

Social Security News

Issue 164 May 2018

This News Bulletin is intended to brief those with a special interest in social security matters of the changes in the law following each sitting of Tynwald at which the changes are approved.

Copies of the Order referred to in this bulletin may be obtained from:

Tynwald Library, Legislative Buildings, Douglas, IM1 3PW.

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The relevant document number is shown against the item.

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An introduction to the Manx State Pension

People reaching state pension age on or after 6 April 2019 will qualify for a Manx state pension if they meet the qualifying conditions. The Manx state pension is a flat-rate pension and will replace the current arrangements (basic and additional state pension (SERPS and State Second Pension)).

S.D. 2018/0124 applies to the Island 7 statutory instruments of the UK Parliament, in preparation for the introduction of the Manx state pension for people reaching state pension age on or after 6 April 2019.



Isle of Man
Government

Reilys Eilan Vannin

The Treasury

Yn Tashtey

Manx state pension – an introduction

People reaching state pension age on or after 6 April 2019 will qualify for a Manx state pension if they meet the qualifying conditions.

The Manx state pension is a flat-rate pension and will replace the current arrangements (basic and additional state pension (SERPS and State Second Pension)).

Whether a person qualifies for a Manx state pension, and if so of how much, will depend on whether they have any qualifying years of IOM National Insurance (NI) contributions before 6 April 2019 or not.

People who have no qualifying years of IOM NI contributions before 6 April 2019

To qualify for any Manx state pension a person must have at least a minimum number of qualifying years of IOM NI contributions. The **State Pension Regulations 2015** set the minimum number as 10 (see below).

People will qualify for a full rate Manx state pension if they have at least 35 qualifying years of IOM NI contributions (subject to a contracted-out deduction if they were in contracted-out employment at any time before 6 April 2019).

People with at least the minimum number of qualifying years of IOM NI contributions but less than 35 qualifying years of IOM NI contributions will qualify for a reduced rate Manx state pension. The reduced rate will be equal to 1/35th of the full rate for every qualifying year of IOM NI contributions they have (again subject to any contracted-out deduction).

People who have at least 1 qualifying year of IOM NI contributions before 6 April 2019 – transitional arrangements

People who have at least 1 qualifying year of IOM NI contributions before 6 April 2019 (and at least 10 qualifying years in total) will have their Manx state pension calculated differently under the following transitional arrangements.

In most cases, the rate of Manx state pension for them will be the higher of the amount they would have qualified for under –

- a) the current state pension system; and
- b) the Manx state pension system as if it had been in place at the start of their working life, taking into account any employment they had when they were contracted-out of the Additional State Pension scheme.

Generally speaking, a person's entitlement to Manx state pension will depend on their own NI contributions only. However, a person may inherit a Manx state pension based on their late spouse's or civil partner's NI contributions in certain circumstances. They will not need to have a minimum number of qualifying years of IOM NI contributions either.

Certain married women and widows paying reduced rate NI contributions will be able to qualify for the Manx state pension under special arrangements.

Some of these transitional entitlements are on top of any Manx state pension that a person is entitled to based on their own NI contributions.

Pension sharing orders

Pension sharing orders on divorce can be made in respect of the Manx state pension, but only in respect of any "Protected Amount".

This Order applies to the Island the following 7 statutory instruments of the UK Parliament. The main effect of each instrument applied is explained below.

The State Pension Regulations 2015

Minimum number of qualifying years for Manx state pension

The Regulations specify that the minimum number of qualifying years of NI contributions or credits a person needs to qualify for the Manx state pension at the reduced and transitional rates is 10.

Inheritance of deferred current state pension

The Regulations make transitional provision enabling a person in the new Manx state pension scheme to “inherit” a deferral payment if their late spouse or civil partner had been deferring entitlement to a state pension under the current arrangements when they died and in the 12 months before they died. The surviving spouse or civil partner can choose to be paid a lump sum or an increase in their Manx state pension. The new provisions also specify when and how they can make their choice, including making a late choice and altering their choice.

Prisoners

The Regulations provide that “prisoners” and other persons remanded in custody are not to be paid the Manx state pension, except in certain circumstances.

