

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Second Delegated Legislation Committee

DRAFT PENSIONS ACT 2014 (CONSEQUENTIAL
AND SUPPLEMENTARY AMENDMENTS) ORDER
2016

DRAFT STATE PENSION AND OCCUPATIONAL
PENSION SCHEMES (MISCELLANEOUS
AMENDMENTS) REGULATIONS 2016

Tuesday 26 January 2016

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The Committee consisted of the following Members:

Chair: Ms KAREN BUCK

- | | |
|---|---|
| † Blackford, Ian (<i>Ross, Skye and Lochaber</i>) (SNP) | † Opperman, Guy (<i>Hexham</i>) (Con) |
| † Blenkinsop, Tom (<i>Middlesbrough South and East Cleveland</i>) (Lab) | † Rayner, Angela (<i>Ashton-under-Lyne</i>) (Lab) |
| † Borwick, Victoria (<i>Kensington</i>) (Con) | † Rutley, David (<i>Macclesfield</i>) (Con) |
| Byrne, Liam (<i>Birmingham, Hodge Hill</i>) (Lab) | Sheerman, Mr Barry (<i>Huddersfield</i>) (Lab/Co-op) |
| † Churchill, Jo (<i>Bury St Edmunds</i>) (Con) | † Sturdy, Julian (<i>York Outer</i>) (Con) |
| † Ghani, Nusrat (<i>Wealden</i>) (Con) | † Vara, Mr Shailesh (<i>Parliamentary Under-Secretary of State for Work and Pensions</i>) |
| † Hayman, Sue (<i>Workington</i>) (Lab) | † Wilson, Sammy (<i>East Antrim</i>) (DUP) |
| † McCabe, Steve (<i>Birmingham, Selly Oak</i>) (Lab) | |
| † Mak, Mr Alan (<i>Havant</i>) (Con) | Alda Barry, <i>Committee Clerk</i> |
| † Menzies, Mark (<i>Fylde</i>) (Con) | |
| † Miller, Mrs Maria (<i>Basingstoke</i>) (Con) | † attended the Committee |

Second Delegated Legislation Committee

Tuesday 26 January 2016

[Ms KAREN BUCK *in the Chair*]

Draft Pensions Act 2014 (Consequential and Supplementary Amendments) Order 2016

2.30 pm

The Chair: Is it the wish of the Committee that the instruments be debated together?

Hon. Members: Yes.

The Chair: I will call the Minister to move the first motion and speak to both the instruments. At the end of the debate, I will put the Question on the first motion, then ask the Minister to move the remaining motion formally.

The Parliamentary Under-Secretary of State for Work and Pensions (Mr Shailesh Vara): I beg to move,

That the Committee has considered the draft Pensions Act 2014 (Consequential and Supplementary Amendments) Order 2016.

The Chair: With this it will be convenient to consider the draft State Pension and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 2016.

Mr Vara: May I say what a pleasure it is to serve under your chairmanship, Ms Buck? May I also extend warm congratulations to the hon. Member for Ashton-under-Lyne on her appointment? I very much look forward to working with her during the months to come.

As both the regulations and the order deal with the new state pension, it is sensible to debate them together. I am satisfied that these instruments are compatible with the European convention on human rights. The regulations deal with four topics. The first is the calculation of increments where a person has deferred their new state pension. The second is transitional arrangements for inheriting graduated retirement benefit. The third is the availability of upratings on state pension where a pensioner is living overseas. And lastly the regulations make a technical amendment to regulations relating to contracted-out occupational pension schemes.

As regards deferral of the new state pension, this provision deals with calculating the weekly increase that a person who defers their new state pension will receive when they finally claim. Specifically, it sets out how that calculation is to be performed when there is a change in the weekly rate during the deferral period for a reason other than uprating—for example, where a person is widowed and becomes entitled to an inherited amount under the transitional arrangements.

