

Chapter 8: Polish War Pensions

Objective

- 8.1 To remove the residency restriction from the Polish Resettlement Act 1947 to enable pensions to continue to be paid to beneficiaries who become resident in Poland from 1 May 2004 (the date of Poland's accession to the EU).

Rationale

- 8.2 The Polish Resettlement Act 1947 permitted a scheme to be set up to provide pensions to members of the Polish Forces injured or killed in service under British command in World War II and to widows, surviving civil partners, children, parents and other dependants of members of the Polish Forces deceased in consequence of service during World War II. The Pensions (Polish Forces) Scheme 1964 makes such provision. Both the Act and the Scheme contain a residency restriction which provides that payments to beneficiaries of the scheme will be terminated and cannot be re-instated if the beneficiary is, or becomes, resident in Poland. This was based on the assumption that the post-War Polish Government (which did not accept liability to pay pensions to those living outside Poland) would meet the cost of pension awards to pensioners who returned to Poland.
- 8.3 It is recognised that, in accordance with Article 18 of the EC Treaty, EU citizens must not be impeded in exercising their free movement and residence rights in the territory of EU Member States. It is therefore necessary to remove the residency restriction from the Act to enable pensions to continue to be paid to beneficiaries who become resident in Poland from 1 May 2004 (the date of Poland's accession to the EU).

Summary of proposals

- 8.4 Remove the residency restriction from the Act to enable pensions to continue to be paid to beneficiaries who become resident in Poland from 1 May 2004 (the date of Poland's accession to the EU) and to amend the 1964 scheme accordingly.

Costs and benefits

- 8.5 The number of beneficiaries who moved to Poland after 1 May 2004 is not currently known but is considered to be very small. The total number of beneficiaries remaining under the scheme is currently 730. As they are elderly and well settled in the UK it is unlikely that significant numbers will return to Poland. The costs of the amendment are therefore expected to be minimal.

Implementation and delivery plan

- 8.6 Following amendment of the Act to remove the residency restriction, consequential amendments to the pension scheme will follow and an exercise will be undertaken to identify the small number of pensioners who may have returned to Poland since 1 May 2004 in order to re-commence their benefits and, where necessary, to make backdated payments in respect of the period from 1 May 2004 to the date of commencement of the amendment.

Section 168 of the Pensions Act 1995 Amendment on Civil Partnerships

- 8.7 Section 168 of the Pensions Act 1995 provides for the effect of remarriage on receipt of war pensions for surviving spouses. Currently it refers only to remarriage but should in fact refer to remarriage or entering into a further civil partnership.
- 8.8 This amendment does not provide a new right for a surviving civil partner to receive a war pension. The Ministry of Defence prerogative instruments, which are the legal basis for the Armed Forces Pension Scheme 1975, already make provision for payment of pensions to surviving civil partners, and for the effect of subsequent civil partnerships, but they cross reference to section 168 for the definition of the termination of civil partnerships. This amendment will regularise the general position.