

Annex 1

Retirement Pension frozen rates pre-1.10.89

Category A Retirement Pension on own insurance only

Person outside Great Britain at date of award

- 1 Category A Retirement Pension is paid at the rate in force on the first date of **entitlement**. To be entitled to Retirement Pension a person must
 1. give notice of retirement **and**
 2. claim
- 2 The rate of Retirement Pension is increased by the uprating before the accepted date of retirement or date of entitlement where that person
 1. gives late notice of retirement **or**
 2. claims late

Previously entitled to Category B Retirement Pension

- 3 Usually a person may become entitled to Category A Retirement Pension having been entitled to Category B Retirement Pension from an earlier date. This may happen where a woman entitled to Category B Retirement Pension as a widow later retires and becomes entitled to Category A Retirement Pension.
- 4 Where this happens the rate of Category A Retirement Pension is restricted to the rate at the date of entitlement to Category B Retirement Pension¹.

1 SS Ben (PA) Regs, reg 5(3)(c)

Substituted Category A Retirement Pension

- 5 There is **no restriction** to any uprating Order before that current at entitlement where at the date on which entitlement to Category A Retirement Pension using substituted arises
1. the former spouse has neither died nor retired nor been deemed to have retired before 1.1.89 **or**
 2. the former spouse has retired or been deemed to have retired before 1.10.89 but was then and at the last uprating date continued to be ordinarily resident in Great Britain.
- 6 The **only exception** to this is where a woman not ordinarily resident in Great Britain is receiving a Category B Retirement Pension on her husband's contributions at the date of divorce. In this case Category A Retirement Pension using substitution will be restricted to the rate in force at the date of **her entitlement** to Category B Retirement Pension.

Widow not entitled to Widow's Benefit

- 7 The rate of substituted Category A Retirement Pension is restricted in the same way as personal Category A Retirement Pension (paragraph 1) where the widow is not entitled to Widow's Benefit before pension age (paragraph 11).

Widows entitled to Widow's Benefit at pensionable age, widowers, divorced

Men and women

- 8 The rate of substituted Category A Retirement Pension is restricted to the **earlier** of
1. the date of retirement (including deemed retirement) of the former spouse if he or she was then not ordinarily resident in Great Britain **or**
 2. the date on which the former spouse ceased to be ordinarily resident in Great Britain subsequent to the date of retirement **or**
 3. the date of death of the former spouse **or**
 4. the date of entitlement to any Category B Retirement Pension.

Previously entitled to Category A Retirement Pension

9 Where after reaching Pension age and becoming entitled to Category A Retirement Pension at less than the standard rate a man is widowed, or a man or woman is divorced, the substituted Category A Retirement Pension is restricted to the rate payable at the earlier of

1. any date for restriction identified under paragraph 8 **or**
2. the date of entitlement to Category A Retirement Pension without substitution¹.

1 SS Ben (PA) Regs, reg. 5(3)(c)

10 Substituting contributions gives grounds for reviewing the existing award of Category A Retirement Pension. Therefore the date that the Retirement Pension is restricted to cannot be later than original date of entitlement to Retirement Pension.

Topped up Category A Retirement Pension

- 11 A person is entitled to a composite Category A Retirement Pension (topped up) where, but for the provisions preventing dual entitlement, that person is entitled to both Category A and Category B Retirement Pension.

Basic pension

- 12 Where because of contributions deficiency the rate of Category A Retirement Pension is less than the standard rate¹, the amount of basic pension can be increased by the **lesser** of

1. the amount it falls short of the standard amount¹ **or**
2. the Category B Retirement Pension².

1 SS CB Act 92, sec 44(3)(a); 2 sec 52(2)

- 13 Where the surviving spouse is not ordinarily resident in Great Britain the amount of the top up is restricted to the rate in force at the **later** of

1. the surviving spouse's date of retirement **or**
2. the date on which he or she was last ordinarily resident in Great Britain¹.

1 SS Ben (PA) Regs, reg 4(3)

- 14 In some cases this may mean that no composite pension can be awarded. This is because the Category A Retirement Pension is equal to or greater than the standard Category A Retirement Pension at the date of retirement. This may occur, for example, where a person makes a late claim some time after deemed retirement age and therefore is awarded the Category A Retirement Pension rate current at the date of entitlement.