The provisions introduced by regulation 4 enable a person in the new state pension system to inherit graduated retirement benefit where their deceased spouse or civil partner is in the old state pension system—that is, they either reached state pension age or died before 6 April

2016. The survivor will be able to inherit half the deceased's graduated retirement benefit—the same as they would have inherited under the pre-2016 rules. This protection of the old-rules inheritance will apply provided that the same conditions are met as would have applied in the old system and provided that the marriage or civil partnership existed before 6 April 2016. These arrangements mirror the transitional arrangements for inheriting additional state pension set out in the Pensions Act 2014. As graduated retirement benefit was the original earnings-related state pension, the forerunner of SERPS—the state earnings-related pension scheme—it makes sense to treat it in the same way.

The provisions introduced by regulation 4 enable the survivor of someone who reached state pension age before 6 April 2016 and deferred their old state pension to inherit a weekly pension increase or, if applicable, a lump sum payment based on the deferred graduated retirement benefit. Again, there are equivalent provisions in the Act that protect the existing inheritance arrangements for the survivors of people who deferred an old state pension.

Regulation 4 inserts a new part 7 into the State Pension Regulations 2015, providing for restrictions on the uprating of the new state pension for persons living overseas. As hon. Members will be aware, the state pension is payable worldwide, but upratings for people who are not ordinarily resident in Great Britain are generally restricted to people living in the European economic area, Switzerland, Gibraltar or countries with which there is a reciprocal agreement that provides for uprating. That has been the policy of successive Governments for the past 70 years, and these provisions extend the same policy to the uprating of the new state pension. We are, however, introducing a change in the way in which we treat deferral in overseas cases.

Under the existing arrangements, when a person who has deferred their state pension while resident in a country where upratings do not apply finally claims, they will have both the amount of their weekly pension and their deferral benefit based on the current rate of state pension in force. That applies even though pension upratings would not have been received if they had not deferred their pension. The regulations remove that anomaly for those in the new scheme so that we treat people who defer their pension consistently, regardless of where they live.

Regulation 6 addresses a procedural error in an earlier set of regulations, the Occupational Pension Schemes (Schemes that were Contracted-out) Regulations 2015, which were laid before the House on 16 July 2015. In brief, those regulations were made using the negative procedure, but they contained two provisions that should have been subject to the affirmative procedure. We revoked the statutory instrument and remade it on 16 September, minus the affirmative provisions, which are now made by regulation 6. The substantive provision is the insertion of new regulation 27A into the remade regulations. That simply carries forward an existing provision that sets out requirements relating to payment of survivor benefits where a pension scheme has converted guaranteed minimum pension liabilities into ordinary scheme benefits.

The second of the two statutory instruments that we are considering is the draft Pensions Act 2014 (Consequential and Supplementary Amendments)

Order 2016. As the title indicates, the amendments are essentially technical in nature, rather than implementing substantive policy measures. I commend the regulations and the order to the Committee.

2.36 pm

Angela Rayner (Ashton-under-Lyne) (Lab): It is a pleasure, Ms Buck, to serve under your chairmanship in my debut in a Delegated Legislation Committee. I thank you for your kindness in allowing me to sit down throughout the proceedings. As Members will have noticed, I am not quite operating at full capacity. I had an accident over the weekend, in which I managed to fracture my elbow and damage my ribs. I am sure that that will not stop me carrying out my duty as a member of the Opposition to scrutinise the measures before us.

Mr Vara: And the Whip insisted that you turn up.

Angela Rayner: Absolutely—the Opposition have some fantastic Whips. As the Minister outlined, in the Pensions Act 2014, the coalition Government legislated to introduce a new state pension for persons reaching state pension age on or after 6 April this year. We are considering regulations that will implement several key features of that settlement. Several aspects of the new legislation have significant implications for future pensioners, and I will touch on some of them in my contribution.

Under the new scheme, the Government intention is that individuals who qualify for the new state pension will receive it on the basis of their contribution record. The rule that allows an individual, under the current state pension, to derive entitlement based on the national insurance record of a former spouse or civil partner will end, with some transitional protection. Although the changes are likely to affect a relatively small number of people, their impact on those who are affected may be large. Perhaps the Minister will confirm that in an extreme scenario, a woman who has no entitlement in her own right and is widowed could end up with no state pension, rather than the £115.95 she could expect to receive under the current system.

