person is entitled to the current rate of RP and
>
> 2. on again leaving GB the rate of RP reverts to the rate that was paid before the visit to GB.
>
> 075797 A person who returns to GB and becomes ordinarily resident here is entitled to RP at the current rate. If that person later leaves GB then the rate of RP is restricted to the rate that person was receiving in GB. It does not revert to the rate paid when last absent from GB.[87]

The policy of not awarding increases in some countries overseas has been followed by successive governments and continued with the introduction of the new State Pension on 6 April 2016. Essentially, the reason is cost and the desire to focus constrained resources on pensioners living in the UK.[88]

The policy has been debated in the House on numerous occasions and been the subject of a legal challenge.[89]

4.5 What impact will Brexit have?

For more information, see

Library Briefing Paper CBP-07984 Brexit and State Pensions (December 2017).

As explained above, the UK is currently part of a system to co-ordinate the social security entitlements for people moving within the EU. The arrangements that will apply post-Brexit will be a matter for negotiation.[90] On a related point, the UK State Pension is payable overseas but only uprated if the pensioner is resident in an EEA country or one with which the UK has a reciprocal social security agreement requiring uprating.[91]

The arrangements to apply in future have been part of the negotiations under Article 50 on the UK's withdrawal from the EU. A joint report on progress published on 8 December 2017 said that, with the caveat that "nothing is agreed until everything is agreed", the Withdrawal Agreement would include a commitment to social security co-ordination:

> 28. Social security coordination rules set out in Regulations (EC) No 883/2004 and (EC) No 987/2009 will apply. Social security coordination rules will cover Union citizens who on the specified date are or have been subject to UK legislation and UK nationals who are or have been subject to the legislation of an EU27 Member State, and EU27 and UK nationals within the scope of the Withdrawal Agreement by virtue of residence. Those rules will also apply, for the purposes of aggregation of periods of social security insurance, to Union and UK citizens having worked or resided in the UK or in an EU27 Member State in the past.

More detail is in a joint technical note. Guidance for individuals is on Gov.UK – UK leaving the EU: what you need to know.

87 DWP, *Decision Makers' Guide*, paras 75796-7
88 Explanatory Memorandum to SI 2016/199
89 For more detail, see SN-01457 Frozen overseas pensions (March 2018)
90 PQ 60094, 20 January 2017; PQ HL 4943 30 January 2017
91 *Social Security Contributions and Benefits Act 1992*, s113; *Social Security Benefit (Persons Abroad) Regulations 1975 (SI 1975/563)*

4.6 On what day is the State Pension paid?

The State Pension is a weekly benefit, paid in multiples of a week.[92]

The start date and frequency of payment depends on pension age:

- **For people who reached State Pension age before 6 April 2010,** it is weekly in advance or four weekly in arrears. Payments start from the payday (normally Monday) after the date on which the person becomes entitled to their pension. It is then paid on each subsequent payday, including the week in which they die. In some cases there will be a few days for which pension is not received at the beginning; in others there will be a few days for which pension is paid after death. On balance there is no saving to the Exchequer from this method of payment.
- **For people reaching State Pension age on or after 6 April 2010,** a payday is allocated according to the final two digits of the customer's National Insurance number. Payment is weekly, fortnightly or four-weekly in arrears. A part-week payment can be made at the start of the claim for people who move onto the State Pension from a working age benefit.
- The arrangements changed again when the new State Pension was introduced for **people reaching State Pension age on or after 6 April 2016**. Although they may have to wait a few days for their first payday (as before), they will receive an amount in arrears to cover the gap.[93]

For more information see

Library Briefing Paper CBP-0260 Pension payday (October 2017)

4.7 Do I have to have it paid into a bank account?

The Government's preference is to pay into a bank, building society or credit union account and it has been trying to encourage this:

> Owen Smith: To ask the Secretary of State for Work and Pensions, how many Post Office card accounts have migrated to mainstream bank accounts to date.
>
> Caroline Dinenage: Direct Payment into a bank, building society or credit union account is the most efficient, cost effective and preferred way to make pension and benefit payments. The department is writing to some Post Office card account users about receiving their payments this way and around 440,000 have provided alternative payment details.[94]

However, payment into a Post Office card account remains an option until at least 2021:

