HOUSE OF COMMONS LIBRARY

BRIEFING PAPER

Number CBP-7981, 28 July 2020

State Pensions 2020: FAQs

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Summary

This briefing paper answers FAQs constituents raise with their MPs about State Pensions. It provides some general information in relation to these FAQs and signposts to more detailed sources of information and advice. It covers issues including:

- **Types of State Pension** e.g.: What was the old basic State Pension? What was the State Earnings-Related Pension Scheme (SERPS)? What is the new State Pension?
- **Delivery** e.g.: What day is the State Pension paid on?
- **Eligibility** e.g.: Who is entitled to the new State Pension? Can people still claim on the spouse/civil partner's National Insurance record? At what age can people claim their State Pension? Is there an option to draw the State Pension early?
- **Fairness** e.g.: Have women born in the 1950s been unfairly treated? Is the new State Pension more generous than the old one? Are people who were members of contracted-out occupational schemes treated unfairly?
- **Benefits (Pension Credit)** e.g.: Who is entitled to Pension Credit? What if a Pension Credit claimant goes abroad? How does it take account of capital?

Please note that nothing in this paper should be considered as constituting legal advice. It is not intended to address the specific circumstances of a particular individual. A suitably qualified professional should be consulted if specific advice or information is required.

Information about how to complain about any aspect of the service provided by DWP or the Pension Service is on the Library constituency casework page: Social security complaints. The procedure for seeking to get a benefits decision change if you think it is wrong, is quite separate – see Challenging benefits decisions.

Sources of information, guidance and help with individual cases include:

- **The Pension Service**, which can answer questions about State Pension eligibility, claims, payments and receives complaints about issues such as unreasonable delays. You can also report a change of circumstances to the Service, for example if you've changed address.
- **Age UK**, which gives useful information on its website such as how to challenge a benefit decision, and the charity itself can speak with individuals about their case.[1]
- **The Citizens Advice Bureau**, which can provide advice about different aspects of the State Pension and Pension Credit.

Territorial issues

The rules described apply across Great Britain.[2] Northern Ireland operates a policy of parity which "ensures that a person in Northern Ireland has the same benefit entitlements as his or her counterpart in England, Scotland or Wales. There is limited scope for variation, due to the financial implications of breaking "parity", although operational flexibility can take account of local circumstances. (NI Assembly, "Understanding parity"). Information about the State Pension and Pension Credit for people in Northern Ireland is on the NI Direct website.

1 See also, Challenging benefits decisions on the Parliamentary intranet

2 *Scotland Act 1998,* Sch 5 (11) (F3); *Wales Act 2017,* Sch 7A (2) (134); Library Briefing Paper CBP 8544 (April 2019)

1. The old State Pension

The 'old' State Pension, for people who reached State Pension age before 6 April 2016, had two tiers: [3]

- the **basic State Pension (BSP)** – a contributory flat-rate benefit to which people built entitlement on the basis of their NI record, with 30 'qualifying years' needed for the full amount (£134.25 pw in 2020/21). A qualifying year is one in which a person has paid, been treated as having paid, or been credited with, enough NICs for it to count.[4] People with fewer qualifying years get a proportionate amount.[5]
- the **additional State Pension** – this depended on the earnings or deemed earnings during their working life since 1978. People accrued entitlement through the State Earnings Related Pension Scheme (SERPS) between 1978 and 2002 and the State Second Pension (S2P) from 2002 onwards.[6] It was possible to contract-out into a private pension scheme that met set requirements, in return for which the employee (and their employer) paid a lower rate of NI.[7]

1.1 The basic State Pension

How did people build entitlement?

The basic State Pension was awarded to an individual who had claimed it, had reached State Pension age and met the qualifying conditions.[8] Entitlement was based on the number of qualifying years an individual had built up. Gov.UK explains that:

> To get the full basic State Pension you needed a total of 30 qualifying years of National Insurance contributions or credits. This means you were either:
>
> - working and paying National Insurance
> - getting National Insurance Credits, for example for unemployment, sickness or as a parent or carer
> - paying voluntary National Insurance contributions
>
> If you had fewer than 30 qualifying years, your basic State Pension would be less than £135.25 per week but you might be able to top up by paying voluntary National Insurance contributions.
>
> To get information about your basic State Pension, contact the Pension Service or the International Pension Centre if you live abroad.[9]

For more information

DWP leaflet, State Pensions – Your Guide (October 2014).

DWP's Decision Makers' Guide, Chapter 75 – Retirement Pension

For policy background - Library Briefing Paper SN-03111 Basic State Pension – contribution conditions (Oct 2014).

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3 *Social Security Contributions and Benefits Act 1992*, s44
4 Ibid s122
5 Ibid s44 and Sch. 3
6 Ibid s44, 44A-C and 45
7 DWP, *A state pension for the 21st century*, Cm 8503, April 2011
8 Social Security Contributions and Benefits Act 1992, s44
9 Gov.UK, The basic State Pension/eligibility

The amount of additional State Pension entitlement depends on the number of years an individual had paid NI, their earnings and whether they had been contracted-out.[10]

There were several ways people could increase their entitlement – such as payment of voluntary NICs, deferring a claim or claiming on the basis of the contribution record of a (former) spouse or civil partner – see Gov.UK/ the basic State Pension/eligibility

Claiming on a spouse or civil partner's record

A person who is, or has been, married or in a civil partnership may be able to qualify for a BSP, or an increase to their own BSP, based on the NI record of their spouse or civil partner (a 'Category B' State Pension).[11]

These arrangements initially applied only to married women - reflecting an assumption that they would not work full-time and would be financially dependent on their husband as breadwinners – and were only later extended to married men and civil partners.[12] Although the rules became more complex over time, the basic principle remained the same: where a couple were in a legal union, the contributions paid by one member of a couple gave the other access to pension entitlement in the event that that they had insufficient contributions to qualify for a pension in their own right.[13]

For more on the background, see

Library Briefing Paper CBP 8635 Inheriting pension rights (November 2019) and CBP 7286 Women and Pensions (November 2018), section 3.

These rules could provide a basic State Pension of up to £80.45 pw for a married person or civil partner and up to £134.25 pw for a widow, widower or surviving civil partner (2020/21 amounts).[14] A person who was divorced or whose civil partnership had been annulled might be able to draw on the contribution record of a former spouse to increase their entitlement.[15] In addition, a widow(er) or surviving civil partner might be able to inherit a proportion of their late spouse or civil partner's additional State Pension, with the proportion they could inherit depending on age at the time of death.[16]

State Pension uplift – how were some married women underpaid?

As explained above, under the rules for people who reached State Pension age before 6 April 2016, it was possible to derive entitlement to the State Pension based on the contributions of a (former) spouse or civil partner.

For instance, a married woman could qualify for a basic State Pension (BSP), or an increase to their own BSP, based on the NI record of their husband - a 'Category B (L)' State Pension.[17] These rules could provide a basic State

10 Gov.UK/additional State Pension/what you'll get
11 *Social Security Contributions and Benefits Act 1992*, s48A
12 PQ 61703 24 June 2020
13 DWP, Women and pensions: the evidence, 2005, Chapter 2, p18; DWP, State Pension entitlements derived from a current or former spouse's or civil partner's NI contributions, 2013, paras 10 to 12
14 Ibid s48B
15 Ibid s48
16 Ibid, s48A, 48B, 48BB and 51; DWP, State Pension entitlements derived from a current or former spouse's or civil partner's national insurance contributions, March 2013, Annex A
17 *Social Security Contributions and Benefits Act 1992*, s48A

Pension of up to £80.45 pw for a married woman when her husband reached State Pension age, or up to £134.25 pw for a widow, if their husband had built up sufficient qualifying years for a full basic State Pension (2020/21 amounts).[18]

However, former Pensions Minister, Sir Steve Webb, has found that some married women who were eligible for an uplift in their State Pension when their husband reached State Pension age did not in fact receive it.[19] In some cases, this was because they did not claim, in others because it should have been awarded automatically but was not.

Those married women whose husbands reached State Pension age before 17 March 2008, were required to make a claim to receive the uplift.[20] Some of them did not realise the need to do so. It appears that DWP sent State Pension information (including information about the potential uplift) to individuals shortly before they reached State Pension age. However, in situations like the above, this meant that at the time a claim needed to be made by the wife, the information was sent to her husband.[21]

From 17 March 2008, the rules were changed to enable the increase to be paid automatically.[22] However, it appears that this did not happen in all cases. Furthermore, DWP did not review past cases at this stage, so women whose husbands had already reached State Pension age continued to receive payment at the lower rate unless they made a claim.[23]

What can people affected do now?

Individuals seeking to claim are advised to contact the Department through the Pension Service helpline (0800 731 0469). In circumstances where it is identified that individuals are entitled to arrears of underpaid State Pension, these are paid in accordance with relevant legislation.[24]

Where a claim is required it can be backdated for 12 months.[25] In some cases where women have claimed, they have received arrears for a longer period. This may be under the rule that provides for a decision on an award to be revised at any point on grounds of official error.[26]

Income tax may be payable on arrears:

> Income tax is calculated on arrears of state pension for the tax year in which the pensioner was entitled to receive it, and not in the year in which a lump sum is paid. Where arrears of state pension are paid, income tax will only be due on any income that exceeds the personal

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18 Ibid s48B; DWP leaflet, State Pensions – Your Guide (October 2014)
19 'State Pension scandal deepens', *This is Money*, 8 June 2020
20 PQ HL5337 18 June 2020
21 *This is Money,* 7 July 2020
22 *Social Security (Claims and Payments) Regulations 1987 (SI 1987 No. 1968).* Regulation 3 (cb)
23 Are thousands of older women being short-changed on their State Pension?, Lane Clark Peacock, May 2020
24 *Social Security Administration Act 1992*, s1) if a claim was required; *Social Security ((Claims and Payments) Regs 1987*, reg 3(cb) if it was not
25 *Social Security (Claims and Payments) Regulations 1987* (SI 1987 No. 1968), Reg 19 and Schedule 4 para 13,
26 ` *Social Security and Child Support (Decisions and Appeals) Regulations 1999 (SI 1999/991)*, reg 3(5) (a)

> allowance for the respective tax year. In addition, HM Revenue and Customs can only collect income tax for the current tax year and the four preceding tax years. Any arrears of state pension relating to earlier years will not be subject to income tax.[27]

Where a payment has been delayed, DWP can consider a "payment to recognise any erosion in the value of money." This is under DWP's discretionary special payment scheme.[28] For more information, see House of Commons Library constituency casework page, Social Security complaints.

Calls for full reimbursement

Shadow Pensions Minister, Jack Dromey, has called on the Government to properly investigate the matter so that women affected can get justice:

> Case after case is being uncovered of retired women being underpaid on their pension. To this day, many do not know about the Department's mistake, and some have tragically died before learning of it. This must be properly investigated. Crucially, those women deserve justice. When will the Department work out how many women have been affected, and who they are? Will it bring forward a plan to contact them so that the women who built Britain get the justice in retirement that they deserve?[29]

In response, Pensions Minister Guy Opperman said:

> As the hon. Gentleman is aware, this dates from March 2008, when married women receiving a low-level state pension based on their national insurance record should have had their entitlement reviewed when their husband reached state pension age. The Department for Work and Pensions is looking into the matter, and we invite any individual who feels that they are affected to claim a state pension increase by contacting the Pension Service helpline or Pension Wise.[30]

Steve Webb is calling on the Government to "investigate this issue as a matter of urgency and to automatically uplift the pensions of those who are entitled." He points out that there may be other groups affected, such as some widows and divorced women and the over 80s.[31]

The Government says it is not possible to estimate the number of married women entitled to a State Pension through the National Insurance contributions of their husband, late husband or ex-husband, because their entitlement can only be determined by a consideration of their individual circumstances.[32]

27 PQ 65108 1 July 2020
28 PQ 66003 6 July 2020; DWP, Financial Redress for Maladministration, April 2012
29 HC Deb 29 June 2020 vol 768
30 Ibid
31 Are thousands of older women being short-changed on their State Pension?, Lane Clark Peacock, May 2020, p10-11
32 PQ 61702 6 July 2020

What about women who paid reduced rate NI?

One feature of the new scheme introduced in 1948 was that women would pay reduced rate NICs on the expectation that they would derive entitlement to a state pension from their husband's contributions.

