

**CHANGES TO RETIREMENT PENSION FROM 6.4.10 -  
CONSEQUENTIAL AMENDMENTS**

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## INTRODUCTION

- 1 This memo gives guidance on consequential amendments following changes to RP from 6.4.10. These consequential amendments are introduced by
  1. the Pensions Act 2007 (Pensions Act 07) **and**
  2. the Social Security (Equalisation of State Pension Age) Regulations 2009 (SS (ESPA) Regs) (SI 2009 No. 1488).

Except where stated otherwise, the changes take effect on 6.4.10<sup>1</sup>.

*1 SS (ESPA) Regs, reg 1*

## BACKGROUND

- 2 There are changes to RP from 6.4.10 introduced by the legislation in paragraph 1 **1.** above. As a consequence there are changes to
  1. SPC **and**
  2. IB **and**
  3. WB **and**
  4. BB **and**
  5. AA **and**
  6. DLA.

This memo gives guidance on the changes to those benefits. A separate memo will be issued on the RP changes.

- 3 In addition, pensionable age for men and women is being equalised from 6.4.10<sup>1</sup>. There is a gradual increase in the pensionable age for women from 60 to 65 between 2010 and 2020. A further change will be that pensionable age for men and women will increase gradually from 65 to 68 between 2024 and 2046. Guidance on equalisation is given at

1. DMG Chapter 20 Appendix 1 and
2. DMG Chapter 41 Appendix 1 and
3. DMG Chapter 75 Appendix 1 and
4. DMG Chapter 77 Appendix 1.

**Note:** Guidance on the changes to pensionable age from 6.4.24 will be given in the separate memo on the RP changes.

*1 Pensions Act 1995*

- 4 This memo gives guidance on changes to

1. JSA and
2. IS and
3. ESA and
4. SPC and
5. WFP and
6. IB

as a consequence of that equalisation.

## **INCOME-RELATED BENEFITS**

### **Jobseeking periods - claimants approaching retirement**

- 5 DMG 21045 - DMG 21046 gives guidance on jobseeking periods for JSA claimants who are approaching retirement. From 6.4.10 the condition set out in DMG 21046 2. regarding days that fall within a tax year in which the claimant has reached the age of 60 but is under pensionable age is amended to days that fall within a tax year in which

the claimant has reached the qualifying age for SPC (see paragraph 6 below) but is under pensionable age<sup>1</sup>. There are no other changes to DMG 21046.

*1 JSA Regs, reg 49(1)(b)*

- 6 The qualifying age for SPC<sup>1</sup> is
1. for a woman - pensionable age **or**
  2. for a man - the age which is pensionable age for a woman born on the same date as the man.

*1 reg 1(3)*

### **Joint claims - exemptions**

- 7 One of the categories of members of a joint claim couple who are not required to satisfy the criteria to claim JSA are those where a member is aged 60 or over. From 6.4.10 this category has been amended so that the member of the joint claim couple must have reached the qualifying age for SPC<sup>1</sup> (see paragraph 6 above).

*1 Sch A1, para 13*

### **Premiums - income support**

- 8 PP, HPP, DP and EDP all have a provision where the test involves a comparison to the specific age 60. The person either reaches the age of 60 or they are aged not less than 60 or aged less than 60.
- 9 From 6.4.10 all the premium provisions that involve an age comparison<sup>1</sup> will instead be compared to the qualifying age for SPC<sup>2</sup>. For example a person who is aged less than 60 will become a person who has not reached the qualifying age for SPC.

*1 IS (Gen) Regs, Sch 2, para 9, para 10, para 11, para 13A; 2 SS CB Act 92, s 137(1)*

### **Premiums - jobseeker's allowance**

- 10 PP, HPP, DP and EDP all have a provision where the test involves a comparison to the specific age 60. The person either reaches the age of 60 or they are aged not less than 60 or aged less than 60.
- 11 From 6.4.10 all the premium provisions that involve an age comparison<sup>1</sup> will instead be compared to the qualifying age for SPC (see paragraph 6 above). For example where one member of a joint claim couple has reached the age of 60 will become where one member of a joint claim couple has reached the qualifying age for SPC.

*1 JSA Regs, Sch 1, para 10, para 12, para 13, para 15A, para 20E, para 20F, para 20G, para 20IA*

## Housing costs - jobseeker's allowance

- 12 Housing costs are payable at the start of a claim where claimants, their partners or either member of a joint-claim couple, are aged 60 or over. From 6.4.10 the age at which claimants, their partners or either member of a joint claim couple qualify for housing costs payable at the start of a claim will become the age that the person reaches the qualifying age for SPC<sup>1</sup> (see paragraph 6 above).

