STATUTORY INSTRUMENTS

2016 No. 39

SOCIAL SECURITY

The Pensions Act 2014 (Pension Sharing on Divorce etc.) (Transitional Provision) Order 2016

Made - - - -	*14th January 2016*
Coming into force - -	*6th April 2016*

The Secretary of State for Work and Pensions makes the following Order in exercise of the power conferred by section 56(8) of the Pensions Act 2014(**a**).

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Pensions Act 2014 (Pension Sharing on Divorce etc.) (Transitional Provision) Order 2016 and shall come into force on 6th April 2016.

(2) For the purposes of this Order—

(a) a petition or application is issued on the date entered on the petition or application form by a member of the court staff;

(b) an initial writ or summons is presented on the date entered on the initial writ or summons by a member of the court staff.

Transitional provision in connection with the coming into force of amendments to pension sharing on divorce etc.

2.—(1) This Order applies in a case where section 49A of the Welfare Reform and Pensions Act 1999(**b**) (creation of debits and credits: transferor in new state pension system and sharing activated on or after 6 April 2016) would otherwise apply and either—

(a) in England and Wales—

(i) the petition for divorce or nullity of a marriage was issued before 6th April 2016;

(ii) the application for dissolution or annulment of a civil partnership was issued before 6th April 2016; or

(iii) in the case of the application for financial relief after overseas divorce or nullity of a marriage or overseas dissolution or annulment of a civil partnership, the application for permission of the court for financial relief was issued before 6th April 2016; or

(b) in Scotland—

(i) the initial writ or summons in the proceedings for divorce or nullity of a marriage or for dissolution or annulment of a civil partnership was presented before 6th April 2016;

(**a**) 2014 c.19.
(**b**) 1999 c.30. Section 49A is to be inserted by paragraph 13 of Schedule 11 to the Pensions Act 2014 (c.19).

(ii) the initial writ or summons in the application for an order for financial provision after overseas divorce or nullity of a marriage or overseas dissolution or annulment of a civil partnership was presented before 6th April 2016; or

(iii) the qualifying agreement, referred to in section 48(1)(f)(i) of the Welfare Reform and Pensions Act 1999(**a**) (activation of benefit sharing), was executed by the parties before 6th April 2016.

(2) In a case where this Order applies—

(a) section 49 of the Welfare Reform and Pensions Act 1999(**b**) (creation of state scheme pension debits and credits: transferor in old state pension system or pension sharing activated before 6 April 2016) applies;

(b) section 49A of that Act does not apply; and

(c) the relevant order or provision is to be treated as taking effect on 5th April 2016.

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

Altmann
Minister of State,
14th January 2016 Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Order)

This is the first transitional provision Order made in respect of Part 1 of the Pensions Act 2014 (c.19). It makes transitional provision in relation to the coming into force on 6th April 2016 of sections 13 to 15 of, and Schedules 8 to 11 to, that Act. These provisions allow for the continuation of state pension sharing on divorce or nullity of a marriage or dissolution or annulment of a civil partnership for people who reach state pension age on or after 6th April 2016 and are entitled to the new state pension at the transitional rate. These provisions also make amendments to existing legislation to distinguish rights to an old state pension which are shareable from rights to a new state pension which are shareable.

The transitional provision in this Order has the effect that where proceedings involving the sharing of state pension on divorce or nullity of a marriage or dissolution or annulment of a civil partnership have been issued or presented before 6th April 2016, the existing legislation, i.e. section 49 of the Welfare Reform and Pensions Act 1999 (c.30), will apply to those proceedings, rather than section 49A of that Act. The Order makes similar transitional provision in relation to qualifying agreements in Scotland.

A full impact assessment has not been published for this Order as it has no impact on the private sector or civil society organisations. An assessment has been made of the impact of the introduction of the new state pension. Copies of that impact assessment may be obtained from the Better Regulation Unit of the Department for Work and Pensions, 2D Caxton House, Tothill Street, London SW1 9NA or from the DWP website: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/311316/pensions-act-ia-annex-a-single-tier-state-pension.pdf. (Annex A contains the assessment for new state pension.)

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(**a**) Section 48(1)(f) was amended by paragraph 161(4) of Schedule 27 to the Civil Partnership Act 2004 (c.33). Section 48(1) is to be amended by paragraph 11 of Schedule 11 to the Pensions Act 2014.

(**b**) Section 49 was amended by section 41(1) of the Child Support, Pensions and Social Security Act 2000 (c.19) and is to be amended by paragraph 12 of Schedule 11 to the Pensions Act 2014.

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