The option to pay reduced rate NICs was withdrawn from 1977.[33] However, in recognition of the fact that suddenly withdrawing the reduced rate would cause a sharp reduction in take-home pay, it was phased-out for women who had already opted out. Married women and some widows with a reduced rate election in force before 5 April 1978 could retain opt out, although it lapsed if they did not pay contributions in two successive tax years. [34]

Some women who had paid reduced rate contributions were later shocked to find they had accrued low state pension entitlements, arguing that the position had not been clear to them.[35] In response to questions on the issue, government ministers have said that women who elected reduced liability had to sign a statement saying that they had read and understood a leaflet explaining the consequences of the choice. There had been publicity campaigns on the issue in 1977, 1989 and 2000.[36] On the other hand, it has also been recognised that the election existed in very different social circumstances and that people did not always fully appreciate the implications.[37]

For more information

Library Briefing Paper SN 1910 Married women and state pensions (Jan 2014).

Why is there a 25p increase at age 80?

Pensioners aged 80 and over receive an addition of 25 pence to their state pension.[38] This does not happen in the new State Pension.[39]

The age addition was introduced in 1971, in recognition of "the special claims of very elderly people who on the whole need help rather more than others".[40] It has never been uprated, with successive Governments deciding either to prioritise protecting the level of basic benefits, or choosing to target additional resources at older pensioners by other means – for example, through means-tested benefits or lump sum payments, such as the Winter Fuel Payment.[41] In 2007, the then Pensions Minister, James Purnell said:

> The problem with increasing the age addition is that it would not be a well targeted measure. As, in effect, an increase in the basic state pension, it would be taxed for people who pay tax and means-tested away for those who are on pension credit—and those who are on the guaranteed credit only would gain nothing at all from the increase.

For more information, see

Library Briefing Paper SN-00321 State Pension 25 pence age addition (May 2013)

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33 *Better Pensions Fully Protected Against Inflation*, September 1974, Cm 5713
34 HM Treasury, *Tax Benefit Reference Manual, 2009-10 Edition*, July 2009
35 BBC news, 'A pension of 7 pence a week', 13 December 2002
36 HC Deb 24 October 2002 c 489W; See also HL Deb 16 March 2011 c64GC [Lord Sassoon]; Inland Revenue, NICs for women with reduced elections, CA 13, 2004
37 See, for example, SC Deb 18 March 2004 c233 [Steve Webb]
38 Social Security Contributions and Benefits Act 1992, s79 (1)
39 *Pensions Act 2014,* s23 and Schedule 12, paragraph 85
40 HC Deb, 3 May 1971, c1019
41 See, for example, HC Deb, 27 April 1977, cc343W; HL Deb 27 April 1995, c 1021; HC Deb 25 March 2003, c 167W

> That is why the Government, in trying to recognise the needs of older people, have focused on other ways of achieving the same goal.[42]

Pensions Minister Guy Opperman said in January 2019:

> The age addition is paid with State Pension when individuals reach the age of 80. Although there are no plans to uprate the age addition amount, this should be considered alongside the range of other measures and benefits that are available to pensioners over age 80. This includes Pension Credit. People who are aged 80 and over receive a Winter Fuel Payment of £300, instead of the standard Winter Fuel Payment of £200 for pensioners below that age.[43]

Why were adult dependency increases abolished?

Before 2010, the State Pension system made provision for an individual's State Pension to be increased if another adult was financially 'dependent' on them. The Labour Government announced its intention to abolish these adult dependency increases (ADIs) in 2006, as part of a package of reforms, intended to improve the ability of women to build up State Pension entitlement in their own right:

> These increases are known as adult dependency increases (ADIs) and have their origins in the immediate post-war period where single breadwinner households were the norm. We propose that ADIs will no longer be awarded from 2010.
>
> […] B.22 In developing our proposals for reforming the state pension system, we have considered whether the current provisions for ADIs are relevant to, and compatible with, a system for the 21st century. Our conclusion is that the concept of 'dependency' on which the ADI provisions are based has little relevance in today's society in which partnerships of equals are the norm. There is a powerful argument that the expenditure would be better invested in providing improved state pensions, particularly for women.[44]

ADIs would no longer be awarded from April 2010 but existing entitlements would be protected until 2020:

> B.23 We therefore propose that ADIs will no longer be awarded from 6 April 2010. All existing entitlements will be protected up to 2020. This means that any ADI payable in respect of a dependent aged 55 or over will, subject to the current rules, remain in payment up to the point she reaches State Pension age and becomes eligible for a State Pension either in her own right or based on her spouse's contributions. Based on the current caseload, we estimate that around three-quarters of ADIs in payment at 2010 will be in this category. Those for whom ADIs would otherwise have been payable and who are unable to work will, of course, be eligible for the usual range of working-age benefits. In the minority of cases where there is an ADI still in payment in 2020, we will ensure that the individual and his or her spouse receive advice on other possible benefit entitlements. We recently announced in A new deal for welfare: Empowering people to work that we do not intend to carry forward ADIs into the Employment and Support Allowance.[45]

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42 HC Deb, 26 June 2007, c312-3
43 PQ211869 28 January 2019
44 Cm 6841, May 2006, para 3.102, Annex H
45 Ibid

This was legislated for in the *Pensions Act 2007* (s4).

Pension Service leaflet, *a detailed guide to State Pensions for advisers and others* (September 2008) explained that under the transitional protection arrangements existing awards would be protected until State Pension age or 2020:

> **Increase for adult dependants** A person can claim an increase in their State Pension for one dependent adult, but only until 6 April 2010. Increases that have been awarded by that date will be protected until: the qualifying rules are no longer met; or where the increase is being paid for a wife, she reaches State Pension age; or 5 April 2020; whichever happens first.

In 2019/20, the last year for which ADIs were in payment, the rate was £77.45pw. [46]

In 2007, the Labour Government expected that about three quarters of people would have ceased getting ADIs before protection ended in 2020. Between 15,000 and 20,000 ADIs would be 'switched off' at that stage.[47] In fact, by May 2019,10,817 people were in receipt of a State Pension ADI. Of that number, 2,274 were in receipt of Pension Credit and/or Housing Benefit and might be entitled to an increase in those benefits. Those not already in receipt of an income-related benefit were encouraged to check whether they were entitled.[48]

The savings from ending the provision of State Pension ADIs were estimated to be £125 million between 2020/21 and 2024/25, based on analysis from 2018. This did not take account of any offsetting impacts on other benefits.[49]

Why were some men aged 60 to 64 automatically awarded NI credits?

Employees are liable for National Insurance contributions (NICs) on earnings above the Lower Earnings Limit. People who are not paying NICs, for example, because they are claiming benefits because they are ill or unemployed, may be able to get NI credits.[50]

NI credits – known as 'autocredits' – for men aged 60 to 64 were introduced in 1983 as a response to high unemployment, alongside the ending of the requirement that men aged 60 or over had to register as unemployed to qualify for Supplementary Benefit. When the Conservative Government announced plans in 1993 to equalise the State Pension age (SPA) for women and men at 65 by 2020, it said auto-credits would become available to women on the same basis as they were then available to men.[51]

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46 The legislation is in *Social Security Contributions and Benefits Act 1992* and the *Social Security Benefits (Dependency) Regulations1977 (SI 1977/343)* (regs 8-10)

47 Pensions Bill Deb, 23 January 2007 c79

48 PQ 1999, 25 February 2020; HL1202 10 February 2002

49 PQ 1998 24 February 2020

50 Gov.UK, National Insurance; HC Library CBP 4517 National Insurance contributions: an introduction (Dec 2019); HL Deb 26 January 2015 c45GC;

51 DWP, Security in retirement: towards a new pensions system, Cm 6841, May 2006, para 3.103-6

However, the last Labour Government decided to phase-out auto-credits, for two reasons:

- It was introducing reforms in the *Pensions Act 2007* to the contribution conditions. reducing the number of 'qualifying years' needed for a full basic State Pension (BSP) to 30 from 39 (women) and 44 (men) for people reaching SPA from 6 April 2010.[52] This was expected to increase the proportion of women reaching SPA with a full BSP in 2010 from 50 per cent without the reform, to 75 per cent. By 2025, around 90 per cent of women would reach SPA with a full BSP, the same proportion as men.[53] This rendered auto-credits "largely redundant."[54]
- Men aged 60 to 64 would no longer have the option of claiming Pension Credit (as the qualifying age rose, in line with the State Pension age for women). If they needed support from the means-tested benefits system, they would need to claim working age benefits and would be eligible for NI credits via this route.[55]

The change to autocredits was introduced by regulations. They were phased-out so that they would be "available to men only for the tax years in which they have reached what would be pension age for a woman of the same age, up to and including the last tax year before the one in which they reach age 65." In other words, they would bridge the gap between a man reaching female State Pension age and male State Pension age. Men born on 6 October 1954 or later, who would reach both female pension age and their own pension age in the same tax year, would not qualify. This means that the last year in which a man could have qualified for auto-credits was 2018/19.[56]

The Coalition Government did not change this policy in 2014 when it legislated for the new State Pension, for which 35 qualifying years were required for the full amount in steady state. It argued that, compared to the position before the 2007 Act (when entitlement for a full BSP required 39 years for women, or 44 for men) gaps in contributions could still be relatively easily absorbed over a working life of 50 years.[57]

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52 *Pensions Act 2007*, s1

53 See Library Briefing Paper CBP 7286 Women and Pensions (November 2018), section 3.3

54 DWP, Security in retirement: towards a new pensions system, Cm 6841, May 2006, para 3.103-6

55 DWP, Security in retirement: towards a new pensions system, Cm 6841, May 2006, para 3.103-6; SI 2009/2206 Explanatory Memorandum, para 7.36

56 SI 2009/2206 Explanatory Memorandum, para 7.36; *Social Security (State Pension and National Insurance Credits) Regulations 2009 (SI 2009/2206)*; See also *State Pension Regulations 2015 (SI 2015/ 173) (reg 32) as amended by the State Pension (Amendment) (No 2) Regulations 2016 (SI 2016/294)*

57 National Insurance credits and the single-tier State Pension

1.2 The additional State Pension

What is it?

The additional State Pension is the earnings-related tier of the state pension system for people who reached State Pension age before 6 April 2016.

Entitlement depends on the earnings or deemed earnings during their working life since 1978. People built entitlement through the State Earnings Related Pension Scheme (SERPS) between 1978 and 2002 and the State Second Pension (S2P) from 2002 onwards.[58]

The additional State Pension was preceded by Graduated Retirement Benefit, which ran between 1961 and 1975.[59]

What was contracting-out?

The State Pension was designed to work in conjunction with occupational pensions – providing a minimum level of income, while incentivising individuals to save on top.[60] So, from the time SERPS was introduced in 1978, there was an option to contract-out into an occupational pension that met certain criteria.[61] DWP explained:

> Under the old State Pension rules, up to 5 April 2016, you were able to 'contract out' of the additional State Pension. This meant that you and your employer could pay less NI contributions into the state system. You could not contract out of the basic State Pension. You could only opt out ('contract out') of the additional State Pension, and you could only pay less NI contributions into the state system if you were part of a private pension - such as a workplace or personal pension scheme - that could build up to replace the State Pension you were opting out of.
>
> Find out more about the additional State Pension
>
> You are likely to have been contracted out of the additional State Pension if:
>
> • you are or were in a final salary or career-average pension scheme, or
>
> • before 6 April 2012, you were in some other types of pension scheme at work
>
> Some stakeholder and personal pension schemes were also contracted out.
>
> So, although you may not have realised this, when you were contracted out, depending on the type of pension scheme(s) you belonged to during the period(s) you were contracted out, either:
>
> - you and your employer paid NI at a lower rate than the full standard rate, or

For more information

Gov.UK additional State Pension

DWP, State Pensions: your guide, Nov 2014, p29-31

DWP, Decision Makers' Guide, chapter 75, para 75532-601

Library Briefing Paper CBP-7202 Pensions 2015 (May 2015), section 2.3 (partnership with private pensions)

58 *Social Security Contributions and Benefits Act 1992*, s44, 44A-C and 45

59 DWP, Decision Makers' Guide, chapter 75, para 75471-75523; *National Insurance Act 1965* s36-37; *Social Security Contributions and Benefits Act 1992*, s62 (1)

60 Sir William Beveridge, Social Insurance and Allied Services, Cm 6404, Nov 1942, para 9

61 See Library Briefing Paper CBP-07202 Pensions 2015 (May 2015), section 2.3

- some of the NI contributions you paid were used to contribute to your private pension instead of the additional State Pension.[62]

People can check if they were contracted-out by looking at their payslip or checking with their employer or pension provider.