*1 JSA Regs, Sch 2, para 8(1)(a)*

## Earnings disregard - jobseeker's allowance

- 13 DMG 26101 gives guidance on circumstances when an earnings disregard of £20.00 applies. From 6.4.10 DMG 26101 3. will be expanded to apply where either the claimant or partner has not reached the qualifying age for SPC<sup>1</sup> (see paragraph 6 above).

*1 Sch 6, para 5(3)(b); Sch 6A, para 1(3)(b)*

## Capital - disregard of premises

- 14 One of the criteria under which the value of premises that are occupied in whole or part by a partner or relative of a single claimant or any member of the family can be disregarded, was that the partner, relative or family member is aged 60 or over. From 6.4.10 the age criteria is amended so that the person must have reached the qualifying age for SPC<sup>1</sup>.

**Note:** See paragraph 6 above for the meaning of qualifying age for SPC for JSA purposes.

*1 Sch 8, para 4(a); IS (Gen) Regs, Sch 10, para 4(a); ESA Regs, Sch 9, para 4(a); SPC Regs, Sch V, para 4(a)*

## Disqualification and hardship - employment and support allowance

- 15 An ESA claimant can be disqualified for receiving ESA for a period of up to six weeks, for example where they have LCW through misconduct<sup>1</sup> (see DMG 53071 et seq). The disqualification does not apply if the claimant is a "person in hardship"<sup>2</sup>. DMG 53099 gives guidance on the criteria a claimant must satisfy in order to be a "person in hardship". The condition that the claimant or their partner is aged 60 or more is amended to where the claimant or their partner has reached the qualifying age for SPC<sup>3</sup>.

*1 ESA Regs, reg 157(1) & (2); 2 reg 157(3)(b); 3 reg 158(3)(e)*

## Savings credit

- 16 DMG 77051 gives guidance that to get a SC a claimant should be at least age 65 or a member of a couple and the other member is at least age 65. The changes mean that from 6.4.24<sup>1</sup> the age condition will be that a claimant has reached pensionable age or is a member of a couple and the other member has reached pensionable age<sup>2</sup>. This is because pensionable age for men and women is to increase progressively over 22 years from 6.4.24.

**Note:** Guidance on the changes to pensionable age from 6.4.24 will be given in the separate memo on RP changes.

*1 Pensions Act 07, s 13(3); 2 SPC Act 02, s 3(1)(a)*

## WINTER FUEL PAYMENTS

### Change to age condition

- 17 DMG 39900 et seq gives guidance on WFPs. From 6.4.10 guidance will be expanded to ensure that WFP is payable to persons who, in or before the qualifying week have reached the qualifying age for SPC. The qualifying age for SPC<sup>1</sup> is
1. for a woman - pensionable age **or**
  2. for a man - the age which is pensionable age for a woman born on the same date as the man.

*1 SFWFP Regs, reg 1(2)*

- 18 The qualifying age for SPC is set to rise with the gradual increase in the pensionable age for women from 60 to 65 between 2010 and 2020. For WFP this means that the qualifying age for winter 2010/11 for both men and women will be 60 years and 2 months increasing to age 65 by winter 2020/21. See Annex 1 for further details.

### Alternative payee

- 19 The WFP may be paid to the partner on behalf of the person entitled to the payment even if the partner has not reached the qualifying age<sup>1</sup>.

*1 SS (C&P) Regs, reg 36(2)*

## INCAPACITY BENEFIT

### Transitional awards of long-term incapacity benefit

20 DMG 55023 et seq gives guidance on transitional awards of IBLT. When pensionable age is reached can affect when a transitional award of IBLT ends (see DMG 55025). The changes mean that from 6.4.10 pensionable age<sup>1</sup> is for

1. a man - the 65th birthday **or**
2. a woman born
  - 2.1 before 6.4.50 - the 60th birthday **or**
  - 2.2 after 5.4.55 - the 65th birthday **or**
  - 2.3 from 6.4.50 to 5.4.55 inclusive - see paragraph 3 above.

**Note:** There are changes to pensionable age from 6.4.24. Guidance on those changes will be given in the separate memo on the RP changes.

*1 SS (IB) (Trans) Regs, reg 1(2); Pensions Act 1995, Sch 4, Part 1, para 1*

### Weekly rate of short-term incapacity benefit

21 The weekly rate of IBST for a person over pensionable age is the rate of RP stated in legislation<sup>1</sup>. However, DMG 56095 3, gives guidance that the rate of IB does not include an ADI. From 6.4.10<sup>2</sup> ADIs for RP are abolished<sup>3</sup>. However, some people will continue to have entitlement to an ADI, guidance on which will be given in the memo on RP changes. Therefore, the guidance at DMG 56095 3, will continue to apply to people who continue to have entitlement to an ADI<sup>4</sup>.

