

Strategy, Information and Pensions	
	The Social Security (Equalisation of State Pension age) Regulations 2009 <u>Equality Impact Assessment</u>

1. Introduction

Context

- 1.1. These regulations amend various provisions in a number of social security benefits which are currently linked to female state pension age by references to age 60.
- 1.2. Under the Pensions Act 1995, equality in state pension age will be introduced by gradually increasing the state pension age for women from 60 to 65 between 2010 and 2020.
- 1.3. As a consequence of this change, other benefits which stop at state pension age will, by 2020, be payable to women until they are 65. These benefits include Jobseeker's Allowance and Employment and Support Allowance. The qualifying age for Pension Credit, which is set at female state pension age for both men and women, will increase to 65 for men and women by 2020. Similarly, Income Support, which is available to men and women until they have reached Pension Credit qualifying age, will be payable up to 65. These changes, plus a number of smaller, related changes, have already been legislated for.
- 1.4. This package of regulations contains further, miscellaneous amendments that are needed to maintain alignment between the respective provisions and female state pension age from April 2010.

Summary of the changes made by the regulations

- 1.5. The provisions amended by these regulations are listed below. In each case, the current reference to age 60 is replaced by a reference to the qualifying age for Pension Credit, with effect from 6 April 2010:
 - The qualifying age for a Winter Fuel Payment.
 - The minimum age for entitlement to a pensioner premium in Income Support and Jobseeker's Allowance.
 - The maximum age for entitlement to the disability premium and enhanced disability premium in Income Support, Jobseekers Allowance and Housing Benefit and Council Tax Benefit.
 - The qualifying age for eligibility for the higher (£20) disregard of part-time earnings, where a person qualifies for the disability premium or higher pensioner premium, Income Support, Jobseekers Allowance and Housing Benefit and Council Tax Benefit.
 - Where a customer or partner owns but does not live in a property which is occupied by a relative, the age which the relative needs to have reached before the value can be ignored (all the income-related benefits).
 - In Jobseekers the age from which a man approaching State Pension age can start to have days included in a jobseeking period when he is not available for, or actively seeking work.
 - In jobseekers allowance the age from which a member of a joint-claim couple is exempted from jobseeking requirements.

- In jobseekers allowance the age from which support for mortgage interest is payable without a waiting period.
 - In Employment and Support Allowance (Employment Support Allowance), the age at which a person is deemed to be “in hardship” and exempt from disqualification for misconduct.
 - In Housing Benefit and Council Tax Benefit, the age from which a person can make an advance claim.
 - Where Housing Benefit is in payment under the pre-1996 rules, the age from which restrictions on the amount of HB that can be paid cease to apply.
- 1.6. As explained in paragraph 1.3 above, Pension Credit qualifying age is the same for men and women, and is linked to women’s state pension age, which depends on an individual’s date of birth. So for men and women born before 6 April 1950, Pension Credit qualifying age is 60. This means that anyone who has already reached 60 by 6 April 2010 will not be affected by the age threshold changes. During the 10 year transition period (which will affect those born 6 April 1950 to 5 April 1955) Pension Credit qualifying age gradually increases in one-month steps – those born in the first month will qualify up to one month later, those in the second, up to two months later and so on. From 6 April 2020, the qualifying age will be 65.
- 1.7. The regulations also provide for awards of transitional Incapacity Benefit (awarded to customers who transferred from Invalidity Benefit to Incapacity Benefit in 1995) to continue up to State Pension age for women reaching 60 on or after 6 April 2010.

The scope of this assessment

- 1.8. As a public body, the Department is required, as part of the race, disability and gender equality duties, to undertake equality impact assessments when developing and implementing new functions, policies or services. The equality duties are summarised at Appendix 1.
- 1.9. Under the disability and gender equality duties, the Department is also required to carry out equality impact assessments of functions, policies and services that were in place before December 2006 (disability) and April 2007 (gender). These retrospective impact assessments must be undertaken within three years of the dates the duties came into effect. DWP is committed to completing this task by the end of 2009 in respect of all the equality duties currently in force.
- 1.10. This assessment considers the diversity impacts of the measures in these consequential regulations.
- 1.11. Three of the proposals are expected to have a moderate to significant impact. These are:
- The increase in the qualifying age for the Winter Fuel Payment.
 - The increase in the qualifying age for the pensioner premium. and

- The extension of the upper limit for entitlement to transitional Incapacity Benefit.
- 1.12. Sections 2 to 4 set out our assessment of the impact of these changes on gender, race and disability equality. In addition to the statutory equality duties, as a matter of good practice we have also considered the impact of these proposals for equality of treatment in relation to age, in so far as it appears to us to be relevant. We have provided no separate commentary on the impact on equality in relation to sexual orientation, religion or belief as we have no evidence that these factors are relevant to these measures. Similarly we have not provided separate commentary on the possible impact of these measures on transsexual people as we have no information to suggest that there would be impacts for this group distinct from the wider gender impacts.
- 1.13. The remaining, more minor, measures are covered in section 5. As the available data suggests that these provisions are likely to have only a limited effect we have not undertaken a full impact assessment of those changes as we consider this would not be practicable or proportionate.