What did contracted-out schemes have to provide?

Pension schemes used for contracting out had to meet certain requirements, which changed over time:

- Initially, it was only possible to contract-out into a scheme that provided a Guaranteed Minimum Pension (GMP), which at least equalled the additional State Pension they would have earned had the remained contracted-in. From April 1997, this was changed to a reference scheme test, "expected (but not guaranteed) to provide pensions broadly equivalent to" those given up by contracting-out.[63]
- From April 1988, it was possible to contract-out into a defined contribution (DC) scheme.[64] Minimum contributions had to be made in return for certain "protected rights" which met certain conditions but with no guarantee that they would produce a pension equal to the State Pension foregone.

The option to contact-out into a DC scheme ended from 6 April 2012 because it had become increasingly difficult to judge whether it was in the individual's interest to do so.[65] Contracting-out was abolished altogether from 6 April 2016 when the new State Pension was introduced.[66]

For more information, see

HMRC, How to calculate your scheme members' Guaranteed Minimum Pension, December 2018

HMRC guidance, Contracting-out, April 2017

How did it affect State Pension entitlement?

When people were contracted-out they either paid NICs at a lower rate, or some of the NICs they paid were used to contribute to a private pension instead of their additional State Pension. So, contracting-out meant reduced additional State Pension entitlement. The way in which this works has changed over time:

> Since 1978 it has been possible for employees to opt out of the additional State Pension scheme. This is called 'contracting out' and means their additional State Pension will be reduced.
>
> **The effect on the additional State Pension**
>
> *From 6 April 1978 to 5 April 1997 (SERPS)*
>
> Any additional State Pension earned through SERPS from 6 April 1978 to 5 April 1997 is reduced (which could be to a nil amount) if the person was contracted out at any time during this period.
>
> *From 6 April 1997 until 5 April 2002 (SERPS)*
>
> SERPS is not paid for any week a person was contracted out.

62 DWP Guidance, Contracting out and why we may have included a Contracted Out pension Equivalent (COPE) amount when you used the online service, April 2017

63 *Pensions Act 1995*, s136; Pensions Bill 2007-08, Impact Assessment, para 2.37

64 DSS, Reform of Social Security, Cm 9691, Dec 1985; *Social Security Act 1986*

65 DWP, Security in retirement, May 20015, Cm 6841, para 2.21; *Pensions Act 2007*, s15; SI 2011/1245

66 *Pensions Act 2014*, s24; Library Briefing Paper SN-06525 The new State Pension background (August 2016), section 4.8

From 6 April 2002 (State Second Pension)

The State Second Pension is reduced (which could be to a nil amount) if a person is contracted-out.[67]

How much State Earnings Related Pension Scheme (SERPS) could people inherit?

If an individual's spouse or civil partner dies, they may be able to inherit part of their additional State Pension. The exact amount they can inherit will depend on when they reach State Pension age. Gov.UK explains this for people who reached pension age before 6 April 2016:

If your spouse or civil partner dies, you may be able to inherit part of their Additional State Pension. Contact the Pension Service to check what you can claim and how.

Maximum State Second Pension you can inherit

You can inherit up to 50% of your spouse or civil partner's State Second Pension.

Maximum SERPS pension you can inherit

The maximum amount of State Earnings-Related Pension Scheme (SERPS) pension you can inherit depends on when your spouse or civil partner died.

If they died before 6 October 2002, you can inherit up to 100% of their SERPS pension.

If they died on or after 6 October 2002, the maximum SERPS pension you can inherit depends on their date of birth.

Man's date of birth	Woman's date of birth	Maximum % of their SERPS you can inherit
5 October 1937 or before	5 October 1942 or before	100%
6 October 1937 to 5 October 1939	6 October 1942 to 5 October 1944	90%
6 October 1939 to 5 October 1941	6 October 1944 to 5 October 1946	80%
6 October 1941 to 5 October 1943	6 October 1946 to 5 October 1948	70%
6 October 1943 to 5 October 1945	6 October 1948 to 6 July 1950	60%
6 October 1945 and after	6 July 1950 and after	50%

How it's paid

Any Additional State Pension you inherit will be paid on top of your State Pension when you reach State Pension age.

If you get your own Additional State Pension

For background information, see

Library Briefing Paper CBP-07631 Inheriting additional State Pension (June 2016).

DWP, State Pension entitlements derived from a current or former spouse's or civil partner's National Insurance contributions, 2013

67 DWP, A detailed guide to State Pensions for advisers and others, NP46, August 2008, p38; See also DWP, The new State Pension Transition and Contracting-Out, July 2015, para 8

> The maximum amount of Additional State Pension you can get is £179.41 per week. The limit does not include State Pension top up.
>
> **If you get Widowed Parent's Allowance**
>
> You may inherit Additional State Pension before you reach State Pension age. You'll stop receiving it if your Widowed Parent's Allowance ends.
>
> You may receive it again when you reach State Pension age if you were over 45 when you were entitled to Widowed Parent's Allowance.
>
> If your Widowed Parent's Allowance or Bereavement Allowance ended before you were 55, you'll receive less Additional State Pension.
>
> **When you can't inherit Additional State Pension**
>
> You can't inherit your spouse or civil partner's Additional State Pension if you remarry or form another civil partnership before you reach State Pension age.
>
> The date you reach State Pension age also affects whether you can inherit Additional State Pension.
>
> **If you reached State Pension age before 6 April 2010**
>
> You can't inherit your spouse or civil partner's Additional State Pension if they died before they reached their State Pension age and after you reached yours.
>
> This doesn't apply if you're a woman who was married to:
>
> - a man
> - a woman who legally changed their gender from male to female during your marriage.[68]

The rules for people who reach State Pension age after 6 April 2016 are discussed below.

Why is there a State Earnings Related Pension Scheme (SERPS) maximum?

There is a cap on the total amount of SERPS – inherited and in their own right - an individual can receive. This is intended to ensure that an individual who inherits SERPS does not receive more in total than someone could have built up in their own right:

> 7.1 Where a pensioner is entitled to combine his or her own Additional State Pension with that inherited from their late spouse or civil partner the total amount payable is capped. The cap is equivalent to the amount of Additional State Pension which a person reaching State Pension age in the year in which entitlement to the inherited Additional State Pension arises would have accrued if they had earnings at 53 times the Upper Earnings Limit throughout their working life.
>
> 7.2 This rule has been applied to Additional State Pension since 1979 when the first Additional State Pensions became payable. It was put in place to ensure security following bereavement, but without exceeding the pension a person could realistically build up on their

68 Gov.UK, Additional State Pension/inheriting

> own contribution record. In this respect it mirrors the cap applied to basic pension which restricts the total amount payable by way of own and inherited pension to the full rate of basic pension.[69]

What about people with contracted-out pensions?

Individuals may have a deduction made from their SERPS in respect of any Guaranteed Minimum Pension (that part of an occupational pension that relates to having been contracted-out between 1978 and 1997) that they built up in their own right or inherited. A Social Security Commissioner's decision from 2006 explained that, in such cases, the maximum SERPS entitlement is calculated and then contracted-out deductions made:

> 21. Widows and other survivors who inherit pensions also have the inherited pensions set against their entitlement to additional pension […] The GMPs for both the pensions to which a widow is personally entitled directly and those to which she is entitled by inheritance are to be deducted from the maximum entitlement of the widow under section 52. In other words, the widow's maximum entitlement is calculated before, not after, any additional pension is deducted. This may mean that the widow's total additional pension is limited by the "prescribed maximum" before the occupational pensions are offset.[70]

This was because both were funded through reduced NI contributions:

> Those rules reflect the receipt by her of a widow's pension from her late husband's occupational pension scheme as well as receipt of her own occupational pension scheme. Parliament has provided that both should be taken into account as both were contracted-out schemes for which lower levels of national insurance contribution were payable.[71]

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69 Explanatory Memorandum to SI 2010 No. 426

70 CP 3577-2006

71 Ibid para 41

2. The new State Pension

How is it different from the old system?

A new State Pension (nSP) was introduced from 6 April 2016 for people reaching State Pension age (SPA) from that date. People who had already reached SPA continue to get their pension under the 'old rules' (see above).[72] The nSP is different in several ways:

- The full rate is set above the basic means-tested guarantee in Pension Credit- at £175.20 pw in 2020/21;
- People with no NI record before April 2016 need 35 qualifying years for the full amount. (As discussed below, transitional arrangements mean that not everyone with 35 qualifying years in April 2016 will receive this amount);
- It is single-tier, so the option to 'contract-out' has ended; and
- The ability to derive an entitlement based on the NI record of a former spouse or civil partner has been removed, with limited transitional protection.

For more on the policy development, see Library Briefing Papers

CBP-07414 The new State Pension – transitional issues (Feb 2019)

SN-06525 The new State Pension background (August 2016)

How can I get specific advice about my case?

The rules are explained on Gov.UK and in the DWP leaflet your new State Pension explained (April 2020). Detailed guidance is in DWP's Decision Makers' Guide, Chapter 74: State Pension.

Individuals wanting advice on the specifics of their case should contact a Citizens Advice Bureau or local welfare rights advice centre. Age UK also runs a helpline.

How do people build entitlement?

The answer to this question is complicated by the transitional arrangements to deal with past NI records (see below) mean that in the short-term people with 35 qualifying years may get more or less than this. Gov.UK explains:

> Your new State Pension is based on your National Insurance record when you reach State Pension age.
>
> You'll usually need to have 10 qualifying years on your National Insurance record to get any new State Pension.
>
> You may get less than the new full State Pension if you were contracted out before 6 April 2016.
>
> You may get more than the new full State Pension if you would have had over a certain amount of Additional State Pension under the old rules.[73]

72 *Pensions Act 2014* (PA 2014), s1

73 Gov.UK The new State Pension/Your National Insurance record and your State Pension

As for the old basic State Pension, entitlement is based on an individual's NI record:

> You'll need 35 qualifying years to get the new full State Pension if you don't have a National Insurance record before 6 April 2016.
>
> **Qualifying years if you're working**
>
> When you're working you pay National Insurance and get a qualifying year if:
>
> - you're employed and earning over £183 a week from one employer
> - you're self-employed and paying National Insurance contributions
>
> You might not pay National Insurance contributions because you're earning less than £183 a week. You may still get a qualifying year if you earn between £120 and £183 a week from one employer.
>
> **Qualifying years if you're not working**
>
> You may get National Insurance credits if you can't work - eg because of illness or disability, or if you're a carer or you're unemployed.
>
> For example, you can get National Insurance credits if you:
>
> - claim Child Benefit for a child under 12 (or under 16 before 2010)
> - get Jobseeker's Allowance or Employment and Support Allowance
> - get Carer's Allowance
>
> **You're not working or getting National Insurance credits**
>
> You might be able to pay voluntary National Insurance contributions if you're not in one of these groups but want to increase your State Pension amount.
>
> **Gaps in your National Insurance record**
>
> You can have gaps in your National Insurance record and still get the full new State Pension.
>
> You can get a State Pension statement which will tell you how much State Pension you may get. You can then apply for a National Insurance statement from HM Revenue and Customs (HMRC) to check if your record has gaps.
>
> You may be able to make voluntary National Insurance contributions if you have gaps in your National Insurance record that would prevent you from getting the full new State Pension.[74]

Does requiring 35 qualifying years for the nSP amount to 'moving the goalposts'?

People sometimes argue that the Government has 'moved the goalposts', because 35 'qualifying years' are required for a full nSP, compared to the 30 for the old basic State Pension.

Initially – in its 2011 Green Paper - the Coalition Government proposed requiring 30 qualifying years for a full nSP. However, by the time of its

74 Gov.UK The new State Pension/Your National Insurance record and your State Pension

White Paper in 2013, it said it had decided on 35.[75] It argued that this struck the right balance, because:

- The nSP also incorporates the additional State Pension, to which people could build entitlement through working life;
- NI credits cover many of the circumstances where people are not able to work; and
- In a working life, which can be as long as 50 years, it still leaves flexibility to have about 15 non-qualifying years.[76]

People are sometimes concerned that this means the 'goal posts have been moved' and they will be worse off than they would have been under the old system. However, to ensure this is not the case, a check is done in April 2016 and (provided they have at least ten qualifying years) if their entitlement under the old system at that point was higher, that will form their 'starting amount' for the new State Pension - see DWP leaflet, your new State Pension explained (April 2019), section 3b.[77]

Nonetheless, the change in policy does mean that that fewer people reaching State Pension age in 2020 qualify for the full amount: 85%, compared to around 90% with 30 qualifying years.[78] However, the transitional arrangements mean that no one who qualifies for the new State Pension should receive less than they would have done under the previous system, based on their National Insurance record to 6 April 2016.