*1 SS CB Act 92, s 30B(3) & 44(4); 2 Pensions Act 07, s 4(4); 3 s 4(1) & 4(2); 4 s 4(5)(b) & Sch 1, Part 4, para 12*

## WIDOWS BENEFITS

### Weekly rate

22 The weekly rate of WMA and WP is no longer linked automatically to the weekly rate of RP. Instead the weekly rate will be prescribed<sup>1</sup>.

*1 SS CB Act 92, s 39(2A)*

## **Additional pension**

- 23 [DMG 58248](#) gives guidance on AP for WMA and [DMG 58294](#) gives guidance on AP for WP. DMs should note that **Note 1** to both those paragraphs no longer applies<sup>1</sup>.

*1 Pensions Act 07, Sch 2, Part 3, para 3*

## **Payment of widow's pension**

- 24 [DMG 58289](#) gives guidance on payment of WP. The changes mean that from 6.4.24<sup>1</sup> there is no entitlement to WP after a widow reaches pensionable age<sup>2</sup>.

*1 s 13(3); 2 SS CB Act 92, s 38(2)*

## **BEREAVEMENT BENEFITS**

### **Weekly rate**

- 25 The weekly rate of WPA and bereavement allowance is no longer linked automatically to the weekly rate of RP. Instead the weekly rate of WPA will be prescribed<sup>1</sup>. The weekly rate of bereavement allowance will be the same as the weekly rate of WPA<sup>2</sup>.

*1 s 39C(1A); 2 s 39C(2)*

### **Additional allowance**

- 26 [DMG 63039](#) gives guidance that the additional allowance for WPA is calculated in the same way as AP for RP<sup>1</sup>. There are to be changes in the calculation of AP for RP from the introduction of the Flat Rate Introduction Year (FRIY), guidance on which will be given in the memo on RP changes. However, those changes will not apply to the additional allowance for WPA where the deceased spouse or civil partner died under pensionable age<sup>2</sup>.

*1 s 39C(1), s 44-45 & Sch. 4A; 2 s 46(4)*

## **ATTENDANCE ALLOWANCE**

- 27 [DMG 61014](#) gives guidance that to be entitled to AA a person must be aged 65 or over. The changes mean that from 6.4.24<sup>1</sup> the age condition will be that a person has reached pensionable age<sup>2</sup>.

*1 Pensions Act 07, s 13(3); 2 SS CB Act 92, s 64(1)*

## **DISABILITY LIVING ALLOWANCE**

- 28 DMG 61015 gives guidance that to be entitled to DLA a person must be under 65 years of age. The changes mean that from 6.4.24<sup>1</sup> the age condition will be that a person must be under pensionable age<sup>2</sup>.

*1 Pensions Act 07, s 13(3); 2 SS CB Act 92, s 75(1)*

## **ANNOTATIONS**

Please annotate the number of this Memo DMG 31/09 against paragraphs:

08126, 20023, 21046, 23093, 23101, 23102, 23123, 23128 23182 23661, 26101, 29433, 39900, 52433, 53099, 55025, 56095, 58242, 58248, 58289, 58291, 58294, 61014, 61015, 63039, 63048, 63064, 77051 and 84442.

## **CONTACTS**

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, GS36, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in Memo DMG 26/08 - Obtaining legal advice and guidance from DMA Leeds.

**DMA Leeds: September 2009**

## ANNEX 1

Phasing table for Winter Fuel Payments

| <b>Winter</b> | <b>Qualifying Week</b> | <b>Qualifying age for Winter Fuel Payments</b> | <b>Dates of birth of people who will qualify</b> |
|---------------|------------------------|--|--|
| 2010/11       | 20-26 Sept 2010        | 60yrs & 2mths                                  | Born on or before 5/7/50                         |
| 2011/12       | 19-25 Sept 2011        | 60yrs & 8mths                                  | Born on or before 5/1/51                         |
| 2012/13       | 17-23 Sept 2012        | 61yrs & 2mths                                  | Born on or before 5/7/51                         |
| 2013/14       | 16-22 Sept 2013        | 61yrs & 8mths                                  | Born on or before 5/1/52                         |
| 2014/15       | 15-21 Sept 2014        | 62yrs & 2mths                                  | Born on or before 5/7/52                         |
| 2015/16       | 21-27 Sept 2015        | 62yrs & 8mths                                  | Born on or before 5/1/53                         |
| 2016/17       | 19-25 Sept 2016        | 63yrs & 2mths                                  | Born on or before 5/7/53                         |
| 2017/18       | 18-24 Sept 2017        | 63yrs & 8mths                                  | Born on or before 5/1/54                         |
| 2018/19       | 17-23 Sept 2018        | 64yrs & 2mths                                  | Born on or before 5/7/54                         |
| 2019/20       | 16-22 Sept 2019        | 64yrs & 8mths                                  | Born on or before 5/1/55                         |
| 2020/21       | 21-27 Sept 2020        | 65yrs  | Born on or before 27/9/55                        |