Methodology and evidence

- 1.14. The basis for the following assessment is drawn from administrative data, population estimates and survey data. The Department is looking at ways to better its data collection in order to improve monitoring standards, but currently the level of detailed analysis we would wish to provide – particularly in relation to different ethnic minority groups and (in relation to the disability duty) impairment types – is limited either by the quality of the data, or the sample size, or both.

2. Winter Fuel Payments: increase in qualifying age

- 2.1. The annual Winter Fuel Payment was introduced in 1997/1998 to give pensioners reassurance that they could afford to heat their homes in winter. It is currently payable to men and women who have reached age 60 by the end of the week beginning with the third Monday in September. As it is a virtually universal benefit, the distribution of payments reflects the demographic characteristics of the UK's population aged over 60.
- 2.2. Men originally qualified for a payment only if they had reached State Pension age (65) but entitlement was equalised at 60 in 1999/2000 following a judgement by the European Court of Justice. The Government made it clear at the time that the qualifying age would rise in line with women's State Pension age from April 2010. These regulations align the qualifying age with the qualifying age for Pension Credit which will have the effect of increasing the qualifying age for both men and women in step with women's State Pension age. As a result, most people who will reach age 60 on or after 6 April 2010 will not receive a Winter Fuel Payment until between one and five years later than they would otherwise have done without the change.

Gender Impact

2.3. The information in the table shows the number of men and women in a given tax year who would have been eligible for a Winter Fuel Payment if the State Pension age for women had remained unchanged. While more women will be affected compared to men, this simply follows the gender imbalance within this age group due to lower male life expectancy.

Table: Number who would have been eligible for Winter Fuel Payments, by gender, without the equalisation measures

Year	Males	Females	Total
2010/11	70,000	78,000	148,000
2011/12	205,000	228,000	433,000
2012/13	343,000	378,000	721,000
2013/14	485,000	531,000	1,016,000
2014/15	633,000	690,000	1,323,000
2015/16	786,000	854,000	1,640,000
2016/17	947,000	1,024,000	1,971,000
2017/18	1,118,000	1,203,000	2,321,000
2018/19	1,296,000	1,392,000	2,688,000
2019/20	1,474,000	1,588,000	3,062,000
2020/21	1,587,000	1,711,000	3,298,000

Race impact

2.4. The proportion of people in the population from different ethnicities is higher at younger ages, reflecting patterns of migration. Assuming the current cohort proportions remain stable, overall, around 6% of people due to reach state pension age between 2010 and 2020 are from an ethnic minority, as compared to 10% for the working age population as a whole. This means that the proportion of people from an ethnic minority in the cohort affected by the transitional period of equalising State Pension age for men and women will be lower than for the cohorts reaching pension age after 2020.

Disability impact

2.5. The proportion of the population self-reporting as disabled, using the wider definition of that term employed in the Disability Discrimination Act, is currently higher between the ages of 60 to 64 than between 55 and 59 (around 44 per cent, compared to around 37 per cent), suggesting that delaying the point at which eligibility to a Winter Fuel Payment first arises for those aged 60 to 64 will result in a reduction in the proportion of people with disabilities being eligible for a payment. However, a significantly lower proportion of people in these age cohorts are receiving disability benefits, and there is no marked difference by age. In both age cohorts the proportion is around 14 per cent.

2.6. The Winter Fuel Payment is targeted at older people because they are particularly vulnerable to the effects of cold weather during the winter months and experience the greatest increase in deaths each winter. We believe increasing the qualifying age for Winter Fuel Payments would not have a

disproportionate impact on people with disabilities between the ages of 60 to 64, taking account of the fact that the incidence of disability increases markedly from age 75 onwards (the proportion of the population aged 75 to 80 who are Disability Discrimination Act disabled is 63 per cent).