For more on the background, see

Library Briefing Papers

SN-01910 Married women and State Pensions (October 2014), section 1.1

CBP-07414 The new State Pension – transitional issues (Feb 2019), section 3.2.

Can people still claim based on their spouse or civil partner's NI record?

The Coalition Government's intention was for people to qualify for the new State Pension on the basis of their own contributions. It said there would "no rationale" for allowing people to "inherit or derive state pension income based on the National Insurance record of their spouse or civil partner."[79] This means that, if you reach State Pension age from 6 April 2016 onwards, your State Pension is generally based on your own NI record. The exception is married women or widows who opted to pay reduced-rate National Insurance contributions (sometimes known as the 'married women's stamp'). DWP's Guide to the State Pension explains:

> A woman who made this choice may get a new State Pension based on different rules if these will give her more than the amount of new State Pension that she would otherwise get based on her own National Insurance record. Where these rules apply, she won't need 10 qualifying years of her own to get any State Pension.
>
> She'll get a State Pension that will be about the same as:
>
> - the lower rate basic State Pension of £80.45 a week (2020 to 2021 rate) (if married and her husband has reached State Pension age)

75 Cm 8503, April 2011, p30; Cm 8528, January 2013, p91
76 PBC Deb 2 July 2013 c141-2
77 *Pensions Act 2014*, s4
78 Cm 8528, January 2013, p91; DWP factsheet, 2013, para 17
79 Ibid; DWP, The single-tier pension: a simple foundation for saving, Cm 8528, January 2013, Annex 3.D

> - the rate of the basic State Pension of £134.25 a week (2020 to 2021 rate) (if widowed or divorced)
> - She'll also get any Additional State Pension that she built up before 6 April 2016 on top of this basic amount.
>
> To qualify, her Reduced Rate Election must have been in force at the start of the 35-year period ending on 5 April before she reaches State Pension age.[80]

The Government explained why it was transitionally protecting this group:

> 33. Fully removing the potential to derive basic State Pension from a spouse under the single-tier pension would disadvantage women who elected to pay reduced rate National Insurance contributions. They may have few or no qualifying years as a result of their election, which would leave them with potentially no state pension under single-tier rules despite a long history of paying National Insurance contributions and engaging with the system.[81]

DWP's guide to the State Pension explains that individuals may still be able to inherit extra State Pension or a deferral lump sum:

> You may be able to inherit an extra payment on top of your new State Pension if you are widowed or a surviving civil partner. The extra payment may consist of Additional State Pension or a protected payment (if any).
>
> This will depend on whether the deceased:
>
> - reached State Pension age or died before 6 April 2016, or
> - reached State Pension age, or died under State Pension age after 5 April 2016
>
> You might also be able to inherit an extra State Pension or a lump-sum payment if your late spouse or civil partner reached State Pension age before 6 April 2016 and put off claiming their State Pension.[82]

For more detail, see Library Briefing Paper

CBP 8635 Inheriting pension rights (Dec 2019), section 1.2

Why is there a minimum qualifying period?

A minimum of ten qualifying years are required to be entitled to any nSP.[83] Years of residence in another EEA country, or one with which the UK has a reciprocal agreement, count towards the minimum qualifying period but entitlement is based on UK contributions alone.[84]

A minimum contribution requirement was part of the old State Pension system before 6 April 2010 but was removed because it was more likely to affect some ethnic minority women who faced cultural barriers to work and that some people got no pension at all despite having nine qualifying years.[85]

The Coalition Government's rationale for re-introducing a minimum contribution requirement for the nSP was to target spending on those who

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80 DWP, State Pension – Your guide, April 2020, section 9a

81 DWP, The single-tier pension: a simple foundation for saving, Cm 8528, January 2013; *Pensions Act 2014* (s11-12)

82 DWP, State Pension – Your guide, April 2020, section 9a; DWP, Decision Makers' Guide, (para 74302ff)

83 *State Pension Regulations 2015 (SI 2015/173,* reg 13

84 Explanatory Memorandum to SI 2015/173, para 7.23

85 *Pensions Act 2007*, s1; Cm 6841, May 2006, para 3.97

have made a "significant economic or social contribution to this country during their working lives."[86]

What about NI records before 2016?

Transitional arrangements to deal with past NI records mean that not everyone with at least 35 qualifying years will get the full amount of the new State Pension in April 2016.

Under these arrangements, a comparison was made in April 2016 of the amounts individuals had built up under the 'old' system and what they would have built up under the new one had it been in force throughout.[87] DWP explains:

> **3b What is the 'starting amount' for the new State Pension?**
>
> If you have qualifying years on your National Insurance record as at 5 April 2016, we work out a 'starting amount' for you for the new State Pension. This is the higher of either:
>
> • the amount you would get under the previous State Pension up to 6 April 2016, or
>
> • the amount you would get on your record to 6 April 2016 if the new State Pension had been in place at the start of your working life.
>
> Both amounts will reflect any periods when you have been contracted out of the Additional State Pension. Your 'starting amount' can be less than, more than or equal to the full new State Pension.
>
> **If your 'starting amount' is less than the full amount of the new State Pension –**
>
> Each 'qualifying year' you add to your National Insurance record after 5 April 2016 will add a certain amount (about £5 a week, this is £175.20 divided by 35) to your 'starting amount', until you reach the full amount of the new State Pension or you reach State Pension age, whichever happens first.
>
> **If your 'starting amount' is more than the full amount of the new State Pension –**
>
> You will get this higher amount when you reach State Pension age. It will be possible to have a starting amount higher than the full new State Pension if you have some Additional State Pension. The difference between the full new State Pension and your 'starting amount' is called your 'protected payment'.
>
> **If your 'starting amount' is the equal to the full new State Pension -**
>
> You will get the full new State Pension when you reach State Pension age.[88]

For more information, see

Gov.UK, The new State Pension – how its calculated

DWP, Your State Pension explained, (April 2020), section 3

Library Briefing Paper SN-06525 The new State Pension – transitional issues (Feb 2019)

Do people who had built up more than the full nSP before 2016 lose out?

When presenting the Government's reform proposals to Parliament in 2013, the then Pensions Minister Steve Webb said contributions already made would be recognised:

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86 Cm 8528, Jan 2013, p 92

87 *Pensions Act 2014*, Sections 4-6, Schedule 1.

88 DWP, Your State Pension explained, April 2020

> Of course, national insurance contributions paid and that would, under the current system, have led to entitlement to a second state pension will be recognised. For example, when we introduce single tier, someone who retires in 2018 who has £160 in the current system will still get a pension of £160.[89]

The mechanism for this is the check made in April 2016 of rights under the new system with rights under the old one – see above.

However, two features of the new system mean that, as time goes on, such individuals may be losers compared to the position if the old system had continued:

- They cannot build up any more entitlement after April 2016 – in contrast to the old system, where you could continue to build additional State Pension entitlement throughout working life.
- The 'protected payment' (the amount in excess of the full nSP in April 2016) was revalued between 2016 and State Pension age in line with the Consumer Prices Index – in contrast to the old system where the pension would have been revalued to State Pension age by earnings growth, which tends to be higher.[90]

Steve Webb explained that this was one of the trade-offs:

> A higher flat rate pension is affordable only because, in the long term, people will not become entitled to very large earnings-related pensions through the state system. In a world where everyone will be automatically enrolled into a workplace pension with a contribution from their employer, it no longer makes sense for the state to run its own separate earnings-related pension scheme. Higher earners are among those being automatically enrolled, with substantial employer contributions, so those who earn the most while they are working will continue to be the best off in retirement.[91]

Why is a there a deduction for some people with occupational pensions?

Under the old system, some people contracted-out of the earnings-related part of the State Pension (the additional State Pension) into a private (occupational or personal) pension. Where an individual was contracted-out, they and their employer paid lower NI contributions (via a 'contracted-out rebate') in recognition of the fact that the individual was foregoing additional State Pension rights and instead building up a private pension.

The nSP is single-tier and there is no option to contract out. However, the transition to the new system needed to take account of past periods of contracting out. Had it not done so, people who had been contracted-out would effectively have been provided for twice - with their contracted-out private pension *and* the additional State Pension they had contracted-out of.

To avoid this, a deduction is made from their nSP. This is intended to be broadly equivalent in value to the workplace pension the rebate funded and consistent with the rules of the old system. To ensure individuals are not

For more information, see

DWP, Your State Pension explained, April 2020, section 7

DWP, Contracting out and why we may have used a Contracted-out Pension Equivalent (COPE) amount when you used the online service (April 2017)

DWP, The New State Pension transition and contracting-out factsheet, July 2015

89 HC Deb, 14 January 2013, c606
90 DWP, Impact of the nSP – longer term effects, 2016
91 HC Deb, 14 January 2013, c607

worse off, a check was made in April 2016 and, if they would have received a higher amount under the old system, that higher amount is their starting rate for the nSP.[92]

In addition, from April 2016, people may be able to build up 'qualifying years' under the new system, effectively allowing them to 'work off' the deduction. This feature of the system means that people who have 'contracted-out' are in fact on average gainers from the introduction of the nSP.[93]

Steve Webb said that although people who had been contracted-out tended to gain from the nSP, they often did not see it that way:

> They don't perceive it because they say, "He is getting a flat rate and I am not," but I am getting the lower rate plus my teacher's pension, and now I will get a better State Pension plus my teacher's pension[94]

Will people with Guaranteed Minimum Pensions still get full uprating?

A Guaranteed Minimum Pension (GMP) is what occupational pension schemes were required to provide as a condition of contracting-out between 1978 and 1997. The intention behind GMPs was to ensure the individual was not worse off than they would have been had they remained contracted-in.

Under the 'old' system (which continues for people who reached State Pension age before 6 April 2016), responsibility for uprating GMPs was divided between the occupational pension scheme and the State. The way this worked was that the scheme is required to uprate GMP rights accrued between 1988 and 1997, subject to a 3 per cent cap. DWP then recalculates the state pension payable each year (deducting the GMP from the additional State Pension they individual would have earned had they remained contracted-in). The effect is to ensure the full GMP is uprated by prices.

For people reaching State Pension age after 6 April 2016, part of these arrangements remains in place (i.e. the requirement to uprate GMPs accrued between 1988 and 1997, up to 3%). However, there is no additional State Pension and so the annual recalculation of the State Pension will not take place. This does not necessarily mean the individual will be worse off. Steve Webb said:

> Basically, there are a set of people with GMPs who gain—small GMPs because they will get triple lock on the next £40-odd—and people with huge GMPs will probably lose.[95]

A March 2016 NAO report found that the impact of the nSP reforms on people with GMPs would vary widely.

For more information, see

NAO, The impact of state pension reforms on people with Guaranteed Minimum Pension, HC 907, 2015-16, p12; and

DWP, Impact of the new State Pension (nSP) on an Individual's Pension Entitlement (Jan 2016), p20-1.

Library Briefing Paper CBP 4956 Guaranteed Minimum Pension (GMP) increases (Feb 2019)

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[92] PA 2014, section 5 and schedule 1

[93] Oral evidence to the Work and Pensions Committee 25 November 2015, Q24 [Steve Webb]; IFS, A single-tier pension: what does it really mean? July 2013).

[94] Evidence to the Work and Pensions Select Committee, November 2015, Q24

[95] HC Deb 6 January 2014 c51W; Evidence to the Work and Pensions Committee, 1 December 2015, Q2 [Steve Webb]

Were the reforms unfair to pre-2016 pensioners?

The nSP is for people who reach SPA on or after 6 April 2016. People who attained their State Pension age on 6 April 2016 continue to receive their State Pension under the old rules.[96]

The Government's reason for targeting the reforms at future pensioners was that they are being asked to take greater personal responsibility to save for their retirement through the policy of auto-enrolment. It hoped that the nSP would be simpler, making it easier for people to understand how much they could expect to receive.[97]

In the 2015 Parliament, many MPs were contacted by pensioners who thought this was unfair – in some cases pointing to the fact that the nSP was set at a higher level than the old basic State Pension (£175.20 and £134.25 pw in 20120/21). However, because the nSP incorporates the additional State Pension as well as the basic State Pension, this is not comparing like with like. The State Pension reforms were designed to be cost neutral – which means that some people get slightly more than if the current system continued and some slightly less.