Married women

- 15 Category A Retirement Pension paid to a married woman can be "topped up" where

1. she is not entitled to full rate Category A Retirement Pension **and**
2. her rate of Category A is **less** than the standard rate of married woman's Category B.

- 16 The rate of Category A is increased by the lower of the amount

1. that the person's Category A Retirement Pension is below the standard rate of Category B Retirement Pension **or**
2. of her rate Category B Retirement Pension.

17 Where a married woman is not ordinarily resident in Great Britain the amount of the “top up” is restricted to the rate in force at the **later** of

1. her date of retirement **or**
2. the date on which she was last ordinarily resident in Great Britain¹

1 SS Ben (PA) Regs, reg 4(3)

Total rate of topped up category A Retirement Pension

18 The total Category A Retirement Pension cannot be more than the standard rate of Retirement Pension at the **later** of

1. the date of retirement **or**
2. the date on which the claimant ceased to be ordinarily resident in Great Britain.

19 Where unusually a married woman is entitled to Category B Retirement Pension **before** Category A Retirement Pension

1. the total of “topped up” Category A cannot be more than the rate in force when she retired **and**
2. the “top up” is restricted to the rate in force when her husband retired.

Composite pension is made up of Category A at 1988 rates plus Category B at 1987 rates but cannot exceed the standard Category B Retirement Pension in the 1988 uprating.

20 The rate of composite basic pension is restricted only by the standard rate of Category A Retirement Pension then in force where

1. a widow is entitled to Category B Retirement Pension without having retired¹ **and**
2. she later becomes entitled to composite Retirement Pension.

1 SS CB Act 92, 49(4)

21 This is because in her case the date of retirement coincides with the date of the later entitlement. If the date of her entitlement to Category A Retirement Pension is later than the date of her retirement, the composite pension remains restricted to that in force at the date of her entitlement to Category A Retirement Pension if later than the date of her retirement, the composite pension remains restricted to that in force at the date of her retirement. In either case the amount of

1. Category B Retirement Pension used in the calculation remains restricted to the rate in force at the date of widowhood **and**
2. Category A Retirement Pension is restricted to the rate in force at the date of widowhood or, if later, the date of entitlement to Category B Retirement Pension.

Entitled to Category A and Category B at same date

- 22 Where a surviving spouse or married woman is entitled to both Category A Retirement Pension and Category B Retirement Pension from the same date the
1. total rate of "topped up" Category A is restricted to the rate in force at the date of retirement **and**
 2. the Category B "topped up" is restricted to the rate in force when the spouse retired.

Topped up additional pension

General

23 Where the surviving spouse is not entitled to the maximum rate of additional pension¹ the rate of additional pension can be increased by the **lower** of

1. the amount by which it falls short of the maximum **or**
2. the additional pension included in the Category B Retirement Pension².

1 SS (additional pension) Regs, reg 2; 2 SS CB Act 92, 52(3)

Survivor over pension age

24 The rate of additional pension is restricted as set out in paragraph 25 where at the date of the spouse's death the surviving spouse was

1. over pension age **and**
2. **not** ordinarily resident in Great Britain.

25 Where paragraph 24 applies the topping up additional pension cannot be more than the amount needed to increase the rate of additional pension to the maximum rate of additional pension at the **later** of

1. the date the surviving spouse was last ordinarily resident in Great Britain **or**
2. 6.4.79¹.

1 SS Ben (PA) Regs, reg 4(4)

Woman widowed under age 60

26 The restricted on the topped up of additional pension in paragraph 25 does **not** apply where a woman is widowed under age 60.

The topped up additional pension is restricted to the maximum at the date of her entitlement to Category A Retirement Pension.

Graduated Retirement Benefit

Own graduated Retirement Benefit

27 Graduated Retirement Benefit payable on a person's own insurance is restricted to the rate in force at the **later** of

1. the date of entitlement to Retirement Pension **or**
2. the date on which the person ceased to be ordinarily resident in Great Britain.

28 This means that in some cases the graduated Retirement Benefit will be payable under a later Up-rating Order than the Retirement Pension of which it has become an increase. The position on this is as follows

- graduated Retirement Benefit with Category A Retirement Pension is restricted to the rate in force at the **later** of the date of entitlement to Category A Retirement Pension **or** the date ordinary residence in Great Britain ceased.

