

**DWP Change Programme  
Customer Transitions  
Project – Working Age to  
Pension Age Strand**

**Working Age to Pension Age –  
Service improvements for DWP  
customers moving onto State  
Pension**

Consultation on new process and draft  
regulations

February 2010

# Contents

- Introduction ..... 3
- About this consultation ..... 3
- Consultation arrangements ..... 4
- How we consult ..... 5
- Background ..... 7
- Our Vision for the Future ..... 7
- The Customer Journey ..... 10
- Further Service Improvements ..... 12
- Proposed Amendment to Regulations ..... 12
- Questions ..... 12
- Annex A – Draft regulations ..... 13
- Annex B – Synopsis of draft regulations ..... 17

## Introduction

- 1 Each year around 175,000 people receiving DWP benefits go on to claim State Pension. To do this, they currently have to make contact with the Department and provide all their details afresh when they make that claim. The proposed change will mean that all existing DWP customers will be contacted by the Department when they approach State Pension age, instead of having to contact us, and, for some customers, we will pay their State Pension without requiring a claim, unless that person has decided to defer getting their State Pension.

## About this consultation

### Who this consultation is aimed at

- 2 This consultation is aimed primarily at national customer organisation representatives, but comments from all areas will be appreciated.

### Purpose of the consultation

- 3 The proposed improvements will require a change to the Social Security (Claims and Payments) Regulations 1987(b). The purpose of this consultation is to seek views on the new process and on the proposed change to regulations that will make the process possible.

### Scope of consultation

- 4 This exercise applies to England, Wales and Scotland.

### Duration of the consultation

- 5 The consultation period begins on 1st February 2010 and runs until 12th March 2010.
- 6 The Government Code of Practice on Consultation recommends a minimum 12 week consultation period for public consultations, unless there are good reasons for a limited consultation period. In this case, we have fully considered the need for consultation. We have concluded that a full public consultation is not necessary: these are primarily operational measures designed to enable customers to receive their State Pension more easily and without the need to make a claim for it. No one will be disadvantaged as a result of these measures.
- 7 Furthermore, the process has been designed based on customer feedback and has been tested with customers and evaluated in a pilot phase. In addition, we have used a group of pensioner representatives from the North East Pensioners Association in providing feedback on the proposed future

processes and on the communications we are developing as part of that process. We have also consulted informally with the DWP Policy and Strategy Forum, which contains a wide variety of customer representative organisations, such as Citizens Advice, Local Government Association, and a wide variety of disability, homeless and older peoples' organisations. We have responded to feedback provided, for example, in the information we are providing to customers about Carers' Allowance. Because of the evidence we have that DWP customers are positive about these proposed changes, and because the proposed change in Regulations does not affect individual entitlement to State Pension, we feel that a reduced consultation period of 6 weeks is appropriate on this occasion.

## Consultation arrangements

- 8** Please send your consultation responses to:

Lucinda Baldwin,  
PP50, Phase 2, Peel Park  
Brunel Way, Blackpool, Lancs, FY4 5ES  
Fax 01253 689922  
Email [Lucinda.baldwin@dwp.gsi.gov.uk](mailto:Lucinda.baldwin@dwp.gsi.gov.uk)

- 9** Please ensure your response reaches us by 12<sup>th</sup> March. If responding by e-mail (which we would prefer), there is no need also to send a hard copy. We will acknowledge receipt of all responses.
- 10** In responding, it would be helpful if you would indicate whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents, and where applicable, how the views of members were assembled.
- 11** If you have any queries about the content of this consultation, or would like to receive the consultation document in a particular format, for example, large print, Braille, audio, BSL video/DVD, or Easy Read please contact:

Kim Hewitt-Dean  
PP50 Phase 2 Peel Park  
Brunel Way, Blackpool, Lancs, FY4 5ES  
Fax 01253 689922  
Email [KIM.HEWITT-DEAN1@DWP.GSI.GOV.UK](mailto:KIM.HEWITT-DEAN1@DWP.GSI.GOV.UK)

- 12** We have notified this consultation document to a large number of people and organisations who have already been involved in this work or who have expressed an interest. Please do share this document with, or tell us about, anyone you think will want to be involved in this consultation.