Age impact

- 2.7. The Winter Fuel Payment is an integral part of social security provision for pensioners who are presently defined, for the purposes of this benefit, as those who have reached age 60, in order not to discriminate against men who cannot access the State Pension until age 65. The delayed onset of entitlement to this benefit from those aged 60 to 64 by 2020 flows from the progressive removal of age inequality in relation to State Pension entitlement between men and women.

Risk of negative impact

- 2.8. The proposed change will not have any impact on existing beneficiaries at the point of change, but it will defer eligibility for a progressively longer period for the majority of those reaching 60 from April 2010. This is a consequence of the wider age equalisation changes and is consistent with the Government's objectives of focussing this additional support on the pensioner population.

Opportunity to promote equality

- 2.9. Although the entitlement conditions for a Winter Fuel Payment do not discriminate between groups, payment can only be made without the need for a claim where the qualifying person's details are already held by the Department. This means that the majority of those who need to apply are men aged between 60 and 64 who have not had a Winter Fuel Payment in the previous year and (being under State Pension age) are not receiving another benefit. Once the qualifying age is aligned at male State Pension age by 2020, payment will be automatic to virtually all who are entitled. Those who still need to make a claim will be mainly those who have deferred their State Pension.
- 2.10. Between 2010 and 2020, as the qualifying age changes, there is a risk that those (mainly men) who do need to claim will not know whether they are entitled. The annual advertising campaign will be a major part of our strategy to ensure that clear information is available to all those who need it, and we will be keeping the effectiveness of this campaign under review.

3. Pensioner and disability premiums age changes

- 3.1. In the income-related benefits, help with extra costs associated with specified circumstances is provided through flat-rate premiums payable on top of the basic allowance. In Income Support, Jobseeker's Allowance and Employment and Support Allowance, the pensioner premium is automatically payable where the claimant or partner reaches age 60. If the claimant or

partner is long-term sick or disabled, the higher pensioner premium is awarded instead of the pensioner premium.¹

- 3.2. At the moment, the great majority of people who claim a safety net benefit at age 60 claim Pension Credit. However, some couples, where the claimant is aged under 60 but their partner is aged 60 or over choose to stay on Income Support or Jobseekers Allowance, and a small number of men aged 60 to 64 elect to remain on Jobseekers Allowance. The current arrangements are designed so that these groups receive the rate of benefit that would apply if they were claiming Pension Credit, through the award of the appropriate pensioner premium. Accordingly, as Pension Credit qualifying age increases from April 2010, the age at which entitlement to the pensioner premiums begins will also increase in the same way.
- 3.3. The disability premium is currently payable in Income Support and Jobseekers Allowance in respect of long-term sickness or disability up to age 60 where it is replaced by the higher pensioner premium unless the customer switches to Pension Credit at that point. It is also paid in Housing Benefit and Council Tax Benefit (Housing Benefit and Council Tax Benefit) up to age 60 at which point the claim will be processed using the Housing Benefit and Council Tax Benefit provisions for customers who have attained the qualifying age for Pension Credit. The enhanced disability premium, which can be paid in addition to the disability premium where the claimant or partner receives the highest rate of the care component in disability living allowance (and is also payable with Employment Support Allowance), also ceases at 60. Under these regulations, entitlement to the disability premiums will be gradually extended to 65 by 2020, so that they continue to be payable up to the point that the pensioner premiums, Pension Credit or Housing Benefit and Council Tax Benefit for customers who have attained the qualifying age for Pension Credit become applicable.
- 3.4. In Income Support, an estimated 11,000 couples currently qualify for a pensioner premium (based on August 2008 administrative data). In slightly more than half of these couples, the woman is the claimant. In just over four-fifths of these couples, the higher pensioner premium rather than the purely age-related pensioner premium is in payment, reflecting the fact that the incidence of disability or long-term sickness increases with age.
- 3.5. In Jobseekers Allowance (Income Based), among the estimated 1,000 couples where one partner is above, and one below, Pension Credit qualifying age, 80 per cent of the claimants are men and the higher pensioner premium is in payment to about 20 per cent of cases. In addition, the data indicates fewer than 2,000 men aged between 60 and 64 claim Jobseekers Allowance (IB) in preference to Pension Credit.
- 3.6. As explained above, these are people who have opted (either by default or design) to claim income-related benefit under the working-age provisions

¹ Although still called the higher pensioner premium, the pensioner premiums have been paid at the same rate since 2001. The separate qualifying conditions are retained for the purposes of establishing entitlement to the £20 disregard of part-time earnings (see paragraph 5.2).

rather than through Pension Credit. Within our modelling, it is not possible to project the impact of the premium age threshold changes on this specific and narrow group, because within the model they are simply treated as if they were claiming Pension Credit.

