

Chapter 9: Amendment to section 59(5ZA) of the Social Security Pensions Act 1975

Objective

9.1 The proposed amendment is aimed at correcting a technical error in section 59(5ZA) of the Social Security Pensions Act 1975 and at extending the scope of section 59(5ZA) to cover civil partners. Section 59(5ZA) deals with the interface between requirements to index public service pension schemes and requirements to index Guaranteed Minimum Pensions. Guaranteed Minimum Pensions accrued where a member contracted out of the Second State Pension between the years 1978 and 1997.

Rationale

9.2 Pensions from public service schemes are uprated under the provisions of the Pensions Increase Act 1971 and Section 59 of the Social Security Pensions Act 1975. Section 59(5ZA) was inserted to prevent an element of double indexation of Guaranteed Minimum Pensions in relation to the pension payable to widows and widowers by public service schemes. Guaranteed Minimum Pensions are part of pensions accrued as a result of public service scheme member contracting out of the state earnings related pension between the years 1978 and 1997. Double indexation of Guaranteed Minimum Pensions can occur when Guaranteed Minimum Pensions are increased by both public service pension scheme requirements and DWP requirements for index-linking state pensions.

9.3 Widows and widowers of members of public service schemes inherit half of their late spouses' Guaranteed Minimum Pensions, but in the case of widowers only the Guaranteed Minimum Pensions in respect of service since April 1988. Civil partners inherit Guaranteed Minimum Pensions rights similarly to widowers in public service schemes.

9.4 As it currently stands, section 59(5ZA) does not operate correctly because it does not recognise the differences in Guaranteed Minimum Pensions entitlements between widows and widowers and it does not cover civil partners. This could result in some widowers not receiving full indexation on part of their pension and in some civil partners being entitled to double indexation on part of their pension.

Summary of proposals

- 9.5 Section 59(5ZA) of the Social Security Pensions Act 1975 needs to be rectified so as to bring uprating for widowers and civil partners in public service schemes in line with uprating provided for widows.

Costs and benefits

- 9.6 The amendment corrects a technical anomaly in existing legislation, section 59(5ZA) of the Social Security Pensions Act 1975, so that it correctly reflects the different Guaranteed Minimum Pensions entitlements of widows and widowers for the purpose of calculating pensions increases. It also extends section 59(5ZA) to prevent an element of double indexation from applying to civil partners of public service scheme members.

Implementation and delivery plan

- 9.7 The amendment once in place will provide for widowers and civil partners to be treated on the same basis as widows in relation to the requirements to prevent double indexation of Guaranteed Minimum Pensions by public service pension schemes.