## How we consult

### Freedom of information

- 13 The information you send us may need to be passed to colleagues within the Department for Work and Pensions, published in a summary of responses received and referred to in the published consultation report.
- 14 All information contained in your response, including personal information, may be subject to publication or disclosure if requested under the Freedom of Information Act 2000. By providing personal information for the purposes of the public consultation exercise, it is understood that you consent to its disclosure and publication. If this is not the case, you should limit any personal information provided, or remove it completely. If you want the information in your response to the consultation to be kept confidential, you should explain why as part of your response, although we cannot guarantee to do this.
- 15 To find out more about the general principles of Freedom of Information and how it is applied within DWP, please contact:

Central Freedom of Information Team  
The Adelphi  
1-11, John Adam Street  
London WC2N 6HT

[Freedom-of-information-request@dwpgsi.gov.uk](mailto:Freedom-of-information-request@dwpgsi.gov.uk)

- 16 Please note that the Central Fol team cannot advise on specific consultation exercises, only on Freedom of Information issues. More information about the Freedom of Information Act can be found at <http://www.dwp.gov.uk/freedom-of-information>

### The consultation criteria

- 17 The consultation is being conducted in line with the Government Code of Practice on Consultation – [Government Code of Practice on Consultation](#). The seven consultation criteria are:

**When to Consult.** Formal consultation should take place at a stage when there is scope to influence the outcome.

**Duration of consultation exercises.** Consultations should normally last for at least 12 weeks, with consideration given to longer timescales where feasible and sensible.

**Clarity of scope and impact.** Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence, and the expected costs and benefits of the proposals.

**Accessibility of consultation exercises.** Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is designed to reach.

**The burden of consultation.** Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

**Responsiveness of consultation exercises.** Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

**Capacity to consult.** Officials running consultation exercises should seek guidance in how to run an effective consultation exercise, and share what they have learned from the experience.

## **Feedback on the consultation process**

- 18** We value your feedback on how well we consult. If you have any comments on the process of this consultation, for example, how it could be improved, but not about the issues raised, please contact our Consultation Coordinator:

Roger Pugh  
DWP Consultation Coordinator  
1<sup>st</sup> floor, Crown House  
2, Ferensway  
Hull HU2 8NF

Phone 01482 609571

[roger.pugh@dwp.gsi.gov.uk](mailto:roger.pugh@dwp.gsi.gov.uk)

- 19** We will publish the responses to the consultation by 31<sup>st</sup> March 2010 in a report on the consultations section of our website <http://www.dwp.gov.uk/consultations/>. The report will summarise the responses and the action that we will take as a result of them.

## Background

- 20** In 2010-11 we are expecting over 700,000 claims for State Pension or Pension Credit. Nearly a third of customers approaching the qualifying ages are on a DWP benefit. Currently, we send them an “invitation to claim” State Pension letter (and, where the customer is on Income Support, a separate one for Pension Credit). We require them to complete all of their details, even if we already have all of the information we need to consider their entitlement. Customers then have to telephone us or write to us to make their claim.
- 21** Talking to our customers, we have learned that often they find the current process frustrating. Research through customer interviews in early 2008 showed that customers found the communications received leading up to State Pension age confusing. They also felt that we should not be asking for information they have already sent to us, albeit for another purpose. Likewise, there was confusion about why they needed to claim – one comment was “This is your change, not mine. I’m just a day older!” Overall, there was a clear desire from customers for the movement to pension age benefits to be as seamless and simple as possible.
- 22** Following this, we ran a pilot study in our Motherwell Pension Centre, to trial outbound calling to take State Pension and Pension Credit claims. We also made use of some of the data we already held about these customers, rather than asking for it again. An Ipsos MORI evaluation of the pilot, which ran from October 08 to March 09, showed that the new approach was well-received by customers: “Almost all customers expressed positivity towards the ease of the transition process”.
- 23** Taking into account the strong customer feedback we had received, we felt there was a good case for building on this pilot and changing the way we support existing customers transitioning to pension age benefits in the future.

## Our Vision for the Future

- 24** Firstly, we want to move away from a reactive customer contact process to a more proactive service for existing DWP customers moving to a pension age benefit. From August 2010, we plan to issue tailored pre retirement letters, which reflect the specific circumstances of those customers.
- 25** The new letters will be issued around 3 to 4 months ahead of the customer’s State Pension age. They will tell the customer that we will contact them regarding their State Pension. The letters will also tell them about deferring State Pension and will say that if they wish to put off getting their State Pension (or report additional communication needs – e.g. requiring letters in large print or Braille) they need to contact The Pension Service. There will also be Welsh versions of these letters.