- 3.7. Instead, using the Policy Simulation Model, we have projected the impact of increasing Pension Credit qualifying age (and female State Pension age) to 65 on the numbers in receipt of Income Support,² Jobseekers Allowance (IB) and Housing Benefit and Council Tax Benefit in 2020 overall, and, in combination with survey data, estimated what proportion of those recipients will be male/female, disabled or from an ethnic minority group. We have then compared, where possible, the numbers affected in each group with the numbers in the overall population of 60 to 64 year olds in that group, to identify which are particularly affected by these policy changes. The Policy Simulation Model implicitly assumes that these characteristics *within each age / sex combination* remain as they are in the Family Resources Survey³ 2005/06. This methodology applies some strong assumptions, particularly in relation to ethnicity, and should be regarded as purely indicative. (It also does not anticipate any future changes to Income Support that may result from the Welfare Reform Bill.)⁴

Overall impact

- 3.8. In total an estimated 310,000 Income Support and Jobseekers Allowance (IB) “benefit units” (either single people or couples) would lose out as a result of increasing the qualifying age for the pensioner premium. Around 130,000 would lose entitlement altogether, and a further 190,000⁵ would receive less in safety net benefit, by losing the pensioner premium (although with a significant proportion becoming entitled to the disability premiums) or around 13% of the total of single people aged 60 to 64 and couples where the oldest partner is aged 60 to 64.
- 3.9. There will also be benefit units who lose some or all of their entitlement to Housing Benefit and/or Council Tax Benefit. Around 110,000 benefit units would lose in Housing Benefit, of which around 20,000 would lose entitlement altogether, while 240,000 benefit units would lose in Council Tax Benefit, of which 130,000 lose entitlement altogether. Note that it is possible for benefit units to lose two or three benefits – the figures quoted here count each benefit separately, and cannot therefore be summed together to give an overall figure for the number of losers from the changes.

² Policy Simulation Model projections of the numbers receiving income-related benefit due to incapacity are still based on Income Support as Employment Support Allowance is not yet included in the model. As the age threshold changes in Employment Support Allowance are not part of the changes made by these regulations, in order to exclude Employment Support Allowance customers from the analysis, the Income Support figures were reduced by 25 per cent as a proxy.

³ Because of the re-weighting by age and sex, the modelled characteristics of the overall population in 2020 are likely to be different to those in the underlying Family Resources Survey.

⁴ Note also that these are long-term projections and as such do not take account of short-term economic fluctuations.

⁵ Totals may not sum, due to rounding

Gender impact

3.10. The biggest group of losers are single women. Around 140,000 lose some or all Income Support or Jobseekers Allowance (IB) (comprising 26 per cent of all single women in this age group) compared to around 60,000 single men (around 17 per cent of all single men in their age group). This is mainly because they will not become eligible to the State Pension until age 65 and are less likely than men to have an income such as an occupational pension large enough to remove the need for means-tested benefits between 60 and 64. This figure is particularly sensitive to the assumptions made about the response women will make to increasing state pension age – the numbers could be lower if more women work longer or higher if the numbers of women leaving the labour market is higher than expected.

Race impact

3.11. Of those in the overall population of non-white “benefit units” who are aged 60 to 64 years in 2020, 24% are likely to lose from the removal of the pensioner premiums. In comparison around 12% of the equivalent population of white people will lose out. This reflects the greater reliance on means-tested benefits among people from ethnic minorities in this age group.

Disability impact

3.12. Of the 310,000 overall who will lose as a result of the change, around 200,000 are likely to be in receipt of a disability benefit (i.e. the group who would have been entitled to the higher pension premium at age 60 who will now have to wait until age 65). This group is estimated to comprise around 35 per cent of those receiving disability benefits in this age group. However, if we consider the wider, Disability Discrimination Act definition, the overall total increases to 290,000, although the proportion this constitutes within the DDA disabled population is lower (19 per cent).

3.13. Although disabled people comprise the single largest group affected by the change, this is not surprising, given that sickness or disability is the primary reason for someone being in receipt of a benefit at older ages. The change in the age threshold for entitlement to the Pension Credit rate of benefit means that those aged 60 to 64 will be entitled to the same rates of benefit as those aged 55 to 59 now. Although the incidence of disability is somewhat higher in the 60 to 64 population, we do not consider that this amounts to disproportionate adverse impact.

3.14. Note that the above analysis relates to the impacts in Income Support/Jobseekers Allowance (IB): in Housing Benefit and Council Tax Benefit the effects are similar in terms of relative impact between different groups.