- Factors that could lead to a **lower outcome** under the new system include the introduction of a minimum qualifying period and the ending of the rules allowing individuals to derive entitlement based on a (former) spouse or civil partner's contributions.
- Factors that could lead to a **higher outcome** include having built up low entitlement to the additional State Pension under the old system (for example, if you had caring responsibilities before 2002 or were self-employed) or having been contracted-out (if you are able to build up more qualifying years from April 2016).[98]

Where people are gainers from the introduction of the new system, their gains are relatively modest -around £8 pw (2014/15 earnings terms) for the 650,000 women reaching SPA over that period.[99]

Nonetheless, the Government estimated that topping up the gross State Pension entitlement of all people who had already reached SPA before implementation to the full amount of the nSP would have a considerable cost - around £10 bn pa in the early years.[100]

The Pensions Policy Institute found that introducing the nSP for all, rather than just future pensioners, would have reduced pensioner poverty further.[101]

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96 PA 2014, s1 (2)
97 HC Deb, 4 April 2011, c795 [Steve Webb]
98 HC Deb 29 January 2013 c784W; DWP, Impact of the new State Pension – longer term effects, January 2016, p7
99 DWP, Updating impact of the single-tier pension reforms, July 2014
100 DWP, Cost of paying £140 a week State Pension to all pensioners retiring before 2016/16, April 2011; Gross State Pension is the sum of an individual's own basic State Pension, derived rights to basic State Pension and inherited Additional Pension
101 PPI, The implications of Government policy for future levels of pensioner poverty, July 2011

3. State Pension age

What is the State Pension age?

From the 1940s, SPA was 60 for women and 65 for men. Since then:

- The SPA for women started to rise from 60 in April 2010, to reach 65 in December 2018;
- The equalised SPA will rise to 66 between December 2018 and October 2020;
- The SPA will then rise to 67 between 2026 and 2028.[102]

Current legislation also provides for the SPA to increase to 68 between 2044 and 2046.[103]

Individuals can check their State Pension age on Gov.UK or on DWP's State Pension timetable.

For more information see

Library Briefing Paper SN-06546 State Pension age review (August 2017)

SN-02234 State Pension age – background (Feb 2013)

How will it rise in future?

The Coalition Government legislated for the pension age to be reviewed roughly every five years because of life expectancy changes and the need to ensure that the SPA kept pace with this change.[104]

The aim is that people should expect to spend, on average, up to one third of their adult life in receipt of the State Pension and that they should have at least ten years' notice of any change. Reviews should take account of the latest demographic data and be informed by an independently-led report on wider factors.[105]

In March 2016, the Government said the first review would look at the timetable from 2028 (when the SPA will be 67) and that John Cridland would produce an independent report to support it.[106]

Mr Cridland's final report, published in March 2017, recommended an increase to 68 between April 2037 and 2039 and no further change for ten years unless there were exceptional changes to data (the yellow line below). The report acknowledged that certain groups – including carers and people with disabilities – were disproportionately affected by SPA increases and faced difficulty building up enough private pension savings for an adequate income in retirement. To mitigate the impact, it recommended allowing access to the means-tested benefit Pension Credit one year before the increase of the SPA to 68 and adjusting the conditionality in working age benefits for those approaching retirement.[107]

However, some stakeholders expressed concern. For example, Age UK did not think the increase to 68 by 2039 was justified and said the Government needed to do more for people unable to work to their current SPA – for

102 Pensions Act 1995, Schedule 4, as amended by the Pensions Act 2011 and Pensions Act 2014
103 Pensions Act 2007, section 13 and Schedule 3, Table 4
104 Ibid s27
105 HM Treasury, Autumn Statement 2013, Cm 8747, December 2013, para 1.122; Cm 8528, January 2013, p66
106 HC Deb 1 March 2016 c39WS
107 Independent review of the State Pension age: smoothing the transition, March 2017

example, "life-long manual workers crippled by arthritis and carers who have given up work to look after an ailing parent, and who face hardship as they wait to claim their State Pension."[108]

Under the *Pensions Act 2014*, the Government was required to produce its own review by 7 May 2017.[109] This was delayed due to the general election on 8 June. When published on 19 July, it said the Government had decided to adopt the proposed timetable for the increase to 68:

> The Government intends to follow the recommendation John Cridland made in his independent review to increase the State Pension age from 67 to 68 in 2037-39, bringing it forward by seven years from its current legislated date of 2044-46. This is the fair thing to do.[110]

It would carry out a further review before legislating to bring forward the increase to 68 "to enable consideration of the latest life expectancy projections and to allow us to evaluate the effects of rises in state pension age already under way."[111]

What has happened to the legal challenge to pension age increases for 1950s women?

Briefly, some women born in the 1950s have had their State Pension age (SPA) increased by two pieces of legislation:

- The *Pensions Act 1995* legislated to increase the SPA for women from 60 to 65 over the period April 2010 to April 2020. This affected women born on or after 6 April 1950;
- The *Pensions Act 2011* legislated to accelerate the latter part of this timescale – starting in April 2016 when women's SPA was 63 – so that it will now reach 65 in November 2018. The equalised SPA will then rise to 66 by October 2020. This affected women born between 6 April 1953 and April 1960.

For more information, see

Library Briefing Paper SN-07405 Increases in the State Pension age for women born in the 1950s (March 2020)

Under the 2011 Act as originally presented to Parliament, some women would have seen their SPA increase by as much as two years at relatively short notice (between five and eight years). In response to concerns about the impact of this, the Government amended the legislation in its final stages in Parliament to cap the maximum increase under the 2011 Act at 18 months relative to the timetable in existing legislation.[112]

This led to lengthy campaigns from women affected. The campaign group WASPI says it agrees with equalisation but not with the way the changes were implemented – with "little or no personal notice" 1995/2011 Pension Acts), "faster than promised" (2011 Pension Act), and "no time to make alternative plans." It has called for "fair transitional state pension

108 Age UK responds to the Cridland review, 23 March 2017; PLSA welcomes John Cridland's proposal not to increase State Pension age beyond 68, 23 March 2017; NPC Briefing, Smoothing the Transition. The Cridland Review of the State Pension Age, 23 March 2017
109 UK Ministers delay response on State Pension age, *Financial Times* 28 April 2017
110 DWP, State Pension age review, July 2017, p4
111 Ibid, p10; HC Deb 19 July 2017 c865-6
112 DWP, Pensions Bill 2011 – factsheet

arrangements," which they say translates into a 'bridging pension' paid from age 60 to SPA.[113]

On 3 October 2019, the High Court gave judgment on a claim for judicial review brought by the backto60 campaign. The claimants' grounds were that the mechanisms chosen to implement the increases in the pension age discriminated on grounds of age and/or sex. They also sought judicial review of the government's "alleged failure to inform them of the changes." However, the court dismissed the claim on all grounds.[114] In response to questions on 9 March 2020, Pensions Minister, Guy Opperman said "full restitution would cost something in the region of £215 billion […] a case was before the courts last year: on all grounds, these ladies lost their case. Clearly, that matter is subject to appeal, but the case was lost in respect of every ground, including notice."[115] The Court of Appeal heard an appeal against the High Court judgment on 21 and 22 July 2020. On 23 July, Backto60 reported that the judgment was to be handed down "in due course."[116]

Separately to the legal challenge, WASPI had been encouraging women who felt they had not been adequately informed to make complaints of maladministration, first to DWP's Independent Case Examiner (ICE) and then to the Parliamentary and Health Service Ombudsman (PHSO). The PHSO put its proposal to investigate a sample of complaints on hold pending the outcome of the judicial review. However, in January 2020, it announced that it would investigate six sample complaints. It will "look at whether there was maladministration in DWP's communication of changes to women's State Pension age."[117]

The issues have been debated in Parliament on many occasions.[118] In response, the Government has argued that the changes in the 2011 Act were debated at length and a decision made by Parliament, as part of which a concession was made to limit the impact on those most affected. It says it will "make no further changes to the pension age or pay financial redress in lieu of a pension."[119]

Can people claim the State Pension early?

No. One of the current conditions of entitlement to the State Pension is that the individual has reached SPA.[120]

John Cridland considered whether early access should be allowed as part of his review of the State Pension age. However, while there was a consensus that there were regional variations in life expectancy, respondents to the consultation had not suggested any workable ways for the State Pension age to address this:

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113 Library Briefing Paper CBP-07405 (February 2017), section 6.1
114 Delve and Glynn v SSWP – media summary
115 HC Deb 9 March 2020 c17
116 Backto60 website, 23 June 2020
117 PHSO website, Complaints about communication of increases in women's State Pension age
118 See Library Briefing Paper CBP 7405 (June 2019), section 9
119 PQ 49721 27 October 2016v
120 *Social Security Contributions and Benefits Act*, s44; *Pensions Act 2014*, s 1(2)

> Many responses highlighted the value of the simplicity of a universal State Pension age, and acknowledged the difficulty of designing and implementing a workable alternative. There was little appetite for a variable State Pension age based on region or socio-economic group, as this would likely prove to be too difficult to target appropriately. Multiple respondents noted that creating an alternative was likely to create new unfairness […] Multiple organisations suggested the Government should explore offering early access to particular groups. The most commonly cited groups for consideration were carers and people in ill health or with a disability. A few responses supported offering early access to those with a high number of National Insurance contribution years, but this was less popular. Responses generally offered limited detail on how these policies could be implemented.[121]

In its 2016 report on Communication of state pension age changes, the Work and Pensions Committee said it was interested in the idea of "permitting early retirement, from a specified age and for a defined cohort of women, on an actuarially neutral basis."[122] It launched a further inquiry to explore the issues but did not produce a report.[123]

John Cridland's final report said many respondents had expressed concern that offering actuarially reduced access would "likely result in either an increase in the number of people with inadequate retirement incomes or an increase in means-tested benefit expenditure."[124]

In its own review of the State Pension age, the Government emphasised the advantages of a universal State Pension age, in creating a "simple system around which people can plan." It strongly endorsed John Cridland's findings on this issue.[125]

What happens if a claim for State Pension is delayed (deferred)?

Deferring can mean a person gets increased payments when they do claim. Gov.UK explains:

> Deferring your State Pension could increase the payments you get when you decide to claim it.
>
> Do nothing if you want to defer. Your pension will automatically be deferred until you claim it.
>
> Any extra payments you get from deferring could be taxed.
>
> **If you're on benefits**
>
> You can't get extra State Pension if you get certain benefits. Deferring can also affect how much you can get in benefits.
>
> You must tell the Pension Service if you're on benefits and you want to defer.

For more information, see

Gov.UK – delay (defer) your State Pension

Library Briefing Paper SN-02868 State Pension deferral (May 2020)

DWP, State Pension deferral – if you reached State Pension age before April 2016 (June 2017)

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121 Independent Review of the State Pension age. Smoothing the Transition. Final Report, March 2017, p126

122 HC 899, 15 March 2016, para 40-48

123 Work and Pensions Select Committee, Early drawing of state pension

124 Independent Review of the State Pension age. Smoothing the Transition. Final Report, March 2017, p126

125 DWP, State Pension age review, July 2017, p26

People who reached State Pension age before 6 April 2016 can take their extra State Pension as either higher weekly payments or a lump sum. Gov.UK explains:

> You get extra weekly State Pension if you defer for at least 5 weeks.
>
> Your State Pension increases by 1% for every 5 weeks you defer. This works out as 10.4% for every full year you defer claiming. The extra amount is paid with your regular State Pension payment.
>
>> *Example:*
>>
>> You get £134.25 a week (the full basic State Pension).
>>
>> By deferring for 52 weeks, you'll get an extra £13.96 a week (10.4% of £134.25).
>
> This example assumes there is no annual increase in the State Pension. If there is an annual increase, the amount you could get could be larger.
>
> **Lump sum payment**
>
> You can get a one-off lump sum payment if you defer claiming your State Pension for at least 12 months in a row. This will include interest of 2%

There is no reward for deferral during a period certain benefits were in payment.[126]

If an individual is in receipt of extra pension following a period of deferral, that extra income is considered in calculating entitlement to means-tested benefits. On the other hand, a lump sum earned after a period of deferral is disregarded for Pension Credit and Housing Benefit.[127] The reason for allowing lump sums to be disregarded was to remove a potential disincentive to defer for people on lower incomes.[128]

Why was the reward for deferral reduced for people reaching SPA from 2016?