Accordingly graduated Retirement Benefit is restricted to the **same** date as Category A Retirement Pension (paragraph 1) **except** in the case of a widow entitled to Category B Retirement Pension from an earlier date (paragraph 3).

- graduated Retirement Benefit with Category B entitlement of a married woman is restricted to the rate in force at the later of the date of her entitlement to Category B Retirement Pension on her husband's contributions or the date by which both she and her husband had ceased to be ordinarily resident in Great Britain.

Accordingly graduated Retirement Benefit may be restricted to the rate under a **later** up-rating order than that which applies to the Category B Retirement Pension (paragraph 33).

- graduated Retirement Benefit with Category B entitlement of a widower or a widow who was entitled to a Category B Retirement Pension as a married woman is restricted to the **later** of the date of widowhood or the date of entitlement to Category B Retirement Pension on the deceased spouse's contributions or the date on which the surviving spouse ceased to be ordinarily resident in Great Britain.

Accordingly where the appropriate date is **the date** of entitlement to Category B Retirement Pension on the deceased spouse's contributions and before that date, one or more up-rating orders have come into effect since the date of widowhood, graduated Retirement Benefit will be restricted to the rate under a **later** up-rating order than that which applies to the Category B Retirement Pension (paragraph 45 and 52). This will also be the case where immediately before age 60 a widow was in

receipt of Widow's Pension following the death of a husband who had retired or was entitled to Category A Retirement Pension (paragraph 43).

- 29 Where graduated Retirement Benefit has already been restricted with Category B as a married woman (paragraph 42 2.), it is restricted to the same date on widowhood.

Inherited graduated Retirement Benefit

- 30 The surviving spouse is entitled to ("inherits") $\frac{1}{2}$ the graduated Retirement Benefit that the late spouse was or would have been entitled to at the date of death¹.

1 SS (graduated Retirement Benefit) (No 2) Regs, Sch 1, sec 37(1)

- 31 Where the surviving spouse becomes entitled to inherited graduated Retirement Benefit from a date later than the spouse's date of death the rate of graduated Retirement Benefit is $\frac{1}{2}$ of
1. the amount of graduated Retirement Benefit that the spouse was or would have been entitled to
 2. increased by any upratings between the date of death and the date of the survivor's entitlement to graduated Retirement Benefit.
- 32 Once awarded the inherited graduated Retirement Benefit is restricted to the rate in force at the date of entitlement (paragraph 27).

Category B Retirement Pension

Married woman - before 1.10.89

33 Where a husband and wife are not ordinarily resident in Great Britain and were married before the date of his retirement or deemed retirement, the Category B Retirement Pension to be awarded to her is restricted to the rate in force at the later of

- the date on which her husband retired or was deemed retired **or**
- the date on which he ceased to be ordinarily resident in Great Britain **or**
- the date on which she ceased to be ordinarily resident in Great Britain¹.

1 SS Ben (PA) Regs, reg 5(3)(a) & (c)

34 The rate of Category B is still restricted to the dates set out in paragraph 33 where she is

- also entitled to Category A Retirement Pension¹ **or**
- retires earlier on the same date or later than he does² (but see paragraph 35).

1 reg 5(7); 2 reg 5(3) & (c)

35 Where paragraph 36 applies the rate of Category B Retirement Pension is restricted to the rate in force at the **later** of the date

- she is entitled to Category B Retirement Pension¹ **or**
- her husband ceased to be ordinarily resident in Great Britain **or**
- she ceased to be ordinarily resident in Great Britain.

1 SS Ben (PA) Regs, reg 5(3)(c)

36 The rate of Category B is restricted as in paragraph 35 where a woman

- retired or was deemed retired before the date of her husband's retirement or deemed retirement **and**
- claims too late to establish title to Category B Retirement Pension from the date of his retirement or deemed retirement **and**
- is not entitled to Category A Retirement Pension from any date before her Category B Retirement Pension entitled begins.