## Working age to pension age service improvements

- 26** The next improvement is targeted at customers who have a choice to make on whether to remain on their working age benefit or take State Pension, e.g. people getting Carer's Allowance and Widows Pension. For these customers, we have had very strong feedback that they do not feel they currently get enough support to make sure that they reach a decision that is best for them and that is based on a sound understanding of the options available. In each and every one of these cases, we will aim to contact the customer to talk them through their options fully and to confirm whether or not they wish to claim their State Pension. By proactively contacting these customers to discuss their options, we will provide the support they need to help them make informed choices; improve upon the customer experience and enable better outcomes for these customers.
- 27** For **all** existing DWP customers, we want to re-use as much as possible of the information we hold about a customer to work out their State Pension award (unless they choose to defer or remain on a different benefit). We will apply rules to this data to confirm it is safe to use and that, where appropriate, we can safely calculate a person's State Pension entitlement.
- 28** All this – tailored letters; proactive contact; re-use of customer data and informed choice conversations – amounts to a significant improvement on the current process. Where we can though, we want to go a step further, and award State Pension without customers necessarily having to make a claim and, in some circumstances, without asking the customer for any more information. We have identified those groups of customers where, because of the information that we can access about them from our systems, we are most likely to be able to calculate State Pension accurately and where they are less likely to want to defer their State Pension. These are customers on benefits that we have called “exempt benefits” – i.e. those where receipt of the benefit means that we may be able to exempt the customer from claiming State Pension. We will look at whether the DWP customer is in receipt of these benefits 8 weeks before they reach their State Pension age.
- 29** We have chosen the 8 week point because it allows enough time for customers to respond to the letter they will have received 3 to 4 months before their State Pension age, if they want to defer their State Pension. It is also the point at which we look at the customer's State Pension entitlement – either automating the calculation where we can, or making further enquiries where needed. 8 weeks provides a good balance for this. It allows enough time to obtain more information by State Pension age, yet not being so far in advance as to increase the scope for changes to occur in the customer's circumstances.

### **Exempt benefits are:**

Employment and Support Allowance;  
Income Support;  
Jobseeker's Allowance;

## Working age to pension age service improvements

Incapacity Benefit (long term);  
State Pension Credit

- 30** We do not intend to try to automate payment of State Pension in *all* cases where a customer is on an exempt benefit. As mentioned at paragraph 26, for some benefits the transition to State Pension age may not be a simple case of one benefit stopping and another starting. In these cases, where the customer has a complex choice to make on reaching State Pension age, we need to make quite sure that they have the information they need and are equipped to make an informed choice on the best course of action for their circumstances. We have called benefits where such a choice is needed “non-exempt benefits”.

### **Non-exempt benefits are:**

Carer’s Allowance;  
Incapacity Benefit (short term);  
Severe Disablement Allowance;  
Widowed Mother’s Allowance;  
Widow’s Pension

- 31** It is only customers who are on one of the “exempt benefits” and are not getting one of the “non-exempt benefits” (at 8 weeks before State Pension age) who will be able to receive their State Pension without making a claim. In all cases where a customer is receiving one of the “non-exempt benefits” we will contact them to make sure that they understand the choices they have and to confirm that they do want to claim State Pension.
- 32** For those customers who are exempt from making a claim to State Pension and where we hold a complete and safe data set we will aim to automate their State Pension and send the customer an award notification. This sets out all the information used to make an award of State Pension for the customer to check. They will only need to respond to us if any of the information on which we have based the award is incorrect.
- 33** Where we are unable to automate a State Pension award and need to get information from the customer, we will phone the customer where we hold a telephone number and ask only for the information we need. Where we do not have a phone number or we cannot get through to the customer on the phone, we will write to them. Once we have the missing information, we will then make the State Pension award, without requiring a claim from the customer.
- 34** We will aim to contact the customer if necessary, and have made the award of State Pension, by 2 weeks before a customer’s State Pension age. Exceptionally, there may be ongoing enquiries after this date. We have designed the proposed change to the regulations in such a way as to make it clear that the two week date is the normal point at which we would expect the award to be resolved, yet still providing flexibility for an award to be made after that date, without a claim. Linked to this, in order to manage customers’