> Owen Smith: To ask the Secretary of State for Work and Pensions, whether his Department plans to continue to pay benefits and pensions into Post Office card accounts until 2021.
>
> Caroline Dinenage:In 2014 Government committed to maintain POca until at least 2021, to ensure that people who cannot use a mainstream account can continue to access their benefits and pensions. Government's existing POca contract with the Post

[92] *Social Security Contributions and Benefits Act 1992*, s44 (3); *Pensions Act 2014*, s3; *State Pension (Amendment) Regulations 2016 (SI 2016/227)*
[93] Explanatory Memorandum to SI 2015/1985
[94] PQ 108720 24 October 2017

> Office, which expires in November 2021, has an option to be extended for up to 3 years to 2024. A decision on any extension will be taken at the appropriate time, informed by both customers' needs and the need to make sure the taxpayer sees Value for Money. (PQ 108721 24 October 2017)

The issues are discussed in more detail in section 2 of Library Briefing Paper CBP-0260 State Pension payment arrangements (October 2017).

4.8 Why do people with full State Pensions continue to be liable for NI?

People sometimes complain that they should not have to continue paying National Insurance (NI) when they have already built up a full State Pension. However, as then Work and Pensions Minister Lord Freud said in 2013, individuals do not build up their own pension pot:

> The National Insurance scheme operates on a 'pay-as-you-go' basis. This means that today's contributors are paying for today's social security entitlements and pensions, and those paying contributions previously were paying for the pensioners of that time. Contributors do not accumulate an individual pension fund of actual monies they have paid which is personal to them. Instead, payment of contributions entitles them or, in certain circumstances, their spouses or civil partners to a range of social security benefits which are available on the basis of the rules applicable at the time of the claim.[95]

Also, NI does not just go towards the State Pension. It is a condition of entitlement to some other NI benefits, such as contributory Employment and Support Allowance and Jobseeker's Allowance that contributions have been made in the last two full tax years before the year of claim. In addition, one part of all NICs go direct to the NHS.[96]

For those entitled to the new State Pension, the fact that individuals cannot build up more that the flat-rate amount is one of the things that helped ensure it was cost neutral:

> The overall cost of the new system will be the same as that of the one it replaces. This is not a pensions giveaway for the next generation. A higher flat pension is affordable only because, in the long term, people will not become entitled to very large earnings-related pensions through the state system. In a world where everyone will be automatically enrolled into a workplace pension with a contribution from their employer, it no longer makes sense for the state to run its own separate earnings-related pension scheme. Higher earners are among those being automatically enrolled, with substantial employer contributions, so those who earn the most while they are working will continue to be the best off in retirement.[97]

95 HL Deb 3 December c39WA
96 See Library Briefing Paper SN-04517 National Insurance contributions: an introduction, (December 2015)
97 HC Deb 14 January 2013 c607

4.9 What if people want to complain or disagree with a decision?

The complaints procedure for the Pension Service. People can complain about any aspect of the service they have received, including: mistakes that have been made; unreasonable delays; how you've been treated; not being kept informed. There are a number of stages – internal stages, followed by a complaint to the Independent Case Examiner and then to the Parliamentary and Health Service Ombudsman. Time limits apply. For more information, see Gov.UK – DWP Complaints Procedure.

Complaints and appeals are different. If a person disagrees with a decision on their claim, they need to use the appeals procedure – for which strict time limits apply. Gov.UK explains:

> Ask for 'mandatory reconsideration' before you appeal - you'll usually need to do this within one month of the date of a decision about most benefits, tax credits or child maintenance (sometimes known as 'child support').**You can't usually appeal to the tribunal if you haven't asked for mandatory reconsideration within the time limit.** After your mandatory reconsideration decision, you'll usually need to appeal to the tribunal within a month.

See also how to challenge a benefit decision on the Age UK website.[98]

Individuals may want to seek advice – for example, from a Citizens Advice Bureau, a local welfare rights advice service or Age UK.

[98] See also, Challenging benefits decisions on the Parliamentary intranet

5. State Pension age

For more information see

Library Briefing Paper SN-06546 State Pension age review (August 2017)

SN-02234 State Pension age – background (Feb 2013)

5.1 What is the State Pension age?

From the 1940s, SPA was 60 for women and 65 for men. Since then:

- The SPA for women started to rise from 60 in April 2010, to reach 65 in December 2018;
- The equalised SPA will rise to 66 between December 2018 and October 2020;
- The SPA will then rise to 67 between 2026 and 2028.[99]

Current legislation also provides for the SPA to increase to 68 between 2044 and 2046.[100]

Individuals can check their State Pension age on Gov.UK or on DWP's State Pension timetable.