Risk of negative impact

3.15. Reclassifying those aged 60 to 64 as working age will result in people potentially remaining on lower rate benefits for longer.

- 3.16. The extent to which this is in fact the outcome will depend on several factors, including the state of the economy, and the extent to which an increase in unemployment levels impacts on older workers in particular. Older workers now have greater protection in this respect under age discrimination legislation introduced in October 2006: compulsory retirement on age grounds below 65, unless it can be objectively justified, is now illegal as is unjustifiable discrimination on grounds of age in recruitment and training.
- 3.17. Those falling onto working-age benefits between 60 and 64 will have access to programmes which are intended to support people in returning to work, in the same way as customers aged up to 60 now. Flexible New Deal, which will replace the existing New Deals for unemployed customers targeted at particular age groups, and Pathways to Work for those claiming Employment and Support Allowance and incapacity benefits, are designed to provide more flexible support, which is tailored to an individual customer's needs.

4. Equalising the age at which transitional Incapacity Benefit ceases

- 4.1. In April 1995, Invalidity Benefit was replaced by long-term Incapacity Benefit (itself now replaced, for new claims from October 2008, by Employment and Support Allowance). People entitled to Invalidity Benefit at the point of change were awarded transitional long-term Incapacity Benefit, which incorporated the higher rates payable with Invalidity Benefit. The transitional regulations currently provide for such awards to cease at "pensionable age". This is defined in those regulations (which pre-date the passing of the Pensions Act 1995) as 60 for women and 65 for men. Under these regulations, this definition is replaced with the definition introduced by that Act. This will enable those women who reach 60 on or after 6 April 2010 who are still receiving transitional Incapacity Benefit to continue to receive it up to State Pension age, or, if earlier, until they are migrated to Employment and Support Allowance.
- 4.2. Around 87,000 women who are due to reach 60 after 5 April 2010 are currently receiving transitional Incapacity Benefit. The majority of these are likely to have been transferred to Employment and Support Allowance before they reach 60, so the change made by these regulations will not affect them.⁶ However, those who have not been migrated to Employment Support Allowance before they reach 60 and who are still receiving transitional incapacity benefit at that point (we estimate this could be between 13,000 and 25,000 depending on the migration plans) will benefit from this provision. Because these women will, by definition, have been in receipt of the benefit for at least 15 years by 2010, many of the more severely disabled are likely to be in this transitionally-protected group. We have no information regarding the ethnicity of this group of women.

⁶ Detailed plans are still being finalised, but the current expectation is that existing Incapacity Benefit recipients will be gradually transferred to Employment and Support Allowance between 2010 and 2013.

5. Other measures

- 5.1. This section covers the remaining measures included in this set of regulations. We have not undertaken a full equality impact assessment of these changes as we consider they will only have a minor impact.

Age threshold for higher earnings disregard

- 5.2. A person claiming an income-related benefit will normally have £5 of any part-time earnings ignored, or £10, in the case of a couple. If their award includes the disability premium, the amount that can be ignored increases to £20. This is intended to recognise the fact that a person with a disability may have higher work-related expenses. The £20 disregard also applies where an award includes the higher pensioner premium (which is currently payable where the disability conditions are met by a person who has reached age 60) but only in cases where the award (and the part-time work) began before the age of 60 and included the disability premium. The proposed changes amend the current references to age 60 in Jobseeker's Allowance, Housing Benefit and Council Tax Benefit, to reflect the changes being made to the premium age thresholds (see section 3) and to bring them into line with the equivalent provision in Income Support, which has already been amended.
- 5.3. Currently, it appears from the administrative data that only a small number of people are benefiting from the disregard past the age of 60. Although extending the upper age for entitlement to the disability premium may have the effect of increasing the numbers who qualify, this is likely to be offset by the transfer to Employment and Support Allowance of people claiming Income Support on grounds of ill-health or disability, where a different systems of disregards operates to support people who try out work.

Disregard of value of property occupied by a relative

- 5.4. The amount of capital which a claimant or partner possesses, or is treated as possessing, affects their entitlement to income-related benefits if it exceeds a specified amount. "Capital" includes realisable assets, such as property, other than the dwelling occupied as the home. One of the circumstances in which the value of property can be ignored is where it is occupied by a relative of the claimant or partner, if the relative is aged 60 or over or incapacitated. With the proposed change, the disregard will be applied when the relative has reached the qualifying age for Pension Credit, or, as now, is incapacitated.
- 5.5. The effect of the change is to delay the point at which the disregard will start to apply in respect of persons reaching 60 on or after 6 April 2010. It will therefore have no effect where the relative has already reached 60, or is sick or disabled. Although we have no direct evidence of the extent to which this rule is currently applied, and therefore no baseline against which to measure the impact of the change, we think it unlikely that this change will have a significant impact because only a small minority of those claiming an income-related benefit are likely to own a property they do not live in themselves. Of those that do, only those who have a relative living in the property who is (on or after 6 April 2010) aged between 60 and Pension Credit qualifying age will