In addition to the amendments on inherited graduated retirement benefit, there are new features that will affect pensioners overseas. In the new pension scheme, as the Minister outlined, state pensions will be uprated in line with earnings only if the recipient is resident in an EEA country or in a country with which the UK has a reciprocal agreement. Furthermore, many people who receive the state pension and who live abroad may have been impacted by the Government's temperature test for the winter fuel allowance, which was introduced for the first time this winter. The changes could result in an overlap between those who become ineligible for winter fuel allowance and those whose pensions have not been uprated.

State pension deferral is of particular significance. The option to defer one's pension in order to receive a larger amount has been part of the system since 1948. Under the new state pension, the terms of such deferral will change, resulting in a less generous return. Given that the bulk of the measures before us today are technical, I hope not to divide the Committee, but there are a number of comments that I wish to make and questions that I hope that the Minister can answer. Let me start by making the general point that the Government's track record in communicating pension changes falls

well short of what the public would hope and expect. Recent analysis that the Department of Work and Pensions published on the new state pension makes it clear that millions of people will receive a significantly lower state pension in future. Some will be more than £500 a year worse off. The Government should be doing far more to inform those affected, especially people who are nearing retirement and therefore have the least notice or time to consider the impact.

The same is true for the regulations we are considering, especially the changes to derived entitlement and inheritance rules. The regulations apply to the new state pension that will be introduced in April, so they have come before us are very late in the day, given that they arise from primary legislation that the House agreed in 2014. Perhaps the Minister can tell us why the Government have left it until now to table these measures.

In any event, Age UK, among others, has called on the Government to do far more to contact people who are likely to be affected. In its evidence to the inquiry by the Select Committee on Work and Pensions on the state pension, it said:

"There are DWP materials highlighting credits and ways to increase the State Pension, but people need to know they may be affected. We believe the DWP should contact people with gaps in their record individually to highlight the changes and explain options... In the most extreme situation, a woman with no entitlement in her own right, who is widowed, could end up with no State Pension compared to an expected £115.95 under the current system. Most will have some contributions in their own right so will not lose this much, but they could still receive significantly less than they are expecting. Couples in this situation need to be made aware of the changes as they may be able to review their retirement plans."

When asked how the Department was planning to communicate with those affected, the Minister for Pensions replied that we cannot foresee who is going to become widowed in future. I think it is fair to say that that is not exactly a helpful response. I would be grateful if the Under-Secretary provided clarity on what action the Government are taking to communicate these changes, in particular to those with gaps in their record who are likely to be directly affected. I believe there is a pool of people they can inform who could potentially be widowed in future.

Will the Minister also give us an estimate of who will be covered by the transitional protection? How many people does he estimate will lose out as a result of the changes in future years? In the context of those facts, what would be the cost of directly contacting individuals with gaps in their national insurance record? Does the Minister think that that cost is prohibitively expensive? While these changes are likely to affect a relatively small number of people, the impacts on those affected may be very large—the Minister may wish to expand on that, based on official estimates. That is one reason why the Select Committee, in considering the draft legislation, recommended that the Government go further in finding a solution for those women who might be seriously affected.

I will not repeat the debates that were had in the House, but if the Minister can give those women any further reassurance on the terms of transitional protection, that would be welcome. In any event, it is crucial that the Government take the issue of communication far more seriously and learn the lessons from previous instances when they failed to communicate changes

[Angela Rayner]

effectively: most notably, of course, there is a group of women born in the 1950s who were not given proper notification of acceleration in their state pension age.

On that issue, will the Minister inform us whether the Department has undertaken any further work on transitional protection for the group of women most affected? Will he commit to provide the House with details of any modelling the Government have used when looking at different options for transitional protection; for example, for specific cohorts, such as those born between 6 April and 5 December 1953, who will be particularly affected by the acceleration? He will note that I have tabled questions on that subject, but given Ministers' stated goal of being the most transparent Government ever, perhaps he can commit to answering them fully and publishing the relevant material before Monday's debate on the issue.