For people reaching State Pension age from 6 April 2016, the reward for deferral was reduced (to 5.8% of the weekly rate for each full year deferred) and the option of the lump sum has been removed.[129]

The Coalition Government's intention was to set the reward for deferral at a rate that would "more closely reflect the value of the income foregone."[130] When the legislation was before Parliament, the then Work and Pensions Minister, Lord Freud explained that the Government had intended the introduction of the new State Pension to be cost-neutral. Removing the deferral lump sum had contributed to early-years savings which had been 'ploughed back' into the design of the new State Pension. People still had the option to backdate their claim for up to 12-months:

> By backdating their claim to a state pension, someone who has delayed claiming for whatever reason—either unintentionally or as

126 Gov.UK, deferring state pension/if you get certain benefits or tax credits

127 *State Pension Credit Regulations 2002 (SI 2002/1792)*, schedule V, para 23A; DWP, State Pension deferral if you reached State Pension age before April 2016

128 Explanatory Memorandum to SI 2005/2677, para 7.2

129 *Pensions Act 2014*, s16-18; SI 2015/173, reg 10

130 EN to SI 2015/173 para 7.27; DWP, Single-tier Impact Assessment, Oct 2013, para 50)

> part of a planned retirement—will be able to get up to 12 months' arrears when they make their claim for a pension.[…] let me take the example of someone who delays claiming the maximum amount for two years and wants to backdate their claim for the 12 months. If we take the £144 example, they would get an increment of around £7.50 to £8 a week, depending on the value of the uprating, which would be added to their weekly entitlement. It would also include the calculation of arrears due to them for the backdated period. That would boost the overall arrears payment to more than £8,000, so that is the mechanism through which the delay works.[131]

The Cridland Review of the State Pension age recommended that the Government re-introduce the option of a lump sum on deferral and change the rules to enable partial drawdown of the State Pension so that people could afford to continue working but reduce their hours.[132]

Why can't an unmarried partner inherit a deferral lump sum?

Gov.UK explains that individuals can usually inherit part or all of their partner's extra State Pension you reached pension age before 6 April 2016 and all of the following apply:

- you were married or civil partners when they died
- they had already deferred their State Pension or were claiming their deferred State Pension when they died
- you didn't remarry or form a new civil partnership before you reached State Pension age[133]

Otherwise, only up to three months State Pension may be payable to their estate. DWP explains:

> If you are not married or in a civil partnership, and you have put off claiming your State Pension but die before claiming it, someone else may make decisions about your estate. They may be able to claim up to three months of the State Pension you have not claimed, and this could include any extra State Pension you have earned before that. This will be paid to your estate. They cannot choose a lump-sum payment.[134]

Surviving unmarried partners sometimes object that it is not fair that they are not able to inherit a lump sum earned while their partner was not claiming their State Pension. In response, Ministers have said it is "a long-established principle that provision is made for a surviving spouse." This "explicitly recognises that marriage implies enduring mutual financial support and obligations."[135] Furthermore, unmarried partners had the option of marrying.[136] In the last Parliament, the Conservative Government took the same approach:

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131 HC Deb 24 Feb 2014 c778-9

132 Independent Review of the State Pension age. Smoothing the Transition. Final Report, March 2017, para 5.6.1-2

133 Gov.UK, Inheriting a deferred State Pension; *Social Security Contributions and Benefits Act 1992 (SSCBA 92),* s 44 and schedule 5

134 DWP, State Pension deferral, October 2014; SI 2005/2677

135 HL Deb 18 October 2004 GC144

136 HC Deb 16 July 2003, c 436-7W; HC Deb 13 December 2004 c 849W

> Our law and tax systems recognise inheritance rights and needs of bereaved people only if they have a recognised marriage or civil partnership. This stems from the founding principle of the national insurance system, which is that all rights to benefits derived from another person's contributions are based on the concept of legal marriage and civil partnership.[137]

Opposite sex couples also now have the option of a civil partnership – see Library Briefing Paper CBP 8609.

137 HL Deb 15 January 2014 c148-9

4. Other State Pension issues

4.1 Coronavirus response

In response to the coronavirus crisis, the Government increased Universal Credit and Working Tax Credit payments by around £1,000 a year. They also increased support for private renters.[138] As explained in response to a PQ, it has not increased the rate of the State Pension, beyond the annual uprating in April:

> The Government remains committed to providing dignity and security in retirement to all pensioners. In April 2020, full amounts of the basic and new State Pensions increased by 3.9%, in line with average earnings growth. This was the highest increase since 2012.
>
> The full yearly amount of the basic State Pension is worth around £700 more in 2020/21 than if it had been uprated by earnings since 2010. That is over £1,900 in cash terms.
>
> Pension Credit provides a safety net for people of State Pension age most in need. It provides a top up for people with a weekly income below £173.75 (for single people) or £265.20 (for couples). On 6th May we introduced an online claim process for Pension Credit in addition to the existing ways of claiming by telephone and by post, making it quicker and easier for people to apply.[139]

It has also explained that – as discussed above - the State Pension cannot be claimed early:

> Unlike a personal or workplace pension, which is payable at the scheme's normal pension age and that can potentially be drawn earlier on grounds of ill health, it has always been the case that nobody can claim their State Pension before they reach their State Pension age.
>
> The welfare system continues to provide a safety-net for those experiencing hardship, including that caused by unemployment, disability, and coping with caring responsibilities, which affect those unable to work and therefore most in need in the run up to their State Pension age.[140]

It has launched a new service to contact people with Post Office Card Accounts who need support to access their State Pension payment during the Coronavirus outbreak.[141] There is information on the Post Office Card Account website.

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[138] See HC Library insight – Coronavirus – increases to benefit payments (May 2020)
[139] PQ52509, 9 June 2020
[140] PQ 39620 4 May 2020; PQ 72775 21 July 2020
[141] HCWS200, 27 April 2020

4.2 State Pension payments

For more information see

Library Briefing Paper CBP-260 State Pension payment arrangements (April 2020)

Do I have to have it paid into a bank account?

The Government's preferred payment method is direct into a bank, building society or credit union account as "the most efficient, cost effective and preferred way to make pension and benefit payments."[142]

Payment into a Post Office Card Account (POCA) will remain an option until at least 2021:

> In 2014 Government committed to maintain POca until at least 2021, to ensure that people who cannot use a mainstream account can continue to access their benefits and pensions. Government's existing POca contract with the Post Office, which expires in November 2021, has an option to be extended for up to 3 years to 2024. A decision on any extension will be taken at the appropriate time, informed by both customers' needs and the need to make sure the taxpayer sees Value for Money.[143]

On 1 October 2019, Pensions Minister Guy Opperman said plans were underway for a replacement service from November 2021. This would "ensure that customers who remain unable to open or manage a standard account, are provided with a payment mechanism to receive their payment of pension and benefit from DWP. Commercial arrangements are underway to engage with potential suppliers in preparation for competitive tender later this year."[144]

How frequently is it paid?

The State Pension is a weekly benefit, generally only paid in multiples of a week. It is usually paid four-weekly in arrears. From 2010, individuals are allocated a payday according to the final two digits in their National Insurance number.[145]

Before the introduction of the new State Pension on 6 April 2016, payment started from the first payday after the individual reached State Pension age, meaning there was often a gap at the beginning of the claim. The same principle applied at the other end of an award, so that when the pensioner died, their state pension was payable to the end of that benefit week.

With the introduction of the new State Pension, the rules were changed to allow part-week payments at the start and end of a State Pension claim. Although people may have to wait a few days for their first payday (as before), they will receive an amount in arrears to cover the gap.[146]

142 PQ 108720 24 October 2017
143 PQ 108721 24 October 2017
144 PQ 290396, 1 October 2019; see also, HL 310, 30 October 2019
145 SI 1978/1968, reg 22C; Gov.UK/The new State Pension: what you'll get
146 Explanatory Memorandum to SI 2015/1985, para 7.14

4.3 Why can't people get Carer's Allowance in addition to the State Pension?

For more information see

Library Briefing Paper SN-06349 Carers' Allowance and Retirement Pension (June 2017)

Carer's Allowance cannot be paid in addition to the Retirement Pension. This is because of the "overlapping benefits" rule, which is that a person cannot receive more than one of a list of income maintenance benefits. To do so would breach a long-standing principle of the social security system that "double provision should not be made for the same contingency."[147]

A Parliamentary Written Answer from April 2017 explained:

> Where a carer's State Pension is less than Carer's Allowance, State Pension is paid and topped up with Carer's Allowance to the basic weekly rate of Carer's Allowance, which is currently £62.70 a week.
>
> However, where the State Pension paid is higher than £62.70, social security rules operate to prevent Carer's Allowance and State Pension being paid together, since they are designed to meet the same need i.e. to help maintain income. Paying both benefits together would represent duplicate provision. The relevant legislation is *The Social Security (Overlapping Benefits) Regulations 1979* (regulation 4) […]
>
> Where Carer's Allowance cannot be paid, the person will keep underlying entitlement to the benefit. This gives access to the additional amount for carers in Pension Credit, worth up to £34.95 a week, and even if a pensioner's income is above the limit for Pension Credit, he or she may still be able to receive Housing Benefit.[148]

As this explains for lower income pensioners an "underlying entitlement" to Carer's Allowance can give access to carer additions to means-tested benefits such as Pension Credit.[149]

4.4 How is the State Pension uprated?

For more information see

Library Briefing Paper 8806 Benefit Uprating 2020 (April 2020)

CBP-07812 State Pension triple lock (June 2020)

Different statutory requirements apply to uprating different parts of the State Pension:

- In the case of the new State Pension (for people who reached SPA from 6 April 2016) and the basic State Pension (for people who reached SPA before that date), the statutory requirement is to increase at least in line with earnings, although in recent years governments have made a commitment over and above this to uprate it by the 'triple lock' – the highest of earnings, prices or 2.5%.[150]

- In the case of other parts of the State Pension, including 'deferred retirement increments' (the extra pension you gain from delaying a

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[147] National Insurance Advisory Committee, Report on overlapping benefit regulations, HC 36, 1948/49

[148] PQ 71855, 27 April 2017; HC Deb 10 June 2013 c195W

[149] *State Pension Credit Act 2002*, s2(8); State Pension Credit Regulations 2002, (SI 2002/1792) regulation 6 & schedule I Part II; DWP, A detailed guide to Pension Credit for advisers and others, July 2016, p11

[150] HC Deb 23 November 2016, c899' ; Agreement between the Conservative and Democratic Unionist Parties, June 2017. The agreement is to remain in place for the length of the Parliament and can be reviewed by the mutual consent of both parties

claim), the statutory requirement is to increase in line with prices (now measured according to the Consumer Prices Index).

The legislation is in the *Social Security Administration Act 1992* (s150 and 150A) and *Pensions Act 2014* (Sch 12 (19).

4.5 State Pension overseas

Why isn't the UK State pension uprated in some overseas countries?

The UK State Pension is payable overseas but only uprated annually if the individual is resident in an EEA country or one with which the UK has a reciprocal social security agreement requiring this.[151]

This means that in some countries – most notably, Australia, New Zealand, Canada and South Africa - an individual's pension frozen, i.e. paid at the same rate as it was when they first became entitled, or the date they left the UK if they were already pensioners then. If they return to the UK, their State Pension can be paid at the current rate. DWP Decision Makers' Guide explains:

> 075796 If a person whose rate of RP has been frozen visits GB
>
> 1. whilst in GB that person is entitled to the current rate of RP and
>
> 2. on again leaving GB the rate of RP reverts to the rate that was paid before the visit to GB.
>
> 075797 A person who returns to GB and becomes ordinarily resident here is entitled to RP at the current rate. If that person later leaves GB then the rate of RP is restricted to the rate that person was receiving in GB. It does not revert to the rate paid when last absent from GB.[152]

The policy of not awarding increases in some countries overseas has been followed by successive governments and continued with the introduction of the new State Pension on 6 April 2016. Essentially, the reason is cost and the desire to focus constrained resources on pensioners living in the UK.[153]

The policy has been debated in the House on numerous occasions and been the subject of a legal challenge.[154]

For more information see

Library Briefing Paper CBP 1457 Frozen overseas pensions (May 2020).

What impact will Brexit have?

Entitlement to the UK State Pension is based on an UK individual's National Insurance record. As part of the EU, the UK was part of a system to co-ordinate the social security entitlements for people moving within the EU. The rules also apply to EEA countries and Switzerland.