- 5.6. Some stakeholders have suggested this change could increase the numbers of individuals who risk losing their homes. For example where a person has moved in with an elderly relative in order to care for them, and that relative then enters residential care.
- 5.7. However, although fewer people may qualify for the disregard as a result of the change (or qualify for it at a later stage) we believe this to be justifiable. The underlying rationale for this provision is that it would be unreasonable to expect a person to support themselves by realising the value of their property if that would result in a vulnerable person having to move home. However, we consider that it would be inconsistent to continue to treat age 60 as a proxy for “aged” and vulnerable when fit and able people reaching 60 after April 2010 would be regarded as capable of work if they were claiming benefit.

Persons approaching retirement and the jobseeking period

- 5.8. A “jobseeking period” is a period during which a person is claiming Jobseeker’s Allowance (Jobseekers Allowance”) and is complying with the jobseeking requirements. Jobseekers Allowance is not payable for the first three days of a jobseeking period (called “waiting days”), but two or more such periods are treated as continuous if they are separated by gaps of no more than 12 weeks (for example, for work) or by “linked periods”, defined as periods of incapacity, training or caring, of any length, or a combination of the two. Special rules apply in respect of men aged between 60 and State Pension age, who can have days automatically treated as part of a jobseeking period when they would not normally be treated as such.
- 5.9. These special rules were introduced in the early 1980s to tie in with the removal of benefit conditionality for men once they reached the age at which a woman could start claiming her state pension and be exempt from the requirement to be available for work. In its current form, its usefulness is mainly limited to enabling men to re-claim income-based Jobseekers Allowance following an unlimited period of disengagement from the labour market without needing to serve waiting days.
- 5.10. Under the proposed change, this easement would apply in relation to days between the point at which a man reached Pension Credit qualifying age (i.e. female state pension age) and his own state pension age. It will therefore continue to benefit men only from the point at which they can opt to cease to be subject to benefit conditionality, and it will gradually be phased out as male and female state pension ages converge (at which point, the need for this special rule will have disappeared). In practice, few men make use of this rule currently, since very few men claim Jobseekers Allowance(IB) in preference to Pension Credit, and although overall numbers claiming benefit in this age group are likely to increase at least in the short-term as a result of the economic downturn, we have no reason to expect any change in the

proportion of those who, on reaching Pension Credit qualifying age, elect to claim Pension Credit rather than stay on Jobseekers Allowance.

Exemption from conditionality for members of joint-claim couples

- 5.11. Both members of a couple claiming income-based Jobseeker's Allowance ("Jobseekers Allowance(IB)") are required to be active parties to the claim and meet the jobseeking conditions unless they have a dependent child, or are exempt for other reasons. One of the grounds for exemption is reaching age 60. This is because this is currently the entry age for unconditional Pension Credit, which the couple would have the choice of transferring to, instead of remaining on Jobseekers Allowance(IB). It also ensures that a male partner aged between 60 and pension age is treated the same as a female partner of the same age, who would be exempt from conditionality because she was over pension age.
- 5.12. The proposed change maintains alignment with the age entry point for Pension Credit and female state pension age as it increases from April 2010. As a result, members of a joint-claim couple who reach 60 on or after 6 April 2010 and who are not exempt for other reasons such as disability or caring responsibilities will have to satisfy the normal jobseeking conditions between age 60 and Pension Credit qualifying age.
- 5.13. The administrative data suggests that there are around 20,000 couples in total claiming income-based Jobseekers Allowance who do not have children. Joint claims therefore comprise only a small proportion of the overall Jobseekers Allowance caseload. This suggests that the proposed change would not have a significant effect in numerical terms, at least initially, although clearly this is sensitive to levels of unemployment among older couples.