Turning to another aspect of the regulations, many people who live abroad and receive a state pension may have been impacted by the Government's temperature test for winter fuel allowance, which was introduced for the first time this winter, as I mentioned. Will the Minister tell the Committee how many people became ineligible for winter fuel allowance as a result of these tests? What is the overlap between those who became ineligible for winter fuel allowance and those whose pensions have not been uprated?

As well as freezing overseas pensions, the Government are freezing the savings credit element of the pension credit, as announced in the autumn statement. Will the Minister confirm that some of Britain's poorest pensioners will be worse off as a result of this measure, and will he commit to publishing a more detailed impact assessment than has been produced to date? Exactly how many people will be worse off, and by how much? Finally, on the issue of state pension deferral, how much do the Government expect to save from the changes to the deferral? How many people have chosen to defer their state pension in this financial year, and what are the Government doing to ensure that those who defer are made aware of these changes to the deferral provisions under single tier pensions? I hope that we have some substantive answers on those points and in that spirit I look forward to the Minister's response.

2.46 pm

Steve McCabe (Birmingham, Selly Oak) (Lab): It is a pleasure, Ms Buck, to serve under your chairmanship. May I clarify a couple of points with the Minister? First, I notice that the explanatory notes say that we are doing some of this because a few months ago, in July, the Government got it wrong. Is the Minister absolutely confident that he has got it right on this occasion, at least in terms of what he is trying to do? If he can offer any explanation about what he got wrong back in July, people would be interested to know.

Secondly, there are widows who could lose out under these arrangements and end up either with no state pension or a small amount of money. Will the Minister say more about how many people we are talking about and what estimates he has made? It would be a terrible pity to see this go through and find out afterwards that the Government were not sure about their figures.

On the question of divorcees, what is the rationale for saying that divorced women can no longer rely on their former spouse's national insurance record? That is quite a big change, which could discriminate against a number of women. Will the Minister offer advice about how many people we are talking about and what led him to that conclusion?

Finally, I understand that under these transitional arrangements there will be some protection for spouses and civil partners, but not for people who cohabit. Given that, under all the other social security legislation, if people are cohabiting that counts towards their entitlement, why has the Minister decided to pick on that particular group in relation to pensions? I am not sure why we are not opposing this, but before we have a vote it would be helpful to know how many people we are talking about. This seems to be a whole series of regulations. I did not get a single figure from the Minister during his two-minute explanation to the Committee on how many people are affected by what he is planning to get through today.

2.49 pm

Ian Blackford (Ross, Skye and Lochaber) (SNP): It is a pleasure, Ms Buck, to serve under your chairmanship. The changes to the rules on derived and inherited rights are a complex part of the reform package. In its evidence to the inquiry by the Work and Pensions Committee aimed at understanding the state pension, Age UK called on the Government to ensure that those who could be worse off due to the reforms are a priority for communications. As been referred to, communications have been a big issue in many pension matters in the past few years. A priority for communications should be to reach groups who may have planned their retirement income based on the current system but could be worse off due to the reforms. Particularly for women, the loss of derived and inherited rights to the basic pension could reduce entitlement. In the most extreme situation, a woman who is widowed with no entitlement in her own right could end up with no state pension, compared with an expected £115.95 under the current system.

Most women will have made some contributions in their own right, so they will not lose that much, but they could still receive significantly less than they expected. Couples in that situation need to be made aware of the changes so they can review their retirement plans. The Department for Work and Pensions said that as part of its communication activity, it is targeting specific groups such as the self-employed and those with low qualifying years, who may be at risk of failing the minimum qualifying period, as well as those impacted by the changes to the derived entitlement and inheritance rules. The experience of communication regarding the increase in the state pension age suggests that it is reasonable to question whether the Department should not go further and, as recommended by Age UK, directly contact individuals with gaps in their national insurance record.

Like the Labour spokesperson, we remain concerned over the whole WASPI—women against state pensions inequality—issue. There was a debate a number of weeks ago in the Chamber, when the House divided and expressed its opinion clearly by 158 votes to zero. What is parliamentary democracy if the Government feel they can ignore the will of the House? Finally, on frozen pensions, we remain concerned that those who have an

entitlement to a UK pension are being denied their full rights. If we do not get sufficient answers this afternoon, the Scottish National party will oppose these measures.