## Working age to pension age service improvements

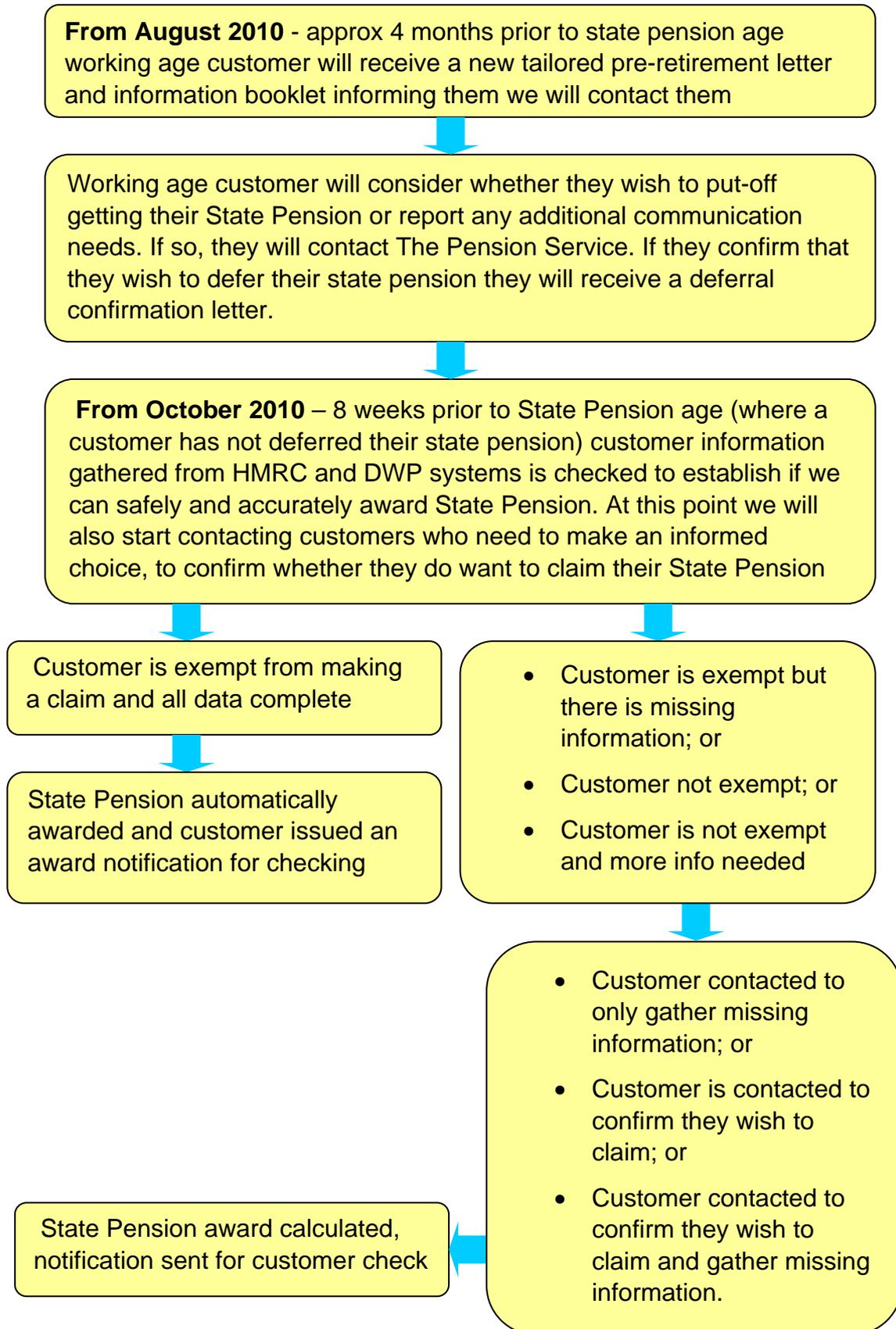
expectations and to minimise unnecessary concern and chase-up contacts from customers, the initial letter we send 3 – 4 months ahead of State Pension age will tell customers that we will be contacting them and that they will only need to contact us if they have not heard anything by 2 weeks before their State Pension age (unless, of course, they wish to defer their State Pension, in which case we ask them to contact us without delay).

- 35** Inherently, the fact that we will be requiring a claim in some circumstances and not in others could cause confusion. Initial feedback on our policy approach suggested we needed to provide greater clarity to our customers. We have therefore built into the draft regulations that, where a customer does *not* need to make a claim, we will write and tell them. We will include this in the award notice. In all cases where we *do* need a claim from the customer we will also make this clear. For example, if we need them to make a claim and we contact them by phone, we will take that claim as part of that conversation. Where we need a claim and have been unable to speak to the customer, for example they do not have a telephone number, and they have not responded to letters, we will write to them and let them know that if they do want their State Pension in the future they will need to contact us to make a claim.
- 36** Where a customer chooses to defer their State Pension, they will need to make a claim once they do want to start claiming their State Pension. Again, we have made this clear in the proposed changes to the regulations.
- 37** The proposals for amending the regulations are provided at Annex A, together with a plain-English synopsis at Annex B. If you need any further information, or have any questions about the changes, ahead of responding to the consultation, please contact Kim Hewitt-Dean – contact details are provided at paragraph 11.