Exemption from waiting period for support for mortgage interest

- 5.14. People claiming Income Support, income-based Jobseeker's Allowance, income-related Employment and Support Allowance or Pension Credit can qualify for help with their mortgage interest payments. In the working age benefits, support for mortgage interest is normally awarded only after a waiting period (reduced from 39 to 13 weeks, for new claims made from January 2009 onwards), but there is no waiting period in Pension Credit. Generally, exemption from the waiting period also applies in the working-age benefits if the claimant or partner has reached 60 (the current Pension Credit qualifying age). As a result of the proposed change, the point at which the waiting period will cease to apply will be aligned with Pension Credit qualifying age, so will gradually increase to 65 by 2020. This change was made in Income Support when Pension Credit was introduced in 2003, and is reflected in Employment and Support Allowance, so the change made by these regulations applies only to income-based Jobseeker's Allowance, and will bring it into line with the other working-age benefits.
- 5.15. We estimate that by 2020, only a small number – up to 15,000 Jobseekers Allowance(IB) claims in that year - would have been better off if this help was conditional on being age 60 rather than 65.

Age at which person comes within definition of “person in hardship” for Employment Support Allowance

- 5.16. A person may be disqualified for Employment and Support Allowance (“Employment Support Allowance”) for up to six weeks if he is considered to be responsible without good cause for the condition which reduces his capacity for work or he is, without good cause, absent from his usual address and has failed to inform the Department of his whereabouts. These provisions mirror those which apply to other benefits or credits awarded on grounds of incapacity and which applied in similar terms to predecessor schemes.
- 5.17. Disqualification cannot be applied to anyone who falls within the definition of a “person in hardship.” This definition includes a person who is aged 60 or over, or whose partner is aged 60 or over. As with other provisions amended by this set of regulations, disqualification is lifted at 60 because this is the age at which a person could claim Pension Credit without having to establish limited capacity for work, and the age at which a woman would currently transfer from Employment Support Allowance to the state pension. Under the proposed change, a person will be in hardship if he or his partner has reached Pension Credit qualifying age, so customers or partners reaching 60 on or after 6 April 2010 could potentially be subject to disqualification when they would have been exempt without this change.
- 5.18. Following the change, customers would still (as now) be exempt from disqualification if they, or their partner, fell within one of the other categories. Furthermore, a safeguard is provided for those who do not fall into a specified category, which exempts those from disqualification if it is decided that they or any member of their family would suffer hardship as a result, taking account of any other resources available to him and whether there is a substantial risk that they would have to do without essential items.
- 5.19. Although there is no statistical evidence relating to the equivalent of this provision in Incapacity Benefit, anecdotally it appears to be very infrequently used. It is therefore unlikely that widening the scope of those who could potentially be subject to disqualification to include those aged 60 to 64 will have a significant impact.

Advance claim period for Housing Benefit and Council Tax Benefit

- 5.20. Claims for Housing Benefit (HB) and Council Tax Benefit (CTB) can be accepted in advance of the date when entitlement will start. In the case of claims for HB and CTB for persons who have reached Pension Credit qualifying age, the regulations currently provide for claims to be accepted when the person (or their partner) has reached the age of 59 years and 35 weeks and is thus within 17 weeks of the prospective date of entitlement (currently 60). This ties in with the four month advance claim period for Pension Credit and the state pension. The proposed amendment, which replaces this formulation with a reference to having reached the age which is 17 weeks younger than Pension Credit qualifying age, simply ensures that

the advance claim provisions will continue to operate as now, when Pension Credit qualifying age starts to increase from 2010.

- 5.21. This is a purely administrative change that is needed to ensure the current claims arrangements can continue as now. There is little information available about how frequently the advance claiming rules are taken advantage of currently and by whom. However local authorities will need to ensure that appropriate information is available and accessible to customers on when they can claim.

Age at which person can be exempt from restrictions on eligible rent for Housing Benefit

- 5.22. This change relates to Housing Benefit (HB) provisions that were in force before 2nd January 1996 and which are preserved under transitional rules. These “saved” provisions apply to customers who have either been entitled to HB continuously from the same address since 1 January 1996, or who live in specialist supported accommodation. The application of rent restrictions under these preserved rules is subject to additional conditions such as the availability of suitable alternative accommodation in respect of persons who are:

- Aged 60 or over. or
- Incapable of work because of sickness or disability. or
- Responsible for a child or young person.

- 5.23. From April 2010, the protection afforded by the additional conditions will apply to customers who have reached Pension Credit qualifying age, rather than age 60 (the other protected categories are unchanged).

- 5.24. We cannot identify from administrative data how many customers might be affected by the delayed entitlement to this protection. However, we think there will be few, if any. Customers in specialist supported accommodation are unlikely to be capable of work, and would therefore be protected anyway. The customers falling into the other group who could potentially be affected (those who are due to reach 60 on or after April 2010 and who will by then have been living at the same address and receiving HB continuously since January 1996) are likely to be few in number and of these, the change would impact only those capable of work.