The aim of these provisions is to remove barriers to workers moving between Member States. They enable periods of insurance in different countries to be aggregated. An individual makes one application to the relevant agency in the country of residence - in the UK, the International

For more information, see

Library Briefing Papers CBP 7894 Brexit and State Pensions and CBP 8928 The UK-EU future relationship negotiations: social security co-ordination (June 2020).

151 *Social Security Contributions and Benefits Act 1992*, s113; Social Security Benefit (Persons Abroad) Regulations 1975 (SI 1975/563)
152 DWP, *Decision Makers' Guide*, paras 75796-7
153 Explanatory Memorandum to SI 2016/199
154 For more detail, see SN-01457 Frozen overseas pensions (March 2018)

Pension Centre. It then notifies details of the claim to all countries in which the person has been insured. Each Member State in which the person was insured then calculates its pro-rata contribution and puts that amount into payment. Being part of social security co-ordination, has also ensured that the UK State Pension is uprated annually in EEA countries.

The arrangements to apply post-Brexit were part of the negotiations under Article 50 on the UK's withdrawal from the EU. The October 2019 UK-EU Withdrawal Agreement (WA) covers EU citizens who were residing in the UK, and UK nationals who were residing in one of the 27 EU Member States at the end of the transition period (on 31 December 2020) where such residence is in accordance with EU law on free movement. The UK Government explains that those covered by it will "continue to have broadly the same entitlements to work, study and access public services and benefits as before the UK left the EU."

The social security co-ordination arrangements for those who are not in scope of the WA, who move to the EU from 1 January 2021, are the subject of negotiations between the UK and EU on the future relationship. As set out in the Political Declaration, the UK and the EU agreed to consider future social security co-ordination arrangements in the light of the future movement of persons. The exception relates to Ireland, with which the UK Government signed a Convention so that "reciprocal benefit and social security rights for Irish and UK nationals and their family members continue to operate independently of those afforded to EU nationals from other Member States."

The European Commission published a draft treaty text on 18 March 2020, including a Protocol on Social Security Coordination. In May, the UK has published a Draft Social Security Coordination Agreement. The two texts differ significantly. While the EU's proposals would broadly speaking mean the continuation of the existing coordination rules (though applying to certain limited groups only), the UK's draft agreement does not cover cash benefits beyond state pensions.

Guidance for individuals is on Gov.UK - Benefits and pensions for UK nationals in the EEA or Switzerland (updated 13 July 2020) and Benefits and Pensions for EEA and Swiss citizens living in the UK (updated 29 January 2020).

4.6 How can I check my State Pension forecast?

Individuals can request a State Pension forecast on Gov.UK. This service provides a State Pension forecast (based on the individual's current National Insurance record and an assumption that future years count towards their State Pension), and the earliest date the individual can get their State Pension. Users can look at their National Insurance record, where they will also find out how many qualifying years they have and any gaps in their contributions.

4.7 Why do people with full State Pensions continue to be liable for NI?

People sometimes complain that they should not have to continue paying National Insurance (NI) when they have already built up a full State Pension.

However, as then Work and Pensions Minister Lord Freud said in 2013, individuals do not build up their own pension pot:

> The National Insurance scheme operates on a 'pay-as-you-go' basis. This means that today's contributors are paying for today's social security entitlements and pensions, and those paying contributions previously were paying for the pensioners of that time. Contributors do not accumulate an individual pension fund of actual monies they have paid which is personal to them. Instead, payment of contributions entitles them or, in certain circumstances, their spouses or civil partners to a range of social security benefits which are available on the basis of the rules applicable at the time of the claim.[155]

Also, NI does not just go towards the State Pension. It is a condition of entitlement to some other NI benefits, such as contributory Employment and Support Allowance and Jobseeker's Allowance that contributions have been made in the last two full tax years before the year of claim. In addition, one part of all NICs go direct to the NHS.[156]

For those entitled to the new State Pension, the fact that individuals cannot build up more that the flat-rate amount is one of the things that helped ensure it was cost neutral:

> The overall cost of the new system will be the same as that of the one it replaces. This is not a pensions giveaway for the next generation. A higher flat pension is affordable only because, in the long term, people will not become entitled to very large earnings-related pensions through the state system. In a world where everyone will be automatically enrolled into a workplace pension with a contribution from their employer, it no longer makes sense for the state to run its own separate earnings-related pension scheme. Higher earners are among those being automatically enrolled, with substantial employer contributions, so those who earn the most while they are working will continue to be the best off in retirement.[157]

4.8 Is the State Pension taxed?

Yes. Successive governments have taken the position that the State Pension is a form of income like earnings as such should be taxable. This ensures "ensures equality of tax treatment in the same year between someone whose income is all from earnings and someone with the same level of income, but which is derived partly from earnings and partly from benefit."[158] It is also in line with the treatment of private pensions – to which contributions are tax-free (subject to certain limits) and from which withdrawals are taxed (subject to certain tax free allowances).[159] Gov.UK explains that "You pay tax if your total annual income adds up to more than your Personal Allowance. Find out about your Personal Allowance and Income Tax rates."

For guidance, see

Gov.UK, Tax when you get a pension

Low Income Tax Reform Group, Is my State Pension taxable?,

155 HL Deb 3 December 2013 c39WA
156 See Library Briefing Paper SN-04517 National Insurance contributions: an introduction, (December 2015)
157 HC Deb 14 January 2013 c607
158 HC Deb 8 June 2006 c 864W; HC Deb 5 July 2005 c 279W
159 See Library Briefing Paper CBP 7505 Reform of pension tax relief (Feb 2020)

Although the state pension is liable to tax, it is paid gross. Generally, for those with a workplace pension alongside their State Pension, the tax that would be payable on this part of their total income is recovered by making a deduction from their workplace pension. This is done under PAYE by their pension provider, through their tax code. The alternative would be for pensioners to make a tax return at the end of the year, accounting for any tax due on the state pension, once any other pension income for that year had been taken into account.

In 2012-13 the Office of Tax Simplification (OTS), an independent body was charged by the Government to review areas of the tax system, conducted a review of pensioner taxation. In its interim report, published just prior to the 2012 Budget in March, it said:

> There are many misconceptions amongst the pensioner population over how taxation of the state pension currently works. The key point is probably that many people do not understand that it is taxable at all. Furthermore, many of those who do understand that it is taxable feel that this is unjust, given that they have contributed through the national insurance system throughout their working life. This misunderstanding is compounded by the fact that the state pension is paid by the DWP without PAYE applying … There is some feeling that because there is no tax relief on national insurance contributions (NICs) which count towards eventual entitlement to the state pension, the state pension should not be taxed when it is paid out. Contrasting this to private pension savings, where tax relief is generally available on pension contributions and part of the eventual fund can be withdrawn tax-free, the confusion is perhaps understandable. We acknowledge that pension contributions are not deductible for national insurance contributions purposes but the symmetry is maintained with no national insurance contributions on pensions.[160]

Its final report published in January 2013, noted:

> For many, the most radical simplification we could recommend would be to exempt the State Pension from tax. However, this is in our view not a realistic option, even with some pragmatic adjustment to the personal allowance in exchange. Whilst noting that such an exemption would simply confirm what many mistakenly believe to be the case, one cannot ignore the large hole in the public finances it would create. There are significant issues of fairness towards other taxpayers, especially as the wealthiest pensioners would benefit most, and over the last decade, pensioners have seen their incomes increase faster than other groups (citing some work on this published by DWP).[161]

Some of the complexities faced by pensioners were discussed by OTS report in its 2019 report, Taxation and life events.

160 Review of Pensioners Taxation – Interim Report, March 2012 p27
161 Review of Pensioners' Taxation: final report, January 2013 p5

5. Pension Credit

What is Pension Credit?

Pension Credit, the main means-tested benefit for pensioners, was introduced in October 2003, replacing income support for pensioners. For people who reached State Pension age before 6 April 2016, it had two elements - the Guarantee Credit and Savings Credit.[162]

The **Guarantee Credit** provides financial help for people who have reached the "qualifying age" for Pension Credit and whose income is below their 'appropriate amount'. The appropriate amount is comprised of a Standard Minimum and additional amounts which can apply if the claimant or their partner: has a severe disability; looks after a severely disabled person or; is liable for certain housing costs, like mortgage interest payments. In 2020/21, the amounts are:

	Rates 2020/21 £pw
Standard minimum guarantee	
Single	173.75
Couple	265.20
Additional amount for severe disability	
Single	66.95
Couple (one qualifies)	66.95
Couple (both qualify)	130.90
Additional amount for carers	37.50

The **Savings Credit** element of Pension Credit aims to reward people over 65 with modest levels of "qualifying income" (including state, occupational and personal pensions) above the Savings Credit "threshold", up to a maximum. The maximum amounts in 2020/21 are £13.97 for a single person and £15.62 for a couple.[163]

Savings Credit was removed for people reaching State Pension age from 6 April 2016, when the new State Pension (nSP) was introduced. The rationale was that the nSP would be set above the level of the basic Pension Guarantee, so that there would no longer be a need for a "complex savings reward." Removing Savings Credit would also "simplify means-tested support and help to ensure Pension Credit is re-focused on providing a safety net targeted at the poorest and most vulnerable."[164]

People can get an estimate of their entitlement on Gov.UK.

For more information see

Gov.UK Pension Credit

Pension Credit: technical guidance (July 2020)

DWP Decision Makers' Guide: vols 13 and 14

Library Briefing Paper CBP 8135 Pension Credit – current issues (July 2019)

[162] *State Pension Credit Act 2002; State Pension Credit Regulations 2002 (SI 2002/1792))*
[163] See Library Briefing Paper CBP-8458 2019 Benefit Uprating (December 2018)
[164] Cm 8528, January 2013, chapter 2, para 40

Information about how to claim is here. It is now possible to claim electronically, as well as by post or telephone.[165]

Why has Savings Credit been reduced in recent years?

Although Savings Credit has been removed from 6 April 2016, people reaching SPA before that date are still eligible.

For more detail, see

SN-05649 State Pension Uprating, section 3.4 (Feb 2018)

From 2012-13 onwards, the Government made changes to reduce the amount of Savings Credit payable, often to pay for above-earnings increases in Guarantee Credit. This intended to ensure the poorest pensioners saw their incomes increase by at least the cash amount of the increase in the basic State Pension. In 2014, the then Pensions Minister, Steve Webb explained:

> I am therefore pleased to announce that we shall over-index the standard minimum guarantee so that the increase for our poorest pensioners—those with least opportunity to increase their income in later life—will be in line with the cash value for the basic state pension. […] As in previous years, resources needed to pay the above-earnings increase to the standard minimum guarantee will be found by increasing the savings credit threshold, meaning that those with higher levels of income may see less of an increase than they would otherwise have done.[166]

What is Pension Credit qualifying age?

The qualifying age for Pension Credit is linked to the State Pension age for women.[167] It reached 65 – equal with that for men – in November 2018 and is now rising to reach 66 by October 2020.[168] Individuals can check the age at which they qualify for both the State Pension and Pension Credit on Gov.UK.

'Mixed age' couples

Until 15 May 2019, 'mixed age' couples (where one is over and one under Pension Credit qualifying age) had a choice as to whether to claim Pension Credit or a working age benefit. This is because the requirement to have reached Pension Credit qualifying age only applied to the claimant.[169]

The Coalition Government legislated in the Welfare Reform Act 2012 to change the rules so that in future *both* partners would need to have reached qualifying age in order to claim.[170] The rationale was that:

> […] all people of working age who can work should be expected to do so and that it is not right to continue the current position where pension credit can go to households which contain a person of working age without that person having to meet any work-related requirements.[171]

165 *State Pension Credit (Electronic Claims) (Amendment) Regulations 2020 (SI 2020/456)*
166 HC Deb 4 December 2014 c414; DEP 2015-0297
167 *State Pension Credit Act 2002*, s1
168 Pensions Act 1995, schedule 4
169 *State Pension Credit Act 2002*, s1; Gov.UK Pension Credit/eligibility
170 *Welfare Reform Act 2012*, s31, Sch 2 (64). This amended section 4 of the *State Pension Credit Act 2002* (exclusions)
171 HC Deb 20 December 2011, c1091W

In 2016, the Government said it expected to introduce this in June 2018, linked to the introduction of the roll-out of Universal Credit.[172]

The written statement of 14 January 2019 explained that this would be implemented from May 2019:

> In 2012, Parliament voted to modernise the welfare system to ensure that couples, where one person is of working age and the other person is over state pension age, access support, where it is needed, through the working age benefit regime. This replaces the previous system whereby the household could access either Pension Credit and pension age Housing Benefit, or working-age benefits.
>
> Pension Credit is designed to provide long-term support for pensioner households who are no longer economically active. It is not designed to support working age claimants. This change will ensure that the same work incentives apply to the younger partner as apply to other people of the same age, and taxpayer support is directed where it is needed most.
>
> I set out to Parliament last year that this change would be implemented once Universal Credit was available nationally for new claims. Today I can confirm that this change will be introduced from 15th May 2019. The change is being brought into effect in Great Britain through a Commencement Order under the Welfare Reform Act 2012. There will be an equivalent Order to introduce the change for Northern Ireland.
>
> Couples with one partner under State Pension age who are already in receipt of Pension Credit or pension-age Housing Benefit at the point of change will be unaffected while they remain entitled to either benefit.[173]

The change was brought into effect by The Welfare Reform Act 2012 (Commencement No. 31 and Savings and Transitional Provisions and Commencement No. 21 and 23 and Transitional and Transitory Provisions (Amendment)) Order 2019 (SI 2019/37).

