

## 2010 No. 426

# SOCIAL SECURITY

## The Social Security (Maximum Additional Pension) Regulations 2010

<i>Made</i> - - - - -	<i>18th February 2010</i>
<i>Laid before Parliament</i>	<i>25th February 2010</i>
<i>Coming into force</i> -	<i>6th April 2010</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 52(3), 122(1), 175(1) of the Social Security Contributions and Benefits Act 1992(a).

The Social Security Advisory Committee has agreed that proposals in respect of these Regulations should not be referred to it(b).

### Citation and commencement

1. These Regulations may be cited as the Social Security (Maximum Additional Pension) Regulations 2010 and shall come into force on 6th April 2010.

### Interpretation

2.—(1) In these Regulations—

“applicable limit” has the meaning given by section 44(7)(c)(c);

“relevant year” has the meaning given by section 44(7)(a);

“survivor” means surviving spouse or surviving civil partner.

(2) In these Regulations a reference to a section by number alone is a reference to the section so numbered in the Social Security Contributions and Benefits Act 1992.

### Prescribed maximum additional pension

3.—(1) For the purposes of section 52(3) (increase of additional pension in the Category A retirement pension for surviving spouses) the maximum additional pension shall be the amount of additional pension to which a person is entitled where that person—

(a) has reached pensionable age on the day specified in paragraph (2); and

(b) in respect of each relevant year has an earnings factor specified in paragraph (3).

(2) For the purposes of paragraph (1)(a), the day specified is the day on which the survivor would, but for section 43 (persons entitled to more than one retirement pension), have become entitled to both—

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(a) 1992 c. 4. Section 52(3) re-enacts section 9(3) of the Social Security Pensions Act 1975 (c. 60). Section 122(1) is cited for the meaning of ‘prescribe’.

(b) Section 173(1)(b) of the Social Security Administration Act 1992 (c. 5) provides that matter which would otherwise be referable to the Social Security Advisory Committee may not be so referred with the agreement of that Committee. These Regulations would otherwise be referable to the Committee by virtue of sections 170 and 172 of that Act.

(c) Section 44(7)(c) was inserted by section 12(2)(b) of the Pensions Act 2007 (c. 22) and amended by section 3(1) and (3) of the National Insurance Contributions Act 2008 (c. 16).

- (a) a Category A retirement pension; and
- (b) a Category B retirement pension by virtue of the contributions of a spouse or civil partner who has died,

or would have become so entitled if the survivor's entitlement to a Category A or Category B retirement pension had not been deferred.

(3) For the purposes of paragraph (1)(b), the specified earnings factor is an earnings factor which—

- (a) is equal to 53 times that year's applicable limit, before any increase under section 148 of the Social Security Administration Act 1992 (revaluation of earnings factors); and
- (b) is derived from earnings on which primary Class 1 contributions were paid.

#### Revocations

4. The following instruments are revoked—

- (a) the Social Security (Maximum Additional Pension) Regulations 1978(a);
- (b) the Social Security (Maximum Additional Pension) Amendment Regulations 1979(b).

Signed by authority of the Secretary of State for Work and Pensions.

18th February 2010

*Angela Eagle*  
Minister of State,  
Department for Work and Pensions

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(a) S.I. 1978/949. Regulation 2 was substituted by S.I. 1979/1428 and amended by S.I. 1989/1642. References to "additional pension" were substituted for references to "additional component" by section 18(1)(b) of the Social Security Act 1986 (c. 50), the repeal of which does not affect the substitutions (by virtue of paragraph 11 of Schedule 3 to the Social Security (Consequential Provisions) Act 1992 (c. 6)).

(b) S.I. 1979/1428.

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations prescribe a maximum additional pension for the purposes of 52(3) of the Social Security Contributions and Benefits Act 1992, which makes provision for the circumstances in which the additional pensions of the Category A retirement pensions of surviving spouses should be increased up to that maximum.

Regulation 2 defines “the applicable limit” by reference to section 44(7)(c) of the Social Security Contributions and Benefits Act 1992 which in relation to any year before 2009-10 is the upper earnings limit and from 2009-10 onwards is the upper accrual point.

Regulation 3 sets the maximum additional pension to the amount of additional pension to which a person would be entitled based on annual earnings factors of 53 times the applicable limit.

Regulation 4 revokes the Social Security (Maximum Additional Pension) Regulations 1978 which had provided for a maximum additional pension based on the upper earnings limit.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