6. Consultation and Involvement

- 6.1. As the measures in these regulations are consequential changes arising from State Pension age equalisation we have not consulted on them formally. However we have discussed the proposals with a number of external stakeholders (see Appendix 2) in the context of raising awareness of the wider equalisation changes due to take effect from 2010. The concerns raised during this process have mainly focused on the complexity of the transitional arrangements.

Changes Made

- 6.2. No changes have been made to the policy as a result, but communication activity already planned and in development is aimed at ensuring customers and advisers are aware of the changes and understand the implications of the changes for them personally.

7. Monitoring

- 7.1. The changes made by these regulations will not begin to have any effect until April 2010, and, in the initial stages, any impact will be modest. deferring the point at which the affected provision ceases to apply, or begins to apply, for only a short period. (The increase in the qualifying age for the annual Winter Fuel Payment will result in no change for the majority of customers reaching 60 in the period 6 April 2010 to 5 January 2011).⁷
- 7.2. For this reason, we do not propose to review this assessment before 2012. At that time, it will then be possible to consider the impact of these changes in the context of the wider consequential impacts of state pension age equalisation.

8. Conclusion

- 8.1. This impact assessment relates to a set of miscellaneous amendments to mainly lower-level benefit rules which are being made in order to bring them into line with the wider changes arising from state pension age equalisation, which are already legislated for.
- 8.2. Two of the measures are expected to have a significant impact in terms of the numbers of people affected: increasing the qualifying age for the Winter Fuel Payment (section 2) and the age thresholds for the disability and enhanced disability premiums in Income Support, Jobseeker's Allowance, Housing Benefit and Council Tax Benefit, and the pensioner and higher pensioner premiums in Income Support and Jobseeker's Allowance (section 3). We do not consider that in either case the changes will have a disproportionate or unjustifiable impact on any specific diversity group.
- 8.3. The change to the definition of "pensionable age" for the purposes of transitional Incapacity Benefit (section 4) is a technical amendment, which is required to ensure that the original intention - that the benefit should be payable up to state pension age - is met. This could affect up to around 30,000 women currently in receipt of the benefit who will reach 60 after April 2010 but before the end of 2013 (when the migration of existing Incapacity

⁷ This is because customers reaching 60 between 6 April 2010 and 5 July 2010 will also have attained the qualifying age for Pension Credit by the end of the qualifying week (20 to 26 September) for winter 2010/11. similarly those reaching 60 between 27 September 2010 and 5 January 2011 will reach both 60 and Pension Credit qualifying age by the end of the qualifying week for winter 2011/12.

Benefit recipients to Employment and Support Allowance is expected to be completed.

9. Contact details

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Appendix 1: The Equality Duties

The Disability Equality Duty requires public authorities in carrying out their functions to have due regard to the need to:

- Promote equal opportunities for disabled people.
- Promote positive attitudes toward disabled people.
- Encourage participation of disabled people in public life.
- Eliminate unlawful disability discrimination.
- Eliminate disability-related harassment.
- Take steps to meet disabled people's needs even if that requires more favourable treatment.

The Gender Equality Duty requires public authorities in carrying out their functions to have due regard to the need to:

- Promote equality of opportunity between men and women.
- Eliminate unlawful discrimination.
- Eliminate harassment.

The Race Equality Duty requires public authorities in carrying out their functions to have due regard to the need to:

- Promote equality of opportunity between people of different racial groups.
- Promote good relations between people of different racial groups.
- Eliminate unlawful racial discrimination.

Appendix 2: external stakeholder discussions

To date, informal consultation with the following organisations has taken place:

- Age Concern, Help the Aged and the Equality and Human Rights Commission.
- The Disability Benefits Consortium.
- DWP Policy and Strategy Forum (the full list of member organisations invited to attend is shown below):
 - Advice Services Alliance
 - Advice UK
 - Age Concern England
 - Association of Directors of Adult Social Services
 - Barnados
 - British Epilepsy Association
 - Carers UK
 - Child Poverty Action Group
 - Citizens Advice
 - Citizens Advice Scotland
 - Disability Alliance
 - Help the Aged
 - Local Government Association
 - Low Income Tax Reform Group
 - Macmillan Cancer Care
 - Making Space
 - MENCAP
 - MIND The Mental Health Charity
 - NACRO
 - National Association of Welfare Rights Advisers
 - National Deaf Children's Society
 - National Pensioners Convention
 - One Parent Families / Gingerbread
 - Princess Royal Trust for Carers
 - RADAR
 - Refugee Council
 - RETHINK
 - RNIB
 - RNID
 - SHELTER
 - TUC