## The Customer Journey

- 38** The following diagram gives a summary of the customer journey through the new process:

## Working age to pension age service improvements



## Further Service Improvements

**39** As well as improving our service to existing DWP customers moving onto State Pension, we are also looking at ways we can improve our service to existing customers who reach the qualifying age for Pension Credit. We will start by proactively contacting customers who are on means tested benefits which are due to cease, to see if they would like to apply for Pension Credit. Later, we will look at the feasibility of re-using data we hold on working age claims rather than having to re-capture it for Pension Credit. No legislative changes will be needed for these improvements as we are not planning to remove the requirement to make a claim.

## Proposed Amendment to Regulations

**40** The proposed legislative changes needed to pay State Pension without a claim are set out in the draft amendments to the Social Security (Claims and Payments) Regulations 1987(b), provided in Annex A, with a supporting synopsis at Annex B.

## Questions

**41** We welcome all comments and suggestions about the proposals set out in this consultation document. In particular, we would be keen to hear your views on the following questions:

- Are there likely to be any customer concerns about the new process? – If so, what might there be?
- In what ways might we be able to further improve the process?
- Is the shift towards making proactive, outbound contact with customers about their State Pension a welcome one?
- Where we contact customers to obtain more information, how best can we reassure them that we are from DWP?
- Are there any other groups of customers who may benefit from tailored communications or handling, such as the customers we have identified who we will offer informed choice discussions?

# Annex A – Draft regulations

**2010 No.**

**SOCIAL SECURITY**

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

*Made* - - - - - \*\*\*  
*Laid before Parliament* \*\*\*  
*Coming into force* - - - - - 26th October 2010

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

[In accordance with section 173(1)(b) of the Social Security Administration Act 1992, the Secretary of State has obtained the agreement of the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it.]

[In accordance with section 172(1) of the Social Security Administration Act 1992, the Secretary of State has referred these Regulations to the Social Security Advisory Committee.]

**Citation and commencement**

1. These Regulations may be cited as the Social Security (Exemption from Claiming Retirement Pension) Regulations 2010 and come into force on 26th October 2010.

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

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

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

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

(3) After regulation 3 insert—

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(a) 1992 c. 5. Section 189(1) and (4) to (6) were amended by paragraph 109(a) and (c) to (e) of Schedule 7 and Schedule 8 to the Social Security Act 1998 (c.14), paragraph 57(1) and (2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2), and Schedule 6 to the Tax Credits Act 2002 (c.21). Section 191 is an interpretation provision and is cited for the meaning of the word “prescribe”. The definition of “prescribe” was amended by paragraphs 2 and 10 of Schedule 5 to the Welfare Reform Act 2007 (c.5).

(b) S.I. 1987/1968.

(c) Regulation 3 was amended by S.I. 1989/136, 1990/2208, 1996/1460, 1999/2556, 1999/3178, 2000/1483, 2001/488, 2003/1589, 2005/1551, 2007/2470, 2008/441, 2008/1554, 2008/2667 and 2009/1490.

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

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

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

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

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

- (a) is in receipt of an exempt benefit or, in the case of a jobseeker’s allowance, would be in receipt of that allowance but for the application of section 19 (circumstances in which a jobseeker’s allowance is not payable) or 20A (denial or reduction of joint-claim jobseeker’s allowance) of the Jobseekers Act 1995(a); and
- (b) is neither entitled to, nor awaiting the determination of a claim for, a non-exempt benefit.

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

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

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

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

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

(6) For the purposes of this regulation—

“exempt benefit” means any of the following—

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

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

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(a) 1995 c. 18. Section 19 was amended by paragraph 67(1) and (2)(b) of Schedule 1 to the Employment Rights Act 1996 (c.18), paragraph 141(1) and (2) of Schedule 7 to the Social Security Act 1998 (c.14) and paragraphs 1 and 12 of Schedule 7 to the Welfare Reform and Pensions Act 1999 (c.30). Section 20A was inserted by paragraphs 1 and 13 of Schedule 7 to the Welfare Reform and Pensions Act 1999.

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

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

- (a) carer's allowance;
- (b) short-term incapacity benefit;
- (c) severe disablement allowance;
- (d) widowed mother's allowance;
- (e) widow's pension."

Signatory text

Address	<i>Name</i>
Date	Parliamentary Under Secretary of State Department

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

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

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

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

- (a) in receipt of an employment and support allowance, income support, a jobseeker's allowance, long-term incapacity benefit or state pension credit; and
- (b) not entitled to, or awaiting the determination of a claim for, carer's allowance, short-term incapacity benefit, severe disablement allowance, widowed mother's allowance, or widow's pension.

Pensionable age is currently 65 for men and 60 for women. From 2010 women's pensionable age will start to increase gradually to 65 so that by 2020 it will be the same as for men.