2.51 pm

Mr Vara: My thanks to the three contributors to the debate. I will try to address as many of their questions as possible. I will start by clarifying a point in the argument about women who might have no entitlement to pension. Under the transitional arrangements, a woman may still inherit a proportion of her late spouse's additional state pension or half of his protected payment, depending on when he reached state pension age.

I was asked why my Department has left it until now to introduce these measures. I hope the Committee will appreciate that time is needed to develop legislation underpinning the new state pension, and to secure parliamentary time for debating and making the necessary legislation. It has been suggested that Government should do more to inform those affected by the changes to entitlement. The Government are always looking for the channels and media that work best. People sometimes assume that direct mail is the right approach, but experience has shown that is not necessarily the case. We have undertaken direct mail exercises in the past, and evidence suggests that other communication channels can be as or more effective.

My Department conducted a test in 2014 issuing 6,000 personalised letters with the aim of encouraging people to ask for a state pension statement, and only 79 requests for a statement resulted from that mailshot.

Steve McCabe: I understood that the Department's justification for not notifying people was that it had been given some advice around data protection. In those circumstances, what are the other communication methods that the Minister referred to?

Mr Vara: In the 21st century, there are many forms of communication.

Steve McCabe: What are they? Tell us.

Mr Vara: I am sorry to state the obvious but, other than writing letters, there are social media, emails, articles in newspapers and other publications. There are a variety; I list only some of them. Sadly, the hon. Gentleman does not seem to have moved into the 21st century and still seems to think that everybody should get a letter through their letterbox. Times have moved on and he needs to move with them.

Steve McCabe: The point, which the Minister may have missed, is that if his Department has genuinely been given information about data protection and that has limited the number of letters it can send to people, what information has he had about emails and social media? He can stand there and pretend he is in the 21st century, but how many emails and other examples of social media has he used with individual people and what data-protection advice did he get before he did so?

Mr Vara: I do not think anyone in the Committee would expect me to give precise numbers about how many emails have been sent out by a specific Department. If I may remind the hon. Gentleman, his original question was what are the forms of communication. That is the

question I answered. If he now wishes to change the question and say he wants specific numbers, because he is not happy with the answer I gave, I think the Committee will be sympathetic to the response that I cannot give the precise number of emails that have been sent out.

Ian Blackford: This is a massively important point. Anyone who is involved in an occupational pension scheme or any other type of scheme, will be used to getting annual letters telling them exactly what their entitlements are. Given the importance of this, the Government must communicate with all potential pensioners in a fair and reasonable manner. That means that the DWP has a duty to inform such people by letter—that would be the established practice. I cannot for the life of me understand why the Minister is hiding behind data protection. The Government have a duty to make sure that people prepare adequately for their pension. The Government must take that responsibility and communicate effectively.

Mr Vara: I refer the hon. Gentleman to the answer I gave to the hon. Member for Birmingham, Selly Oak.

Mrs Maria Miller (Basingstoke) (Con): I thank the Minister for giving way and for being generous with his time. Can he inform the Committee of historic response rates to the sort of letter that he is talking about? Is it equivalent in some way? What advice has he been given on how to improve response rates through the use of new media, such as the social media to which he referred?

Mr Vara: I do not have the precise details to hand, but I can say that it is an accepted fact that many people now use the new form—the technological advances of the 21st century—for communication purposes. We fought a general election less than a year ago in which the modern form of communication was used by politicians across the political divide. If it were the case that that was ineffective, and people were not taking note of that, we as politicians who aspire to lead and represent our constituents would probably have resorted to the old system. The fact is that the new, modern communication does work and that is why every single person in this Committee resorts to it.

As I said earlier, when DWP conducted a test in 2014 issuing 6,000 personalised letters with the aim of encouraging people to ask for a state pension statement, only 79 requests for a statement resulted from that mailshot. I think that answers the questions more than anything else.