5.2 How will it rise in future?

The Coalition Government legislated for the pension age to be reviewed periodically - about every five years – on the grounds that life expectancy is always changing and the SPA needs to keep pace.[101]

The aim is that people should expect to spend, on average, up to one third of their adult life in receipt of the State Pension and that they should have at least ten years' notice of any change. Reviews should take account of the latest demographic data and be informed by an independently-led report on wider factors.[102]

On 1 March 2016, the Government said the first review would look at the timetable from 2028 (when the SPA will be 67) and that John Cridland would produce an independent report to support it.

Mr Cridland's final report, published in March 2017, recommended an increase to 68 between April 2037 and 2039 and no further change for ten years unless there were exceptional changes to data (the yellow line below). The report acknowledged that certain groups – including carers and people with disabilities – were disproportionately affected by SPA increases and also faced difficulty building up enough private pension savings for an adequate income in retirement. To mitigate the impact, it recommended allowing access to the means-tested benefit Pension Credit one year before the increase of the SPA to 68 and adjusting the conditionality in working age benefits for those approaching retirement.

However, some stakeholders expressed concern. For example, Age UK did not think the increase to 68 by 2039 was justified and said the Government needed to do more for people unable to work to their current SPA – for example, "life-long manual workers crippled by

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99 Pensions Act 1995, Schedule 4, as amended by the Pensions Act 2011 and Pensions Act 2014
100 Pensions Act 2007, section 13 and Schedule 3, Table 4
101 Ibid s27
102 HM Treasury, Autumn Statement 2013, Cm 8747, December 2013, para 1.122; Cm 8528, January 2013, p66

arthritis and carers who have given up work to look after an ailing parent, and who face hardship as they wait to claim their State Pension." [103]

Under the *Pensions Act 2014*, the Government was required to produce its own review by 7 May 2017. However, this was deferred until after the general election on 8 June.[104]

In his first speech as Work and Pensions Secretary, David Gauke welcomed John Cridland's report:

> As we consider the repercussions of increased life expectancy on future generations, I welcome the contributions of John Cridland, and the Government's Actuary Department, to our thinking on the future State Pension age. It represents exactly the sort of longer-term approach I want to cultivate within my department, and across wider government.[105]

On 19 July 2017, the Government published its own review of the SPA. It had decided to adopt Cridland's proposed timetable for the increase to 68:

> The Government intends to follow the recommendation John Cridland made in his independent review to increase the State Pension age from 67 to 68 in 2037-39, bringing it forward by seven years from its current legislated date of 2044-46. This is the fair thing to do.[106]

It would carry out a further review before legislating to bring forward the increase to 68 "to enable consideration of the latest life expectancy projections and to allow us to evaluate the effects of rises in state pension age already under way." [107]

5.3 What is the WASPI campaign?

Briefly, some women born in the 1950s have had their State Pension age (SPA) increased by two pieces of legislation:

- The *Pensions Act 1995* legislated to increase the SPA for women from 60 to 65 over the period April 2010 to April 2020. This affected women born on or after 6 April 1950;
- The *Pensions Act 2011* legislated to accelerate the latter part of this timescale – starting in April 2016 when women's SPA was 63 – so that it will now reach 65 in November 2018. The equalised SPA will then rise to 66 by October 2020. This affected women born between 6 April 1953 and April 1960.

For more information, see

Library Briefing Paper SN-07405 Increases in the State Pension age for women born in the 1950s (June 2017)

Under the 2011 Act as originally presented to Parliament, some women would have seen their SPA increase by as much as two years at relatively short notice (between five and eight years). In response to concerns about the impact of this, the Government amended the legislation in its

[103] Age UK responds to the Cridland review, 23 March 2017; PLSA welcomes John Cridland's proposal not to increase State Pension age beyond 68, 23 March 2017; NPC Briefing, Smoothing the Transition. The Cridland Review of the State Pension Age, 23 March 2017
[104] UK Ministers delay response on State Pension age, *Financial Times* 28 April 2017
[105] Speech to ABI long-term savings conference, 4 July 2017; PQ 3142, 11 July 2017
[106] DWP, State Pension age review, July 2017, p4
[107] Ibid, p10; HC Deb 19 July 2017 c865-6

final stages in Parliament to cap the maximum increase under the 2011 Act at 18 months relative to the timetable in existing legislation.[108]

The campaign Women Against State Pension Inequality (WASPI) says it agrees with equalisation but not with the way the changes were implemented – with "little or no personal notice 1995/2011 Pension Acts), faster than promised (2011 Pension Act), and no time to make alternative plans." It is calling for "fair transitional state pension arrangements," which they say translates into a 'bridging pension' paid from age 60 to SPA.[109] Related campaigns include WASPI Voice which has called for the option of early access to a reduced State Pension.[110]

The issues – including how much notice is needed and what was done to inform women of the changes - are discussed in Library Briefing Paper CBP-07405 (February 2018).