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

## **Annex B – Synopsis of draft regulations**

## Synopsis of the Draft Regulations

### **Regulation 3A(1)**

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

1. The Department recognises that there must be clear, unambiguous rules for those reaching state pension age about how and when they will become entitled to it so that they are in no doubt as to what they must do, or can afford not to do, at pension age. At present there is a general rule, subject to some discrete exceptions, that anyone wishing to receive a State Pension must claim it. The current proposal creates a wider exemption to this claim requirement. The goal of these changes is to improve customer service and Departmental administrative efficiency by removing unnecessary bureaucracy where it is safe to do so.
2. The consequence of these proposals will be that a large percentage of those on working age benefits will be awarded State Pension without having to claim it. Some, however, will still need to make a claim. Those who wish to receive their State Pension must know whether they have to make a claim for it or whether they can simply await their first payment of benefit. In turn those who wish to defer entitlement must know whether they can do so by doing nothing, or whether they must take some kind of action to avoid receiving a pension they do not want as yet.
3. It has therefore been written into the legislation that those who are exempt from having to make a claim for State Pension will receive a specific notification to that effect from the Department. The corollary of that statement is that anyone who does not receive such a notification must make a claim for State Pension as a condition of entitlement.

### **Regulation 3A(2)(a)**

**3A.—(2)** *The day referred to in paragraph (1) is—*

*(a) the day which falls 2 weeks before the day on which the beneficiary reaches pensionable age, or*

4. Regulation 15(1) of the Claims and Payments Regulations enables the Secretary of State to accept a claim for State Pension made within 4 months of a date on which the individual will, all things being equal, become entitled and then make an award on that claim. The practical effect of that provision is that anyone approaching pension age can submit a claim in advance. The aim is to provide some leeway so that the claim can be determined ahead of time and the award put in place in readiness for the actual start of entitlement. Regulation 15(1) is a provision which aids administration and which normally operates to the benefit of customer and Department alike.

5. The Department will continue to use the period in advance of the individual reaching pension age to access what information is to hand, and to obtain any “missing” information where possible. Where the person is in an eligible category and where all the information is in place to determine entitlement, an award will be made. If there is a gap in the information available to the Secretary of State, the Department will endeavour to contact the customer to obtain it. If the customer cannot be contacted or if the information cannot be obtained, no award will be made. A letter will however be sent to the customer at the address held by the Department to explain that we have not been able to make an award and that the onus is therefore upon them to make a claim in the normal manner. From the legislative point of view, the individual will not have been notified that no claim is required, and therefore should know that they are not exempt from the burden of making a claim.

6. In the vast majority of cases the Department will be in a position to know whether an award can be made without a claim by two weeks before pension age has been reached. Where an award can be so made, the customer will usually be notified that they do not need to claim well before the two week point has been reached.

7. Where an award is made and a decision notice issued, the wording of the form will make it clear that it is also a formal notification that a claim is not required for the purposes of regulation 3A of the Claims and Payments Regulations.

8. It should be noted that if the Secretary of State is unable to make an award there is, in law, no appealable decision to be made. The letter to the customer will simply advise them that an award has not been made and that, if the individual wishes to take their State Pension, they will need to make a claim for it in the normal way. It will not advise them that they have a right of appeal.

**Regulation 3A(2)(b)**

**3A.—(2)***The day referred to in paragraph (1) is—*

*(a) .....; or*

*(b) such later day as the Secretary of State may consider reasonable in any particular case.*

9. It is recognised that in practice there may be some cases at the two week stage where the process of information-gathering is on-going. In such cases, and especially where the information is likely to be furnished very soon, it would appear to be arbitrary and counter-productive to tell an individual that, because a certain date has been passed, the onus for making a claim has been resurrected. For that reason, a discretion has been given to the Secretary of State to allow for the possibility of making an award of benefit, without first requiring a claim, beyond the two-week point.

10. The intention of the Secretary of State is that this particular discretion will only be exercised where the process of information-gathering has begun. In other words there will be a live connection between the Department and the customer, so that the person concerned will be aware as to what is required of them in order to enable an award to be made.

11. It follows from this that anyone who, at a stage two weeks before they reach pension age, has received no communication from the Department, must know that they cannot rely on the Secretary of State awarding them their State Pension automatically. They will know that unless there are exceptional circumstances which will warrant the operation of the discretion of the Secretary of State, they will need to make a claim in order to trigger entitlement.