Angela Rayner: May I try to help the Minister? In my contribution, I was referring to the fact that we have to learn the lessons from the past. Since becoming the shadow Pensions Minister, it is clear to me—and my mailbox makes it clear—without going into the issues of the WASPI campaign and women in the 1950s, that people do not feel that they are being communicated to in the most effective way. I urge the Minister to take all opportunities—written, social media, magazines, telephone—to do so. Whatever way he does it, it needs to be done, because of the implications for some of these people. It is not acceptable for the Minister to say, “Well, it may not affect them because they may not be a

[Angela Rayner]

widower”. Something needs to be done to improve communication to people who are affected by these measures.

Mr Vara: I take on board what the shadow Minister says. Following the Pensions Act 2011—I know we are not dealing specifically with that issue—millions of people did get a letter, and the letters were sent out according to the details that were held by Her Majesty’s Courts and Tribunals Service.

Sammy Wilson (East Antrim) (DUP): First, will the Minister accept that using social media for the target group that we are talking about is probably one of the most inappropriate ways, since the people coming up to retirement age who require this information are the least likely to use it?

Secondly, rather than put the onus on the people who might need information about their pension, would he accept that perhaps the information should be given to them? Surely DWP knows where there are gaps and where people are likely to be disadvantaged by the changes. Should they not be notified by the Department, rather than the Department requesting them to make contact?

Mr Vara: There is no one specific form of communication that my Department will be looking at. We recognise the various forms of communication that exist in the modern world and we will seek to use some of those as we feel they will best target the relevant people. I take on board what the hon. Gentleman says, but it is important to recognise that there is no single form of communication that we use. We recognise that in the modern world there are various forms and communicate accordingly.

Ian Blackford *rose—*

Mr Vara: I have given the hon. Gentleman plenty of opportunities. I will give way once more, but I think this point has been laboured somewhat.

Ian Blackford: This is a massively important point. We all understand that social media is a wonderful tool—the Minister has referred to what was done in the election campaign and so on—but we are talking about the fundamental right that people have to a pension. People have paid national insurance; they deserve to be told by DWP what they are going to get. That is not a message to be delivered by social media, it is a message that should be delivered by letter. That is the right thing to do, and the Government must do it.

Mr Vara: May I put on record, since we are talking about how my Department ensures that people know about the changes, as well as all the items I have just mentioned, the “Know the Facts” communication campaign

focused on building awareness for those aged 55-plus, who will be the first to reach state pension age after the new state pension is introduced? That campaign encouraged people to get a personalised statement. Between September 2014 and October 2015, nearly half a million statements were issued. In the current phase of the campaign we are looking at specific groups who may need more detailed information, including people who have been contracted out, have been self-employed, may have a low number of qualifying years, or may be affected by changes to the rules on deriving an inherited state pension.

A range of products is available to help people understand the impact of the changes. These include factsheets, infographics, videos, calculators and content for PensionTube, a YouTube channel dedicated to pensions. The campaign advertising also encourages people to engage with material online, and there is a range of supporting materials on www.gov.uk. We have in place extensive stakeholder communications with third-party organisations and have held stakeholder forums, produced a toolkit for stakeholders and continue to issue weekly stakeholder bulletins. We do communicate with the relevant people outside, we will continue to do so, and we will continue to make sure that people are appreciative of the message. I commend the regulations and the order to the Committee.

Question put.

The Committee divided: Ayes 9, Noes 2.

Division No. 1]

AYES

Borwick, Victoria	Opperman, Guy
Churchill, Jo	Rutley, David
Mak, Mr Alan	Sturdy, Julian
Menzies, Mark	Vara, Mr Shailesh
Miller, rh Mrs Maria	

NOES

Blackford, Ian	Wilson, Sammy
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Question accordingly agreed to.

Resolved,

That the Committee has considered the draft Pensions Act 2014 (Consequential and Supplementary Amendments) Order 2016.

DRAFT STATE PENSION AND OCCUPATIONAL PENSION SCHEMES (MISCELLANEOUS AMENDMENTS) REGULATIONS 2016.

Resolved,

That the Committee has considered the draft State Pension and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 2016.—(*Mr Shailesh Vara.*)

3.5 pm

Committee rose.