How have politicians responded?

There were a number of debates on the impact of SPA increases on this group in the last Parliament and a range of responses from the different political parties:

- In November 2016, the Shadow Pensions Minister Alex Cunningham called on the Government "to extend pension credit to those who would have been eligible under the 1995 timetable, so that women affected by the chaotic mismanagement of equalisation will be offered some support until they retire. That will make hundreds of thousands WASPI women eligible for up to £156 a week."[111]
- Arguing that the issue was "the pace of change, as well as the lack of appropriate notice", the SNP published costings of a number of options, including retaining the 1995 Act timetable until April 2020 and then increasing the SPA to 66 "at some point in the 2020s."[112]
- Concluding that "more could and should have been done" to communicate the changes," the Work and Pensions Select Committee said the option of allowing women early access to State Pension at a lower rate should be considered.[113]

In response, the Government has argued that the changes in the 2011 Act were debated at length and a decision made by Parliament, as part of which a concession was made to limit the impact on those most affected. It said it would "make no further changes to the pension age or pay financial redress in lieu of a pension."[114]

On February 2018, Pensions Minister Guy Opperman said:

[108] DWP, Pensions Bill 2011 – factsheet
[109] Library Briefing Paper CBP-07405 (February 2017), section 6.1
[110] Petition to UK Parliament, 2017
[111] HC Deb 30 November 2016 c1624). See Library Briefing Paper CBP-07405 (February 2017), p30.
[112] Ibid p28-9; HC Deb 15 November 2016 c23WH
[113] Ibid, section 6.3
[114] PQ 49721 27 October 2016; HC Deb 15 November 2016 c48WH

> The key choice a Government face when seeking to control state pension spend is to increase state pension age or pay lower pensions, with an inevitable impact on pensioner poverty. The only alternative is to ask the working generation to pay an even larger share of its income to support pensioners. I believe that successive Governments have made appropriate but difficult decisions to equalise and increase the state pension age. A significant concession was made in 2011 so that no woman will see an increase to her state pension age of more than 18 months, relative to the 1995 Act timetable. To renege on our decisions and further increase costs to the public, especially the working population, would be unfair and unaffordable.[115]

5.4 Can people claim the State Pension early?

No. One of the current conditions of entitlement to the State Pension is that the individual has reached SPA.[116]

John Cridland considered whether early access should be allowed as part of his review of the State Pension age. However, while there was a consensus that there were regional variations in life expectancy, respondents to the consultation had not suggested any workable ways for the State Pension age to address this:

> Many responses highlighted the value of the simplicity of a universal State Pension age, and acknowledged the difficulty of designing and implementing a workable alternative. There was little appetite for a variable State Pension age based on region or socio-economic group, as this would likely prove to be too difficult to target appropriately. Multiple respondents noted that creating an alternative was likely to create new unfairness […] Multiple organisations suggested the Government should explore offering early access to particular groups. The most commonly cited groups for consideration were carers and people in ill health or with a disability. A few responses supported offering early access to those with a high number of National Insurance contribution years, but this was less popular. Responses generally offered limited detail on how these policies could be implemented.[117]

In its 2016 report on Communication of state pension age changes, the Work and Pensions Committee said it was interested in the idea of "permitting early retirement, from a specified age and for a defined cohort of women, on an actuarially neutral basis."[118] It launched a further inquiry to explore the issues but did not produce a report.[119]

John Cridland's final report said many respondents had expressed concern that offering actuarially reduced access would "likely result in either an increase in the number of people with inadequate retirement incomes or an increase in means-tested benefit expenditure."[120]

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115 HC Deb 8 February 2018 c1693-4
116 *Social Security Contributions and Benefits Act*, s44; *Pensions Act 2014*, s 1(2)
117 Independent Review of the State Pension age. Smoothing the Transition. Final Report, March 2017, p126
118 HC 899, 15 March 2016, para 40-48
119 Work and Pensions Select Committee, Early drawing of state pension
120 Independent Review of the State Pension age. Smoothing the Transition. Final Report, March 2017, p126