### **Regulation 3A(3)(a)**

- (2) *The Secretary of State may give such a notification in any case where, on the day which falls 8 weeks before the day on which the beneficiary reaches pensionable age, the beneficiary—*
- (a) *is in receipt of an exempt benefit or, in the case of a jobseeker's allowance, would be in receipt of that allowance but for the application of section 19 (circumstances in which a jobseeker's allowance is not payable) or 20A (denial or reduction of joint-claim jobseeker's allowance) of the Jobseekers Act 1995;*

12. The Department plans to conduct a scan of all current cases where a working age benefit is in payment and identify those cases where the beneficiary is approaching pension age. Specifically the date which falls 8 weeks before pension age is reached has been considered to offer the optimum time – sufficient time in which to enable the Secretary of State to make an award where that is possible; yet not so far in advance as to increase the scope for changes of circumstances to occur.

13. The 8-week scan will separate out those cases where there is a potential for a claim-less award to be made, and those cases where there can be no exemption and the obligation to make a claim continues to apply.

14. The Secretary of State may only notify the customer that they do not have to make a claim for state pension if, at the 8-week point, the beneficiary is in receipt of an exempt benefit. Benefits which qualify as an “exempt benefit” are set out in regulation 3A(6) which appears as follows -

### **Regulation 3A(6) – exempt benefit**

- (6) *For the purposes of this regulation—*  
*“exempt benefit” means any of the following—*
- (a) *an employment and support allowance;*  
(b) *income support;*  
(c) *a jobseeker's allowance;*  
(d) *long-term incapacity benefit;*  
(e) *state pension credit;*

15. The Department has identified these 5 working age benefits, receipt of any of which should normally provide the Secretary of State with sufficient information to enable an award of State Pension to be made without a claim. In many of those cases the information will also be sufficient to enable the Department to make the award without seeking further information from the customer.

16. The Secretary of State may also notify a customer that they do not have to make a claim for State Pension where, at the 8-week stage, they are not in receipt of an exempt benefit, if they would be in receipt of a Jobseeker's Allowance but for the fact that they have breached one of the labour market conditions and therefore have had their JSA payment stopped as a sanction. Sections 19 and 20A of the Jobseekers Act makes provision for imposing a sanction in the case of those who, for example, without good cause fail to carry out a jobseeker's direction or who leave work voluntarily. Section 19 deals with individual claimants, and section 20A makes similar provision for members of joint-claim couples.

17. Whilst the action, or a failure to act, on the part of the beneficiary may be relevant for determining whether JSA, to which they are entitled, is payable, it is entirely irrelevant for the purposes of determining entitlement to State Pension. For the purposes therefore of considering whether an award of State Pension should be made without imposing the condition of making a claim, the Secretary of State will normally need to be satisfied that JSA would be in payment were it not for the imposition of a benefit sanction which denies payment of JSA in its entirety.

18. It should be noted that the test is whether the person is in receipt of an exempt benefit rather than entitled to it. This is deliberate. A person may be entitled to an exempt benefit but not in receipt of it because, for example, they are disqualified for receipt of it because they are a prisoner or are being held in legal custody for the purposes of section 113(1)(b) of the Social Security Contributions and Benefits Act 1992. In such circumstances the Department would want that person to make a claim for State Pension. Similarly, the Secretary of State may have suspended payment of an exempt benefit because entitlement may be in doubt. In those circumstances entitlement continues, but there is no ongoing payment of benefit until the doubt is resolved. Again, the Department would require a claim in these circumstances.

19. It is envisaged that the Secretary of State will exercise her discretion in the giving of a notification by doing so in all cases where a person is both in receipt of an exempt benefit and not entitled to a non-exempt benefit, and the Secretary of State has all of the information needed to determine the award without a claim. At this stage we can also say that the Secretary of State intends to continue to impose the obligation to make a claim in all cases where a person is of no fixed abode. To do otherwise would, in the view of the Department, create

unnecessary risks in terms of errors and overpayments and would also raise security and data protection issues.

20. The requirement to be “in receipt of” is qualified by a further provision at regulation 3A(3)(b).

**Regulation 3A(3)(b)**

(2) *The Secretary of State may ..... the beneficiary—*

(a) *.....; and*

(b) *is neither entitled to, nor awaiting the determination of a claim for, a non-exempt benefit.*

21. In addition to the requirement that the beneficiary must be in receipt of an exempt benefit, the Secretary of State may only give a notification that no claim is required where the beneficiary is also neither entitled to, nor awaiting the outcome of a claim for, certain other benefits, termed in the legislation a “non-exempt benefit”.