Married after his date of retirement

37 Where a husband and wife are not ordinarily resident in Great Britain and **marry after** the date of his retirement or deemed retirement, Category B Retirement Pension is restricted to the rate at the **later** of

- the date of their marriage **or**
- the date on which he ceased to be ordinarily resident in Great Britain **or**
- the date on which she ceased to be ordinarily resident in Great Britain¹.

1 reg 5(3)(a) & (c)

38 Where a woman

- retired or was deemed retired before the date of marriage **and**
- claims too late to establish title to Category B Retirement Pension from the date of marriage **and**
- is not entitled to Category A Retirement Pension from any date before her Category B Retirement Pension entitlement begins the Category B Retirement Pension to be awarded to her is restricted to the rate prescribed at the later of
- the date from which she is entitled to Category B Retirement Pension¹ **or**
- the date on which her husband ceased to be ordinarily resident in Great Britain **or**
- the date on which she ceased to be ordinarily resident in Great Britain.

1 SS Ben (PA) Regs, reg 5(3)(c)

She is entitled to Category A before marriage

39 If both husband and wife are retired or deemed retired **before** the date of their marriage and she is entitled to Category A Retirement Pension, Category B is restricted to the rate set out at the **later** of

- if she retires or is deemed retired on an earlier date than his retirement or deemed retirement, the date on which her husband retired or was deemed retired¹ **or**
- if her retirement or deemed retirement is on the **same** or a **later** date than his retirement or deemed retirement, the date of her entitlement to Category A Retirement Pension (provided this is not later than the date of marriage)² **or**
- the date on which he ceased to be ordinarily resident in Great Britain **or**
- the date on which she ceased to be ordinarily resident in Great Britain.

1 reg 5(3)(c) & (7); 2 reg 5(3)(c)

Husband ordinarily resident in Great Britain

40 The rate of Category B is restricted to the rate in force at the date she becomes entitled where

- her husband **is** ordinarily resident in Great Britain **and**
- she is **not** ordinarily resident in Great Britain¹.

1 SS Ben (PA) Regs, reg 5(3)(c)

Category B Retirement Pension - widows/ widowers

Introduction

- 41 The restriction on the rate of Category B paid to widows or widowers depends upon whether the person was
- widowed **under** pension age (paragraph 43)
 - widowed **over** pension age (paragraph 45) **or**
 - entitled to Retirement Pension before their spouse died (paragraph 47-48).

Woman widowed under pension age

- 42 The rate of Category B is restricted to the same uprating as her Widow's Benefit where she was entitled (or treated as entitled) to Widow's Benefit immediately before age 60. The rate of Widow's Benefit is restricted to the **earlier** of
- the date her husband died
 - the date he became entitled to Category A Retirement Pension¹ **or**
 - if she was ordinarily resident in Great Britain on the earlier of those dates, the date she stopped being ordinarily resident in Great Britain.

1 SS Ben (PA) Regs, reg 5(3)(d)

- 43 Once awarded the Category B Retirement Pension remains frozen whilst she continues to reside outside Great Britain¹.

1 SS Ben (PA) Regs, reg 5(3)(b)

Widowed over pension age

Not entitled to Retirement Pension when spouse died

- 44 Except where paragraph 65 applies, where a man or woman, not previously entitled to Retirement Pension, is widowed over pension age the rate of Category B is restricted to the **later** of
- the date he or she was last ordinarily resident in Great Britain **or**
 - the date their spouse died¹.

1 sec 5(3)(b)

- 45 Where the only reason that a woman is not entitled to Category B is because no claim has been made, the rate of Category B is restricted to the **later** of
- the date she ceased to be ordinarily resident in Great Britain **or**
 - the date to which her Category B Retirement Pension as a married woman would have been restricted.

Man entitled to Category A Retirement Pension from an earlier date

- 46 Where a man widowed after reaching pensionable age becomes entitled to a Category B Retirement Pension, the rate of Category B is restricted to that in force at
- if his wife retired or was deemed retired before the date of his entitlement to Category A Retirement Pension, the date of his entitlement to Category A Retirement Pension¹ or
 - in any other case, the earlier of either his wife's retirement or deemed retirement² or the date of widowhood³ or
 - if later than the above dates the date on which he ceased to be ordinarily resident in Great Britain.