In its own review of the State Pension age, the Government emphasised the advantages of a universal State Pension age, in creating a "simple system around which people can plan." It strongly endorsed John Cridland's findings on this issue.[121]

5.5 What happens if a claim is delayed (deferred)?

A claim for the State Pension can be made up to four months in advance.[122] Once claimed, it can be backdated for up to 12 months.[123]

Deferring can mean a person gets increased payments when they do claim. Gov.UK explains:

> Deferring your State Pension could increase the payments you get when you decide to claim it.
>
> Do nothing if you want to defer. Your pension will automatically be deferred until you claim it.
>
> Any extra payments you get from deferring could be taxed.
>
> **If you're on benefits**
>
> You can't get extra State Pension if you get certain benefits. Deferring can also affect how much you can get in benefits.
>
> You must tell the Pension Service if you're on benefits and you want to defer.

People who reached State Pension age before 6 April 2016 can take their extra State Pension as either higher weekly payments or a lump sum. Gov.UK explains:

> You get extra weekly State Pension if you defer for at least 5 weeks.
>
> Your State Pension increases by 1% for every 5 weeks you defer. This works out as 10.4% for every full year you defer claiming. The extra amount is paid with your regular State Pension payment.
>
>> *Example:*
>>
>> You get £125.95 a week (the full basic State Pension). This works out as £6,549.40 a year.
>>
>> By deferring for one year, you'll get an extra £681 a year (10.4% of £6, 549.40).
>
> This example assumes there is no annual increase in the State Pension. If there is an annual increase, the amount you could get could be larger.
>
> **Lump sum payment**
>
> You can get a one-off lump sum payment if you defer claiming your State Pension for at least 12 months in a row. This will include interest of 2%

For more information, see

Library Briefing Paper SN-02868 State Pension deferral (April 2017)

DWP, State Pension deferral – if you reached State Pension age before April 2016 (June 2017)

Gov.UK – delay (defer) your State

[121] DWP, State Pension age review, July 2017, p26
[122] *Social Security (Claims and Payments) Regulations 1987* (SI 1987 No. 1968), regulation 15
[123] *Social Security (Claims and Payments) Regulations 1987* (SI 1987 No. 1968), Reg 19 and Schedule 4 para 13,

There is no reward for deferral during a period certain benefits were in payment.[124]

If an individual is in receipt of extra pension following a period of deferral, that extra income is taken into account in calculating entitlement to means-tested benefits. On the other hand, a lump sum earned after a period of deferral is disregarded for Pension Credit and Housing Benefit.[125] The reason for allowing lump sums to be disregarded was to remove a potential disincentive to defer for people on lower incomes.[126]

Why was the reward for deferral reduced for people reaching SPA from 2016?

For people reaching State Pension age from 6 April 2016, the reward for deferral was reduced (to 5.8% of the weekly rate for each full year deferred) and the option of the lump sum has been removed.[127]

The Coalition Government's intention was to set the reward for deferral at a rate that would "more closely reflect the value of the income foregone."[128]

When the legislation was before Parliament, Labour Peer Baroness Hollis argued that the option of a lump sum should be retained, given the importance of savings to meet unexpected costs. Responding, the then Work and Pensions Minister Lord Freud said people still had the option of delaying their State Pension claim for 12 months and receiving the arrears as a lump sum (although there would be no interest on the arrears). The Government wanted its State Pension reforms to be cost neutral and the reduced incentives to defer played a "key role in flattening expenditure."[129]

The Cridland Review of the State Pension age recommended that the Government re-introduce the option of a lump sum on deferral and change the rules to enable partial drawdown of the State Pension so that people could afford to continue working but reduce their hours.[130]

Why can't an unmarried partner inherit a deferral lump sum?