Pension sharing orders

The Regulations also amend regulations relating to pension sharing following divorce as a consequence of new arrangements for state pension sharing under the Pensions Act 2014 (as applied to the Island). The matters covered relate to the requirement for the Treasury to provide information and valuations of shareable scheme rights to the courts and parties involved. These amendments broadly replicate the existing requirements for the purposes of shareable new state scheme rights.

The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2015

This Order amends existing social security legislation relating to the Manx state pension and the current state pension arrangements, as follows.

Amendments to do with the Manx state pension

As a result of the following amendments, certain existing provisions apply to the Manx state pension in the same way as they do to current state pensions.

National Insurance credits

The amendments make it clear that the existing Regulations detailing the circumstances in which a person may be credited with NI contributions do not apply for the purpose of meeting the conditions for the Manx state pension. Instead the conditions for the Manx state pension are set out in the State Pension Regulations 2015 (see above) as amended by the State Pension (Amendment) (No. 2) Regulations 2016 (see below). The new conditions broadly mirror the ones for existing state pension arrangements.

Benefits overlapping with Manx state pension

Where a person is entitled to the Manx state pension and certain other benefits (in particular, carer's allowance) the amendments ensure that the rate of the higher benefit is reduced by the other benefit and only the balance is payable.

Claims for and payments of Manx state pension

The amendments specify –

- a) when a claim for Manx state pension has to be made and when not;
- b) the time limits for making a claim;

- c) how to make a claim;
- d) when payment under a claim starts (on the day the person reaches state pension age) and ends (on the day they die);
- e) how frequently payments are to be made; and
- f) the arrangements for paying outstanding benefit when a person dies.

Payments on account and recovery of Manx state pension

The amendments add the Manx state pension to the list of benefits from which benefit overpayments may be recovered. They also enable revised awards of Manx state pension to be offset against payment under a new award.

Decisions relating to Manx state pension

New provision is inserted in relation to certain decisions relating to inherited deferral payments of Manx state pension payable to surviving spouses or civil partners and other matters.

National Insurance contributions and credits

Regulations detailing how "earnings factors" are derived from a person's NI contributions and credits for a tax year to count as a qualifying year for state pension entitlement are amended so they apply for Manx state pension as they do for current state pensions.

NI contributions regulations are also amended to take account of a change in terminology and to include Manx state pension in provision that prevents a person from being able to pay voluntary NI contributions for any tax year which is already a qualifying year through the payment of other types of NI contributions or credits.

Amendments to do with current state pension arrangements - Use of former spouse or civil partner's NI contributions to calculate basic state pension

A person in the current state pension scheme whose marriage or civil partnership has ended in divorce or dissolution can "substitute" their former spouse or civil partner's NI contributions for their own for the period up to when their marriage or civil partnership ended if it will give them a higher basic state pension than they would otherwise be entitled to.

Where the former spouse or civil partner is in the Manx state pension scheme, the Pensions Act 2014 (as it has effect in the Island) prevents the use of any substituted contributions made for any period on or after 6 April 2019. The amendments made apply this restriction in the substitution rules used to calculate a person's basic state pension.

Other amendments are made to current state pension legislation, including the maximum additional state pension and shared additional pensions under pension sharing orders. They also update cross-references consequential on the consolidation of the rules relating to Category B retirement pension made by the Pensions Act 2014 (entitlement to Category B retirement pension is based on a spouse or civil partner's NI contributions).

The Pensions Act 2014 (Pension Sharing on Divorce etc.) (Transitional Provision) Order 2016

Pension sharing on or after 6 April 2019 where proceedings began before that date

This Order allows for the continuation of state pension sharing on divorce for people who reach state pension age on or after 6 April 2019 and are entitled to the Manx state pension at the transitional rate. Its effect is that where proceedings involving the sharing of state pension on divorce or nullity of a marriage have been issued before 6 April 2019, the existing legislation (section 49 of the Welfare Reform and Pensions Act 1999 as it has effect in the Island) will apply to those proceedings rather than section 49A of that Act introduced under the Pensions Act 2014 (as it has effect in the Island).

The Order also distinguishes rights to a current state pension which are shareable on divorce from rights to a Manx state pension which are shareable.

The State Pension and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 2016

Inheriting graduated retirement benefit from a late spouse or civil partner in the Manx state pension

This Order inserts provision about the inheritance of graduated retirement benefit into the State Pension Regulations 2015 (see above). A person can be entitled to graduated retirement benefit if they made certain NI contributions between 1961 and 1975.