1 SS Ben (PA) Regs, reg 5(3)(c); 2 reg 5(7); 3 reg 5(3)(b)

Woman already entitled to Category A or B Retirement Pension

- 47 Where a woman is widowed after pension age the restrictions on the rate of Category B Retirement Pension depends upon whether she was already entitled to
- personal Category A Retirement Pension (paragraph 49) or
 - Category B Retirement Pension as a married woman (paragraph 50).
- 48 Where a widow was entitled to Category A Retirement Pension and she had not retired or been deemed retired, the rate of her Retirement Pension Category A is restricted to the later of
- the date her husband died or
 - the date on which the claimant ceased to be ordinarily resident in Great Britain¹.

1 reg5 (3)(b) &(7)

49 Where a woman was entitled to married woman's Category B Retirement Pension (paragraph 51) when her husband died, the rate of Category B is restricted to the **later of**

- the uprating that her married woman's Category B was restricted to **or**
- the date on which she ceased to be ordinarily resident in Great Britain¹.

1 SS Ben (PA) Regs, reg 5(3)(b) & (7)

50 The restriction in paragraph 50 applies

- whether or not she was entitled to Category A Retirement Pension before her husband died
- where she was entitled to Category B Retirement Pension but it was not being paid because she was receiving Category A Retirement Pension **and**
- whether she was not entitled to Category B Retirement Pension but would have been entitled had a claim been made.

51 Where a woman widowed after reaching pensionable age

- is entitled to Category B Retirement Pension from date before 1.10.89 **and**
- retired or was deemed retired before her husband retired or was deemed retired **and**
- was not in receipt of a Category A Retirement Pension **and**
- fails to claim Category B Retirement Pension in time to secure entitlement for any period before widowhood

the Category B Retirement Pension to be awarded is restricted to the rate prescribed in the later of

- the date of widowhood¹ **or**
- the date on which she ceased to be ordinarily resident in Great Britain.

1 reg 5(3)(b)

Increments

Category A Retirement Pension

52 Increments earned for deferred retirement are restricted to the rate in force at the **later of**

- the date of entitlement to Category A Retirement Pension **or**
- the date on which ordinary residence in Great Britain ends¹.

1 SS Ben (PA) Regs, reg 51(3)(c)

- 53 This applies to
- Category A Retirement Pension on own contributions alone
 - Category A Retirement Pension substituting the contributions of a deceased or former spouse¹
 - Composite Category A Retirement Pension entitlement as a widow or widower².

1 SS (Widow's Benefit & Retirement Pension) Regs, reg 8; 2 SS CB Act 92, sec 52 & 53 (2)

Change in Category A entitlement

- 54 A change in Category A entitlement, for example from personal Category A Retirement Pension to substituted Category A, does not affect entitlement to increments. Increments remains restricted to the later of the date
- entitlement to Category A first arise **or**
 - ordinarily residence in Great Britain ended (paragraph 53).

Increments on husband's insurance

- 55 Increments earned on the part of her composite Category A Retirement Pension based on her husband's insurance are not payable until he retires or is deemed retired. Those increments are still restricted to the later of the date that she
- became entitled to Category A Retirement Pension **or**
 - ceased to be ordinarily resident in Great Britain.

Category B Retirement Pension - married women

- 56 A married woman who defers retirement earns increments to her Category B to the **later** of
- the date of her husband's retirement or deemed retirement **or**
 - the date of her own retirement or deemed retirement.
- 57 The increments are restricted to the rate in force at the **later** of
- the date of her husband's retirement or deemed retirement **or**
 - the date he ceased to be ordinarily resident in Great Britain **or**
 - the date she ceased to be ordinarily resident in Great Britain¹. (See paragraph 59 for the exception to this rule).

1 SS Ben (PA) Regs, reg 5(3)(a)

- 58 Where a woman
- retired or was deemed retired before the date of her husband's retirement or deemed retirement **and**
 - claims too late to establish title to Category A Retirement Pension from the date of his retirement or deemed retirement **and**
 - is not entitled to Category A Retirement Pension from any date before her Category A Retirement Pension entitlement begins
- the increments are restricted to the date in force at the **later** of
- the date from which she is entitled to Category A Retirement Pension **or**
 - the date her husband ceased to be ordinarily resident in Great Britain **or**
 - the date she ceased to be ordinarily resident in Great Britain¹.