Gov.UK explains that individuals can usually inherit part or all of their partner's extra State Pension you reached pension age before 6 April 2016 and all of the following apply:

- you were married or civil partners when they died
- they had already deferred their State Pension or were claiming their deferred State Pension when they died

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124 Gov.UK, deferring state pension/if you get certain benefits or tax credits
125 *State Pension Credit Regulations* 2002 (SI 2002/1792), Sch V, para 23A; DWP, State Pension deferral if you reached State Pension age before April 2016
126 Explanatory Memorandum to SI 2005/2677, para 7.2
127 *Pensions Act 2014*, s16-18; SI 2015/173, reg 10
128 EN to SI 2015/173 para 7.27; DWP, Single-tier Impact Assessment, Oct 2013, para 50)
129 HL Deb 24 February 2014 c776-8
130 Independent Review of the State Pension age. Smoothing the Transition. Final Report, March 2017, para 5.6.1-2

- you didn't remarry or form a new civil partnership before you reached State Pension age[131]

Otherwise, only up to three months State Pension may be payable to their estate. DWP explains:

> If you are not married or in a civil partnership, and you have put off claiming your State Pension but die before claiming it, someone else may make decisions about your estate. They may be able to claim up to three months of the State Pension you have not claimed, and this could include any extra State Pension you have earned before that. This will be paid to your estate. They cannot choose a lump-sum payment.[132]

Surviving unmarried partners sometimes object that it is not fair that they are not able to inherit a lump sum earned while their partner was not claiming their State Pension. In response, Ministers have said it is "a long established principle that provision is made for a surviving spouse." This "explicitly recognises that marriage implies enduring mutual financial support and obligations."[133] Furthermore, unmarried partners had the option of marrying.[134] In the last Parliament, the Conservative Government took the same approach:

> Our law and tax systems recognise inheritance rights and needs of bereaved people only if they have a recognised marriage or civil partnership. This stems from the founding principle of the national insurance system, which is that all rights to benefits derived from another person's contributions are based on the concept of legal marriage and civil partnership.[135]

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131 Gov.UK, Inheriting a deferred State Pension; *Social Security Contributions and Benefits Act 1992 (SSCBA 92),* s 44 and Sch 5
132 DWP, State Pension deferral, October 2014; SI 2005/2677
133 HL Deb 18 October 2004 GC144
134 HC Deb 16 July 2003, c 436-7W; HC Deb 13 December 2004 c 849W
135 HL Deb 15 January 2014 c148-9

6. Pension Credit

6.1 What is Pension Credit?

Pension Credit, the main means-tested benefit for pensioners, was introduced in October 2003, replacing income support for pensioners. For people who reached State Pension age before 6 April 2016, it had two elements - the Guarantee Credit and Savings Credit.[136]

For more information see

Gov.UK Pension Credit

Pension Credit: technical guidance

DWP Decision Makers' Guide: vols 13 and 14

The **Guarantee Credit** provides financial help for people who have reached the "qualifying age" for Pension Credit and whose income is below their 'appropriate amount' – which is made up of a Standard Minimum and additional amounts which can apply if the claimant or their partner: has a severe disability; looks after a severely disabled person or; is liable for certain housing costs, like mortgage interest payments. In 2017/18, the amounts are:

	Rates 2018/19 £pw
Standard minimum guarantee	
Single	163.00
Couple	248.80
Additional amount for severe disability	
Single	64.30
Couple (one qualifies)	64.30
Couple (both qualify)	128.60
Additional amount for carers	36.00

The **Savings Credit** element of Pension Credit aims to reward people over 65 with modest levels of "qualifying income" (including state, occupational and personal pensions) above the Savings Credit "threshold", up to a maximum. The maximum amounts of Savings Credit in 2018/19 are £13.40 for a single person and £14.99 per week for a couple.

Savings Credit was removed for people reaching State Pension age from 6 April 2016, when the new State Pension (nSP) was introduced. The rationale was that the nSP would be set above the level of the basic Pension Guarantee, so that there would no longer be a need for a "complex savings reward." Removing Savings Credit would also "simplify means-tested support and help to ensure Pension Credit is re-focused on providing a safety net targeted at the poorest and most vulnerable."[137]

People can get an estimate of their entitlement on Gov.UK.

[136] *State Pension Credit Act 2002; State Pension Credit Regulations 2002 (SI 2002/1792))*
[137] Cm 8528, January 2013, chapter 2, para 40

6.2 Why has Savings Credit been reduced in recent years?

For more detail, see

SN-05649 State Pension Uprating, section 3.4 (Feb 2018)

Although Savings Credit has been removed from 6 April 2016, people reaching SPA before that date are still eligible.

