

Social Security Advisory Committee
Minutes of the meeting held on 13 September 2023

Chair: Dr Stephen Brien

Members: Bruce Calderwood
Carl Emmerson
Kayley Hignell
Phil Jones
Gráinne McKeever

Apologies: Charlotte Pickles

1. Private Session

[PARTIALLY RESERVED ITEM]

Consideration of postal regulations

1.4. The Committee agreed with the Postal Regulations Sub-group's recommendation that, following clarification from the Department of two aspects of the paperwork, the following regulations were a suitable candidate for clearance by correspondence:¹

The Social Security (Widow's Benefit and Retirement Pensions) (Amendment) Regulations 2023

The Chair asked the Committee Secretary to notify the Department that the Committee was content for the above regulations to proceed.²

2 & 3 Private Sessions

[RESERVED ITEM]

¹ The Postal Regulations Sub-group's request for clarification, and the Department's responses, are held at annex B.

² The Committee was not quorate at the point this decision was made, therefore action was taken in accordance with its formal Rules of Procedure which states: "(4) Where - (a) the Secretary of State gives notice of a proposal to make regulations under any of the relevant enactments; and (b) it appears to the Chair that the proposal - (i) requires urgent consideration of the Committee, and (ii) need not be formally referred to the Committee, the Chair or, in his absence, the Vice Chair, may agree on behalf of the Committee, after consultation with at least three other members of the Committee, that the proposal need not be formally referred to the Committee."

Date of Next Meeting

4.1 The next meeting was scheduled to take place on 11 October 2023.

Annex A

Secretariat: Denise Whitehead (Committee Secretary)
Dale Cullum (Assistant Secretary)
Gabriel Ferros (Committee Analyst)
Anna Woods (Assistant Secretary)

The Social Security (Widow's Benefit and Retirement Pensions) (Amendment) Regulations 2023

Further information provided to the Social Security Advisory Committee by the Department prior to the meeting.

(a) It is assumed from the draft regulations that entitlement to Category D Pensions is covered in the withdrawal agreements, can you confirm this please?

Yes – those covered by the Withdrawal Agreement (i.e. those individuals who moved from the UK to the EU, and vice versa, on or before the 31st December 2020) will continue to benefit from the current Category D pension residence conditions. The same is true for those covered by an equivalent separation agreement (i.e. the Swiss Citizens' Rights Agreement and the EEA EFTA Separation Agreement).

(b) Are there other regulations like this in the pipeline?

The Department has no plans to bring forward any other SIs related to the Stewart judgment. However, the Department is using powers within the Retained EU Law (Revocation and Reform) Act 2023 to make regulations to restate two judgments of the Court of Justice of the European Union which relate to private pensions.

The Department has chosen to use the powers within the Social Security Contributions and Benefits Act 1992 to amend the legislation governing entitlement to a Category D Pension, rather than restate the Stewart judgment under the Retained EU Law (Revocation and Reform) Act 2023, because this approach is in line with the approach taken with other benefits affected by the Stewart judgment. For example, both the Social Security (Personal Independence Payment) Regulations 2013 and the Social Security (Disability Living Allowance, Attendance Allowance and Carer's Allowance) (Amendment) Regulations 2013 amended legislation to reflect the impact of the Stewart judgment.