

RETIREMENT PENSION – CLAIMANTS WHO RECEIVE A GENDER RECOGNITION CERTIFICATE

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INTRODUCTION

- 1 This memo updates the guidance on claims for RP made by transsexual claimants. It gives guidance on claimants who receive a GRC on or after
 1. female pensionable age but before age 65 (see paragraphs 2 – 3 below)
 2. age 65 (see paragraphs 4 – 7 below).

GENDER RECOGNITION CERTIFICATE RECEIVED ON OR AFTER FEMALE PENSIONABLE AGE BUT BEFORE AGE 65

Male to female transsexuals

- 2 Where a male to female transsexual receives a GRC on or after female pensionable age but before age 65, DMs should decide entitlement to RP on the basis that pensionable age is the date of the GRC. Therefore the final relevant year is the last complete tax year before the GRC is issued. This is because where a GRC is issued on or after female pensionable age any NI contributions paid

1. on or after female pensionable age **and**
2. before the date the GRC is issued

are not refundable¹. Therefore, those NI contributions will need to be taken into account in the calculation of the amount of RP to which a claimant is entitled. This applies to BP and AP.

1 GR Act 04, Sch 5, Part 2, para 7(4)

Female to male transsexuals

- 3 Where a female to male transsexual receives a GRC on or after female pensionable age but before age 65, DMs should follow the guidance at DMG [75033](#).

GENDER RECOGNITION CERTIFICATE RECEIVED ON OR AFTER AGE 65

Male to female transsexuals – retirement pension awarded

- 4 Where a male to female transsexual receives a GRC on or after age 65, the DM should **not** revise entitlement to RP. This is because where a GRC is issued on or after female pensionable age any NI contributions paid

1. on or after female pensionable age **and**
2. before the date the GRC is issued

are not refundable¹. Therefore, those NI contributions will need to be taken into account in the calculation of the amount of RP to which a claimant is entitled. This applies to BP and AP.

1 Sch 5, Part 2, para 7(4)

Male to female transsexuals – retirement pension not awarded

- 5 Where a male to female transsexual receives a GRC on or after age 65, DMs should decide entitlement to RP on the basis that pensionable age is age 65.

Female to male transsexuals – retirement pension awarded

- 6 Where a female to male transsexual receives a GRC on or after age 65, the DM should revise entitlement to RP. This is because as a female there is no liability to make NI contributions after age 60 but, in the acquired male gender, the calculation would take into account such liability and working life to age 65. Therefore, entitled to RP is based on the acquired gender¹. However, in deciding that entitlement, credits for people approaching pensionable age² (“autocredits”) should be considered.

1 GR Act 04, Sch 5, Part 2, para 7(1); 2 Social Security (Credits) Regulations 1975, reg 9A

Female to male transsexuals – retirement pension not awarded

- 7 Where a female to male transsexual receives a GRC on or after age 65, DMs should decide entitlement to RP on the basis that pensionable age is age 65¹.

1 GR Act 04, Sch 5, Part 2, para 7(1)

ANNOTATIONS

Please annotate the number of this memo (DMG 36/09) against DMG paragraphs 75028, 75029, 75030 (heading) and 75033.

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: October 2009