In from 2012-13 onwards, the Government made changes to reduce the amount of Savings Credit payable, often in order to pay for above-earnings increases in Guarantee Credit, intended to ensure the poorest pensioners saw their incomes increase by at least the cash amount of the increase in the basic State Pension. In 2014, the then Pensions Minister, Steve Webb explained:

> I am therefore pleased to announce that we shall over-index the standard minimum guarantee so that the increase for our poorest pensioners—those with least opportunity to increase their income in later life—will be in line with the cash value for the basic state pension. […] As in previous years, resources needed to pay the above-earnings increase to the standard minimum guarantee will be found by increasing the savings credit threshold, meaning that those with higher levels of income may see less of an increase than they would otherwise have done.[138]

6.3 What is Pension Credit qualifying age?

The qualifying age for Pension Credit is linked to the State Pension age for women.[139] The State Pension age for women started to rise from 60 in April 2010 and is to reach 65 (equal with that for men) in November 2018. The equalised State Pension age will then rise to 66 by October 2020.[140] The Pension Credit qualifying age will rise in line with this – see Gov.UK/Pension Credit/eligibility.

For couples, currently only one partner needs to have reached Pension Credit qualifying age to claim for both. However, the Coalition Government changed the rules so that in future *both* partners will need to have done so.[141] The implementation of this rule is linked to the introduction of Universal Credit, which is not now to be rolled out across the country until December 2018.[142]

The rule change will to apply to new claims, not to existing claimants, while they retain entitlement. The rationale is that entitlement to working age benefits is subject to work-related requirements that do not apply to Pension Credit. The Coalition Government took the view that "all people of working age who can work should be expected to do so."[143]

138 HC Deb 4 December 2014 c414; DEP 2015-0297
139 *State Pension Credit Act 2002*, s1
140 Pensions Act 1995, Sch 4
141 *Welfare Reform Act 2012*, s31, Sch 2 (64
142 DWP, Universal Credit – Transition Rollout Schedule – March 2018 to December 2018, March 2018
143 EM to SI 2016/963, para 7.6-7; HC Deb 20 November 2011 c1091

6.4 How are savings taken into account?

Pension Credit is a means-tested benefit, so the income and capital of the claimant, and any partner they may have, is taken into account in calculating entitlement, subject to any disregards. Gov.UK explains:

> When you apply for Pension Credit your income is worked out. This includes:
>
> - State Pension
> - other pensions
> - most social security benefits, for example Carer's Allowance
> - savings, investments over £10,000 - for these £1 is counted for every £500 or part £500
> - earnings
>
> If you're entitled to a private or workplace pension, the amount you'd expect to get is calculated as income from the date you were able to get it, if you had claimed it.[144]

As this says, £1 of income is assumed for every £500 savings above £10,000.[145] People sometimes ask about the logic behind this. In response, Ministers have explained that the rules are "not intended to represent any return that could be obtained from investing capital." Instead, they provide a:

> a simple method of calculating the weekly contribution that people with capital in excess of £6,000 (or £10,000 if in a care home) are expected to make from those resources to help meet their normal living expenses.[146]

The Labour Government considered taking actual income from capital into account, but decided against on grounds that this would be bureaucratic and confusing for claimants. Instead, it proposed assuming a "notional rate of income set at around 10 per cent" for savings above the disregard and abolishing the upper capital limit.[147]

The treatment of capital is significantly more generous in Pension Credit than in the benefit it replaced - Income Support for pensioners.[148] The disregard was increased to £10,000 (from £6,000) in Budget 2009, in recognition of the fact that "historically low interest rates [had] particularly impacted on pensioners, who are more likely than people of working age to draw income from savings."[149]

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144 Gov.UK/Pension Credit/eligibility
145 State Pension Credit Regulations 2002 (SI 2002/1792), reg 15 (6)
146 HC Deb, 15 Dec 2008 , c419W
147 DWP, Pension Credit: the Government's Proposals, Nov 2001, p5
148 HM Treasury, Budget: March 2000, HC 346, para 5.45; The Pension Credit: a consultation paper, Cm 4900, November 2000
149 HC Deb, 15 Dec 2008, c419W; Social Security (Deemed Income from Capital) Regulations 2009 *(SI 2009/1676)*

6.5 What happens if a claimant goes abroad?

An individual has to be in Great Britain to be entitled to Pension Credit, although payment can continue during a temporary absence overseas.[150]