The commencement order provides for transitional protection - covering people with entitlement to either Pension Credit or Housing Benefit for people of Pension Credit age at the point of change, and for this to continue while there is continuity of entitlement to either benefit.[174] Gov.UK explains:

> **Changes to Pension Credit eligibility from 15 May 2019**
>
> From 15 May 2019, if you're in a couple you'll only be eligible to start getting pension credit if either:
>
> - you and your partner have both reached Pension Credit qualifying age
> - one of you has reached Pension Credit qualifying age and is claiming Housing Benefit (for you as a couple)
>
> If you're not already getting Pension Credit on 14 May 2019, you can backdate your claim. You could still be eligible to get Pension Credit.

172 Explanatory Memorandum to SI 2016/931

173 Pensions Update: Written statement – HCWS1249

174 SI 2019/37

> You can ask for your claim to be backdated to 14 May or before. You'll need to apply by 13 August 2019 to do this.
>
> You can apply for Universal Credit instead if you're still not eligible
>
> **If you already get Pension Credit and you're in a couple**
>
> You'll continue to get Pension Credit after 15 May 2019. If your entitlement stops for any reason, for example your circumstances change, you cannot start getting it again until you (or your partner) are eligible under the new rules.
>
> **If you already get Pension Credit and you're single**
>
> From 15 May 2019, you'll stop getting Pension Credit if you start living with a partner who is under Pension Credit qualifying age. You can start getting it again when your partner reaches Pension Credit qualifying age.[175]

There are differences in the Housing Benefit rules for people under and over Pension Credit qualifying age. In particular, Guarantee Credit claimants are 'passported' to Housing Benefit, whereas for people of working age, there is a capital limit of £16,000.[176]

On 15 June 2020, the High Court ruled that the exclusion of mixed-age couples from Pension Credit was not discriminatory or in breach of the public sector equality duty.[177]

How high is take-up?

Take-up figures for the year 2017/18 published in February 2020 show that:

> Up to 1.2 million families who were entitled to receive Pension Credit did not claim the benefit.
>
> Up to £2.5 billion of available Pension Credit went unclaimed: on average, this amounted to around £2,000 per year for each family entitled to receive Pension Credit who did not claim the benefit.

In more detail:

> **Six of ten of those entitled to Pension Credit received the benefit**
>
> In 2017/18, an estimated 61 per cent of families who were entitled to Pension Credit received it. The take-up rate in 2017/18 was the same as in 2016/17.
>
> Take-up of Guarantee Credit (68 per cent) continued to be higher than take-up of Savings Credit only (42 per cent). This difference was statistically significant. This could be influenced by the difference in the average weekly amounts people were entitled to. The estimated average weekly amount unclaimed for Guarantee Credit (£59) was substantially higher than Savings Credit only (£7).
>
> Take-up of Pension Credit by those aged under 75 continued to be higher than those aged 75 or over. This has generally been the story across the time period. 62 per cent for those aged under 75 and 61 per cent for those aged 75 or over, in 2017/18.
>
> See Tables PC1, PC2 and PC9 for full data.

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175 Gov.UK – Pension Credit/eligibility

176 Housing Benefit (Persons who have attained the qualifying age for State Pension Credit) Regulations 2006 (SI 2006/214) reg 27 and 43

177 [2020] EWHC 1495 (Admin)

> **Seventy per cent of the total amount of Pension Credit that could have been claimed was claimed**
>
> In 2017/18, an estimated 70 per cent of the total amount of Pension Credit that could have been claimed was claimed. This was 5 percentage points higher than in 2016/17. This difference is statistically significant.
>
> As this is higher than the caseload take-up rate this implies those not taking up Pension Credit may only be eligible for much smaller amounts.
>
> Expenditure take-up of Guarantee Credit (71 per cent) continued to be higher than expenditure take-up of Savings Credit only (45 per cent). This difference was statistically significant. Expenditure take-up of Pension Credit by those aged under 75 (70 per cent) was lower than that of those aged 75 or over (71 per cent).
>
> See Tables PC2 and PC10 for full data.[178]

How are savings considered?

Pension Credit is a means-tested benefit, so the income and capital of the claimant, and any partner they may have, is considered in calculating entitlement, subject to any disregards. Gov.UK explains:

> When you apply for Pension Credit your income is worked out. This includes:
>
> - State Pension
> - other pensions
> - most social security benefits, for example Carer's Allowance
> - savings, investments over £10,000 - for these £1 is counted for every £500 or part £500
> - earnings
>
> If you're entitled to a private or workplace pension, the amount you'd expect to get is calculated as income from the date you were able to get it, if you had claimed it.[179]

As this says, £1 of income is assumed for every £500 savings above £10,000.[180] People sometimes ask about the logic behind this. In response, Ministers have explained that the rules are "not intended to represent any return that could be obtained from investing capital." Instead, they provide a:

> a simple method of calculating the weekly contribution that people with capital in excess of £6,000 (or £10,000 if in a care home) are expected to make from those resources to help meet their normal living expenses.[181]

The Labour Government considered taking actual income from capital into account but decided against on grounds that this would be bureaucratic and confusing for claimants. Instead, it proposed assuming a "notional rate

178 DWP, Income-related benefits – estimates of take-up in 2017/18, Feb 2020
179 Gov.UK/Pension Credit/eligibility
180 State Pension Credit Regulations 2002 (SI 2002/1792), reg 15 (6)
181 HC Deb, 15 Dec 2008, c419W

of income set at around 10 per cent" for savings above the disregard and abolishing the upper capital limit.[182]

The treatment of capital is significantly more generous in Pension Credit than in the benefit it replaced - Income Support for pensioners.[183] The disregard was increased to £10,000 (from £6,000) in Budget 2009, in recognition of the fact that "historically low interest rates [had] particularly impacted on pensioners, who are more likely than people of working age to draw income from savings."[184]

What happens if a claimant goes abroad?

An individual must be in Great Britain to be entitled to Pension Credit, although payment can continue during a temporary absence overseas.[185]

The rules changed on 28 July 2016, reducing the length of temporary absence during which Pension Credit and Housing Benefit could continue to be paid in most cases from thirteen weeks to four weeks.[186] Announcing the change as part of the 2015 Autumn Statement, the Government said the rationale was that the "welfare system should be fair to those who need it and fair to those who pay for it." Exemptions would apply in "particular circumstances for up to 26 weeks, for example, for the death of a family member, if a claimant or their dependant requires medical treatment abroad, or for members of certain professions who spend time abroad."[187]

The new rules came into on 28 July 2016. For most absences from GB, the period of absence for which entitlement continued was reduced from 13 to 4 weeks. Exceptions were:

> 7.8 Where the absence from GB is in connection with the death of a partner, a child or young person, then the 4 week period can be extended by a further 4 weeks if it would be unreasonable to expect a return to GB within 4 weeks. This also applies where the temporary absence is in connection with the death of a close relative of the claimant, or of their partner or of a child or young person normally living with the claimant.
>
> 7.9 If the absence from GB is due to the need to receive medical treatment or convalescence, then HB and/or PC may continue for up to 26 weeks. Where the claimant is accompanying their partner or a child or a young person who lives with them for medical treatment or convalescence outside GB, then HB and/or PC may continue for up to 26 weeks. In PC this amendment has broadened the range of circumstances where the medical exemption can apply (broadly this equates to the position in UC)

182 DWP, Pension Credit: the Government's Proposals, Nov 2001, p5

183 HM Treasury, Budget: March 2000, HC 346, para 5.45; The Pension Credit: a consultation paper, Cm 4900, November 2000

184 HC Deb, 15 Dec 2008, c419W; Social Security (Deemed Income from Capital) Regulations 2009 *(SI 2009/1676)*

185 *State Pension Credit Act 2002, s1; State Pension Credit Regulations 2002 (SI 2002/1792)*, reg 3

186 Explanatory Memorandum to SI 2016/624 (paras 7.3-6)

187 HC Deb 25 November 2015 c1360; HM Treasury, Autumn Statement 2015, CM 9162, Nov 2015

> 7.10 The new absence from GB rules for both HB and PC will apply to members of the claimant's household as well as the claimant.[188]

There was also transitional provision for people temporarily absent at the date of change.[189]

In response to a PQ in January 2017, the then Pensions Minister Richard Harrington said the Government had no plans to change the rules:

> Diana Johnson: To ask the Secretary of State for Work and Pensions, if he will take steps to allow people temporarily living abroad to claim pension credit for longer.
>
> Richard Harrington: Pension Credit is an income-related, non-taxable benefit which is intended to provide people of pension age with financial assistance to enable a minimum guaranteed amount to meet living costs in Great Britain. It is a basic condition of entitlement that a person be in Great Britain to receive it. Although Pension Credit is not intended to subsidise absences from Great Britain, in certain circumstances entitlement to the benefit can continue during a temporary absence abroad.
>
> It is the Government's view that the current rule, which allows entitlement to continue for up to four consecutive weeks during a period of absence from Great Britain, is reasonable and justified. It allows time, for example, for holidays and visiting families, without a person having to reclaim Pension Credit on their return to Great Britain. There are exceptions to the general four week rule. Pension Credit can continue for up to 26 weeks where medical treatment or medically approved convalescence is required outside Great Britain. Where the absence is in connection with a death of a partner or close relative then entitlement can continue for up to eight weeks.
>
> This approach aligns Pension Credit and Housing Benefit with Universal Credit and provides consistency across these benefits and we have no plans to change this.[190]

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[188] Explanatory Memorandum to SI 2016/624
[189] Ibid, para 7.16
[190] PQ 61407 30 January 2017

What if someone has lived abroad?

Pension Credit is a means-tested benefit, so entitlement is subject to residence and immigration status tests.[191] DWP's guide to Pension Credit explains:

> Certain rules apply for people who have come to live in GB (England, Scotland and Wales) from another country (including returning British citizens) and who want to get Pension Credit.
>
> Whether your customer can get Pension Credit will depend on their residence or immigration status. They will also have to satisfy the normal Pension Credit rules, including the requirement to have the right to reside and to be able to be treated as factually habitually resident (known as the Habitual Residence Test).
>
> **General rules**
>
> In general, your customer can get Pension Credit as usual if they:
>
> • satisfy the habitual residence test
>
> • are eligible under the normal Pension Credit rules
>
> **Special rules**
>
> There are special rules for people in GB as a result of a written maintenance undertaking
>
> More information
>
> For more information about immigration issues, see UK Visas and immigration pages.

DWP goes on to explain what it means to satisfy the habitual residence test - the individual must first demonstrate that they have a 'right to reside' in the UK and then that they can be 'treated as factually habitually resident in the Common Travel Area (that is, the UK, the Republic of Ireland, the Channel Islands or the Isle of Man) before they can get Pension Credit.' For more information, see pp79-80.

For more detail, see

DWP, A Detailed Guide to Pension Credit for Advisers and Others (August 2017), p64 ff (people who have come to Great Britain from abroad)

DWP, Decision Makers Guide, Ch 7 Part 3 (Habitual residence and right to reside IS, JSA and SPC)

191 State Pension Credit Regulations 2002 (SI 2002/1792), reg 2

BRIEFING PAPER
Number CBP-7981
28 July 2020