22. To give an example as to how this might work, a person who is already getting JSA at the 8-week point is ‘in the frame’ for being awarded State Pension without having to make a claim for it. However someone already entitled to a carer’s allowance, for example, is ‘outside the frame’. Anyone entitled at the 8-week stage to a non-exempt benefit such as carer’s allowance therefore will need to make a claim for State Pension, regardless of what other benefits they may be getting and regardless of the extent of the information already held by DWP on them.

23. The non-exempt benefits are set out in regulation 3A(5) as follows -

**Regulation 3A(6) – non-exempt benefit**

(5) *For the purposes of this regulation—  
“non exempt benefit” means any of the following—*

- (a) *carer’s allowance;*
- (b) *short-term incapacity benefit;*
- (c) *severe disablement allowance;*
- (d) *widowed mother’s allowance;*
- (e) *widow’s pension.*

24. The reason for this second condition is that entitlement to certain DWP benefits leads to complex issues having to be considered individually at the point at which state pension age is reached. Anyone entitled to a non-exempt benefit needs to be aware of the relevant issues which apply in their case should State Pension be awarded. The Secretary of State considers that the best way of ensuring that such individual consideration is given is to require the person concerned to make a claim for State Pension.

25. It should be noted that the test for a “non-exempt benefit” is different. Rather than being “in receipt of” the test is one of entitlement. Entitlement includes those who are not in receipt of benefit.

**Regulation 3A(3)(a)**

*(3) Receipt of a notification under paragraph (1) does not remove the requirement that a beneficiary who—*

*(a) before reaching pensionable age, informs the Secretary of State that they want their entitlement to a Category A or B retirement pension to be deferred in accordance with section 55(3)(a) of the Contributions and Benefits Act; or*

*(b) ...*

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

26. Regulation 3A(3)(a) is self-evidently necessary. The Department wishes to protect the wishes of those who want to defer entitlement to State Pension. Under the current legislation they need do nothing. Indeed the person who is unaware of the need to claim is in exactly the same position as the one who takes a deliberate decision to delay taking their State Pension so as to build up increments or a lump sum. Under the proposed legislation however, it will be necessary that anyone within the target group of those who may receive a claimless award notify the Secretary of State that they wish to defer. The paragraph also puts it beyond doubt that where a person chooses to defer, in circumstances where they may have already been awarded State Pension and advised that they need not make a claim, they cannot subsequently rely on this notification and insist that the Secretary of State awards benefit from the date state pension age was reached, or from any other date. They will have to make a claim in order to trigger entitlement.

27. It should be noted that four months before reaching pension age people will receive a notification from the Department advising them that if they wish to defer entitlement to State Pension they (1) ought to contact the Department without delay and (2) will need to make a claim at, or just before, the point at which they want that entitlement to begin.

28. It should however be borne in mind that, in the large majority of cases, anyone who is already in receipt of a DWP benefit is unlikely to be in a position to benefit from deferring entitlement to their State Pension. Deferring is an option that will typically be considered by someone continuing in remunerative work or who has an independent source of income. Anyone already reliant upon a DWP benefit will almost certainly need their State Pension when they reach state pension age.

**Regulation 3A(4)(b)**

*(3) Receipt of a notification under paragraph (1) does not remove the requirement that a beneficiary who—*

*(a) .....; or*

*(b) after reaching pensionable age, has elected to be treated as not having become entitled to either a Category A or Category B retirement pension in accordance with regulation 2 of the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1979,*

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

29. This provision is concerned with those who receive a notification that no claim is required and are accordingly awarded State Pension from the date they meet the other entitlement conditions (i.e. from the date they reach pensionable age), but who then decide to de-retire in accordance with regulation 2 of the Widow's Benefit and Retirement Pensions Regulations 1979. The provision makes it clear that anyone who has taken the option afforded by regulation 2 of those Regulations will, at the stage at which they do wish to take their State Pension, have to make a claim in the normal way.

30. Regulation 3A(4) is therefore a provision which ensures that where someone wishes their State Pension to begin after they have reached state pension age, they do so by making a claim expressing their preferred start date.

**Regulation 3A(5)**

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

*(a) has been awarded such a benefit on, or before, the day which falls 8 weeks before the day on which the beneficiary reaches pensionable age; and*

*(b) has not yet received the first payment of benefit.*

31. Regulation 3A(5) clarifies what is meant by “in receipt of” for the purposes of defining the category of people who may be awarded State Pension without having to make a claim. The Department does not wish to exclude from the scope of that category anyone who would be getting an exempt benefit at the 8-week stage were it not for a delay in making the first payment, either because of administrative reasons or because of existing statutory rules about pay-days and periodicity of payments. For that reason any interpretation of the words “in receipt of” is to include those who are entitled to benefit at the critical date but who are awaiting the first payment of benefit.