The rules changed on 28 July 2016, reducing the length of temporary absence during which Pension Credit and Housing Benefit could continue to be paid in most cases from thirteen weeks to four weeks.[151] Announcing the change as part of the 2015 Autumn Statement, the Government said the rationale was that the "welfare system should be fair to those who need it and fair to those who pay for it." Exemptions would apply in "particular circumstances for up to 26 weeks, for example, for the death of a family member, if a claimant or their dependant requires medical treatment abroad, or for members of certain professions who spend time abroad."[152]

The new rules came into on 28 July 2016. For most absences from GB, the period of absence for which entitlement continued was reduced from 13 to 4 weeks. Exceptions were:

> 7.8 Where the absence from GB is in connection with the death of a partner, a child or young person, then the 4 week period can be extended by a further 4 weeks if it would be unreasonable to expect a return to GB within 4 weeks. This also applies where the temporary absence is in connection with the death of a close relative of the claimant, or of their partner or of a child or young person normally living with the claimant.
>
> 7.9 If the absence from GB is due to the need to receive medical treatment or convalescence, then HB and/or PC may continue for up to 26 weeks. Where the claimant is accompanying their partner or a child or a young person who lives with them for medical treatment or convalescence outside GB, then HB and/or PC may continue for up to 26 weeks. In PC this amendment has broadened the range of circumstances where the medical exemption can apply (broadly this equates to the position in UC)
>
> 7.10 The new absence from GB rules for both HB and PC will apply to members of the claimant's household as well as the claimant.[153]

There was also transitional provision for people temporarily absent at the date of change.[154]

In response to a PQ in January 2017, the then Pensions Minister Richard Harrington said the Government had no plans to change the rules:

> Diana Johnson: To ask the Secretary of State for Work and Pensions, if he will take steps to allow people temporarily living abroad to claim pension credit for longer.

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[150] *State Pension Credit Act 2002, s1; State Pension Credit Regulations 2002 (SI 2002/1792)*, reg 3

[151] Explanatory Memorandum to SI 2016/624 (paras 7.3-6).

[152] HC Deb 25 November 2015 c1360; HM Treasury, Autumn Statement 2015, CM 9162, Nov 2015

[153] Explanatory Memorandum to SI 2016/624

[154] Ibid, para 7.16

> Richard Harrington: Pension Credit is an income-related, non-taxable benefit which is intended to provide people of pension age with financial assistance to enable a minimum guaranteed amount to meet living costs in Great Britain. It is a basic condition of entitlement that a person be in Great Britain to receive it. Although Pension Credit is not intended to subsidise absences from Great Britain, in certain circumstances entitlement to the benefit can continue during a temporary absence abroad.
>
> It is the Government's view that the current rule, which allows entitlement to continue for up to four consecutive weeks during a period of absence from Great Britain, is reasonable and justified. It allows time, for example, for holidays and visiting families, without a person having to reclaim Pension Credit on their return to Great Britain. There are exceptions to the general four week rule. Pension Credit can continue for up to 26 weeks where medical treatment or medically approved convalescence is required outside Great Britain. Where the absence is in connection with a death of a partner or close relative then entitlement can continue for up to eight weeks.
>
> This approach aligns Pension Credit and Housing Benefit with Universal Credit and provides consistency across these benefits and we have no plans to change this.[155]

6.6 What if someone has lived abroad?

Pension Credit is a means-tested benefit, so entitlement is subject to residence and immigration status tests.[156] DWP's guide to Pension Credit explains:

> Certain rules apply for people who have come to live in GB (England, Scotland and Wales) from another country (including returning British citizens) and who want to get Pension Credit.
>
> Whether your customer can get Pension Credit will depend on their residence or immigration status. They will also have to satisfy the normal Pension Credit rules, including the requirement to have the right to reside and to be able to be treated as factually habitually resident (known as the Habitual Residence Test).
>
> **General rules**
>
> In general, your customer can get Pension Credit as usual if they:
>
> • satisfy the habitual residence test
>
> • are eligible under the normal Pension Credit rules
>
> **Special rules**
>
> There are special rules for people in GB as a result of a written maintenance undertaking
>
> More information
>
> For more information about immigration issues, see UK Visas and immigration pages.

For more detail, see

DWP, A Detailed Guide to Pension Credit for Advisers and Others (August 2017), p64 ff (people who have come to Great Britain from abroad)

DWP, Decision Makers Guide, Ch 7 Part 3 (Habitual residence and right to reside IS, JSA and SPC)

155 PQ 61407 30 January 2017

156 State Pension Credit Regulations 2002 (SI 2002/1792), reg 2

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