If a person entitled to graduated retirement benefit dies, the new provisions provide that their surviving spouse or civil partner can be entitled to a Manx state pension based on the inheritable graduated retirement benefit.

The provisions set out the circumstances in which a person is entitled to a Manx state pension based on the inheritable graduated retirement benefit. They also determine its amount and provide for annual uprating increases of it.

Inheriting deferred graduated retirement benefit from a late spouse or civil partner in the Manx state pension

Where a person has died while deferring their entitlement to a graduated retirement benefit the new provisions provide that their surviving partner can choose between taking the inheritable payment as a one-off lump sum or as a weekly Manx state pension. They also specify how to calculate the lump sum and who is eligible for the weekly pension, how to calculate it and when annual uprating increases apply to it.

Uprating of Manx state pension for overseas residents

The Order provides that overseas residents (i.e. persons who are not ordinarily resident in the Isle of Man or in another territory specified in regulations) are not entitled to uprating increases of their Manx state pension.

Uprating of Manx state pension based on inherited graduated retirement benefit

The Order also amends the Pensions Act 2014 relating to uprating, so that it includes reference to Manx state pension based on inheritance of graduated retirement benefit.

The Pensions Act 2014 (Consequential and Supplementary Amendments) Order 2016

This Order amends 2 Acts of the UK Parliament relating to social security as they have effect in the Island and the Equality Act 2017 (of Tynwald), as described below.

NI credits for caring made on or after 6 April 2019 treated as made before that date

The Social Security Contributions and Benefits Act 1992 as it has effect in the Island ("the Contributions and Benefits Act") is amended to provide for the crediting of certain NI contributions made on or after 6 April 2019 for periods of caring before that date to be treated as if they were made before 6 April 2019 for the purposes of calculating the transitional rate of Manx state pension.

Calculating Additional State Pension in Category B retirement pension

Consequential amendment is also made to the Contributions and Benefits Act in the case of a person who has reached state pension age under the current state pension scheme who claims a Category B retirement pension which is based on the NI contributions of their deceased spouse or civil partner who is in the new state pension scheme.

The amendments ensure that the calculation of the additional state pension in the Category B retirement pension (which is based on the Category A retirement pension the deceased would have got if they had been in the current state pension scheme) reflects: (a) revaluation to reflect earnings growth in the period before the deceased reached state pension age; and (b) uprating to take inflation into account after they reached state pension age.

Calculating Category B retirement pension for certain people reaching state pension age before 6 April 2010

Supplementary amendment is made to the Contributions and Benefits Act as to how to calculate the Category B retirement pension for certain people reaching state pension age before 6 April 2010.

Removal of requirement to make low earnings threshold and the flat rate accrual amount orders

The Social Security Administration Act 1992 (as it has effect in the Island) is amended to remove the requirement to make Orders revaluing the low earnings threshold and the flat rate accrual amount after the 2018-19 tax year, as they will no longer be needed.

Sex equality in occupational pension schemes and state pensions

The Equality Act 2017 sets out the principle of equality between the sexes in occupational pension schemes. However, men and women can be treated differently if they are eligible for different amounts of occupational pension where the difference is attributable only to differences between a man and woman in the state retirement pension they are entitled to. The amendment made by the Order extends this permitted exception to include the Manx state pension.

The State Pension (Amendment) (No. 2) Regulations 2016

National Insurance credits for Manx state pension

These Regulations insert new provision into the State Pension Regulations 2015 (see above) relating to the crediting of NI contributions for the purposes of entitlement to the Manx state pension. The new provision broadly mirrors that for the purposes of existing state pension arrangements.

The Pensions Act 2014 (Consequential Amendments) Order 2016

Automatic adjustment of income-related benefits following uprating of Manx state pension

This Order amends provisions in the Social Security Administration Act 1992 (as it has effect in the Island) which provide for an uprated amount of certain social security benefits and other payments to be taken into account in the calculation of income support and income-based jobseeker's allowance.

As a result, where the rate of either income support or income-based jobseeker's allowance is to be altered because the rate of Manx state pension in payment is uprated, this alteration will be made automatically without the need for a further decision by an adjudication officer.