Category B Retirement Pension - woman's marriage ends after pension age

- 59 A woman whose marriage ends after pension age is still entitled to Category B increments earned during the period of the marriage (paragraph 66). These increments are payable with her Category A Retirement Pension and are restricted to the rate in force at the **later** of the date
- she ceases to be ordinarily resident in Great Britain **or**
 - of the decree absolute **or** annulment **or**
 - the date of her retirement or deemed retirement **or**
 - the date of entitlement to Retirement Pension if a late claim is made and Retirement Pension cannot be awarded from the date of retirement.

Category B Retirement Pension - widow or widower

- 60 Category B increments earned by a widow or widower on the contributions of a deceased spouse are restricted to the rate in force at the later of
- the date of widowhood **or**
 - the date he or she ceased to be ordinarily resident in Great Britain¹.

1 SS Ben (PA) Regs, reg 5(3)(b)

- 61 Increments can only be earned by a widow if she
- for Widow's Benefit, gives up her Widow's Benefit entitlement **or**
 - for Category B Retirement Pension, elects to be treated as not entitled to Retirement Pension.

Inherited increments - before 1.10.89

62 Where a surviving spouse is entitled to have his or her pension increased by the amount of the increments to which the deceased spouse was or would have been entitled¹ the rate of increments he or she receives depends upon

- whether the deceased spouse had retired prior to his or her death **and**
- whether the inherited increments are added to a Category A or Category A Retirement Pension **and**
- whether the surviving spouse defers his or her retirement.

1 SS CB Act 92, Sch 5, para 4-6

63 If the deceased spouse had not retired at the date of death the widow or widower inherits the increments to which the deceased spouse would have been entitled had he or she retired on the date of death¹. As this entitlement would have been to the rate payable under the up-rating preceding the date of death² this is the rate inheritable by the widow or widower at the date of widowhood.

1 Sch 5, para 4(1); 2 SS Ben (PA) Regs, reg 5(3)(c)

64 If the deceased spouse had retired before the date of death the widow or widower inherits the increments to which the deceased spouse was entitled at the date of death¹. If the deceased spouse was not ordinarily resident in Great Britain these will have been restricted to the rate payable under the uprating preceding the **later** of

- the date of retirement **or**
- the date of entitlement to Category A Retirement Pension **or**
- the date ordinary residence in Great Britain ceased².

This restricted amount is the rate inheritable by the widow or widower at the date of widowhood.

1 SS CB Act 92, Sch 5, para 4(1) & (2); 2 SS Ben (PA) Regs, reg 5(3)(c)

65 **In contrast to the usual rule**, in the particular context of paragraphs 64 and 65 retired does not include deemed retired. This is because the surviving spouse inherits either the increments to which the deceased spouse was entitled or those to which the deceased spouse would have been entitled if he or she had retired on the date of death. Where a person dies over deemed pensionable age¹ having failed to claim, he or she was not entitled to Retirement Pension. The amount of that person's entitlement to increments if he or she had claimed from the date of death would have taken account of upratings falling between

- pensionable age and deemed retirement age
- deemed retirement age and date of entitlement (paragraph 1).

Accordingly this is the amount inheritable by the surviving spouse. Paragraph 64 applies to such a case therefore not paragraph 65.

1 SS Act 75, sec 27(5)

66 Having inherited the increments to which the deceased spouse was entitled or would have been entitled had he or she retired, the surviving spouse may defer retirement. If so, the rate at which the inherited increments become payable when he or she subsequently retires or, if later, becomes entitled to Retirement Pension is **either**

1. if payable with Category A Retirement Pension, the rate inherited increased under the upratings between the date of widowhood and the date the surviving spouse becomes entitled to Retirement Pension¹ **or**
2. if payable with Category B Retirement Pension the rate inherited at the date of widowhood or if later, the rate which would have been payable on the date the surviving spouse ceased to be ordinarily resident in Great Britain².

This applies also to increments inherited by a woman widowed under pensionable age which become payable to her when she retires on reaching age 60.

1 SS Ben (PA) Regs, reg 5(3)(c); SS Pens Act 75; Sch 2, para 4(3); 2 SS Ben (PA) Regs, reg 5(3)(b)

