



Tribunals Service
Gender Recognition Panel

Gender Recognition

Updated April 2007

How getting a full Gender Recognition Certificate may affect a transsexual man's or transsexual woman's National Insurance, benefits and pensions

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Explanation of abbreviations and terms used

COMPS	Contracted-Out Money Purchase Schemes
COSRS	Contracted-Out Salary Related Schemes
CSA	Child Support Agency
DSDNI	Department for Social Development Northern Ireland
DWP	Department for Work and Pensions
GMP	Guaranteed Minimum Pension
HMRC	Her Majesty's Revenue & Customs
HRP	Home Responsibilities Protection
IB	Incapacity Benefit
IDB	Industrial Death Benefit
NI	National Insurance
RA	Retirement Allowance
REA	Reduced Earnings Allowance
SERPS	State Earnings Related Pension Scheme
VA	Veterans Agency
UNSUPP	Unemployability Supplement

Transsexual Man

A female to male transsexual person. For the purposes of this note, we assume that he has received a full Gender Recognition Certificate unless otherwise stated.

Transsexual Woman

A male to female transsexual person. For the purposes of this note, we assume that she has received a full Gender Recognition Certificate unless otherwise stated.

The Government's proposals for changing the State Pension system

On 25 May the Government set out its proposals for pensions reform in the White Paper **Security in retirement: towards a new pensions system**. The White Paper contains a number of proposals for changing the State Pension system for people who reach State Pension age on or after **6 April 2010**. Some of these proposed changes aim to:

- increase the number of people who would become entitled to a State Pension; and
- Increase the amount of State Pension some people would get.

This would be achieved, subject to Parliamentary approval, by reducing the number of years needed to qualify for a full basic State Pension to 30 years for both men and women (at the moment women need 39 years and men 44 years); improving the rules for crediting those with caring responsibilities into State Pension entitlement; and abolishing the minimum contribution rule.

The White Paper also proposes increasing the basic State Pension by the rate of increase in earnings from a date the Government will announce in the future and gradually raising the State Pension age in line with gains in average life expectancy for anyone born on or after 6 April 1959.

The proposals might affect your State Pension entitlement

For more information on the White Paper proposals visit:
www.dwp.gov.uk/pensionsreform

State Pension age

State Pension age is the earliest age at which a person can get their State Pension.

State Pension age for men is 65.

State Pension age for women will change gradually over the years 2010 up to 2020. State Pension age for women is:

- 60 for women born on or before 5th April 1950;
- between 60 and 65 where the woman was born between 6th April 1950 and 5th April 1955 – **the exact date depends on her date of birth; or**
- 65 for women born on or after 6th April 1955.

Qualifying Years

Qualifying years are the years for which you have paid, or are treated as having paid, NI contributions. In certain circumstances, you can be credited with NI contributions if you have been unable to do paid work (for example, you have been registered as unemployed, sick or caring for a disabled person).

Men normally need 44 qualifying years to get a full basic State Pension and 11 qualifying years to get the minimum basic State Pension (which is 25% of the full basic State Pension).

Women with a State Pension age of 60 normally need 39 qualifying years to get a full basic State Pension and 10 qualifying years to get the minimum basic State Pension.

The State Pension age for women will change between 2010 and 2020, so the number of qualifying years a woman normally needs will gradually increase to 44 years for a full basic State Pension and 11 years for the minimum basic State Pension, depending on her date of birth (see Working Life section below).

The number of qualifying years you need to earn a full basic State Pension may be less if you qualify for HRP. You may be entitled to HRP if you have been out of paid work, or you have not paid enough NI contributions while:

- looking after children for whom you are nominated to receive Child Benefit;
- looking after a person with a long-term illness or disability;
- registered as a foster carer.

Working Life

A working life is a period a person has to meet the National Insurance contribution conditions to qualify for a basic State Pension.

It is:

- 49 years for men;
- 44 years for women born on or before 5th October 1950;
- between 44 and 49 years for women born on 6th October 1950 through to and including 5th October 1954 – **the exact number of years depends on the woman's date of birth;**
- 49 years for women born on 6th October 1954 or later.

A working life is counted from the start of the tax year in which a person reaches the age of 16 to the end of the tax year before the one in which they reach State Pension age or the one in which they died, if earlier.

Civil Partnerships

Same sex couples may have their relationship legally recognised by forming a civil partnership. Couples who form a civil partnership have many of the same rights as married couples; including similar treatment for benefits, state pensions, child support, tax credit and allowances. If two people of the same sex live together they may be considered as living together as civil partners (see page 35 for more information).

Introduction

This note is for you if you are a transsexual man or transsexual woman and you are thinking about applying to a Gender Recognition Panel for a full Gender Recognition Certificate. This note tells you how getting a full Gender Recognition Certificate would affect you:

- NI contributions and tax liability;
- entitlement to, or amount of, tax credits and child benefit, paid by HMRC, that you are currently getting or may apply for in the future;
- entitlement to, or amount of, benefits and pensions paid by the DWP or, in Northern Ireland, the DSDNI. This could be benefits/pensions that you are currently receiving or benefits/pensions that you may apply for in the future. (This note also includes some information about occupational pension schemes, personal pension schemes and stakeholder pension schemes which are contracted-out of the State Pension scheme);
- Child support maintenance assessment or calculation.
- other DWP/DSDNI services and
- War Disablement Pensions and War Widow's Pensions paid by the VA – part of the Ministry of Defence.

It will help you understand your situation better if you read this note alongside the information contained in the full Gender Recognition Application Pack.

This note is intended as a general guide only and should not be relied upon as a substitute for obtaining information on entitlement as it applies to you. Before you apply for a Gender Recognition Certificate, you are advised to seek further information on the financial implications of doing so in your specific circumstances.

Who will the changes in this note apply to?

The changes outlined in this note will only apply to you if you:

- make a successful application to a Gender Recognition Panel; **and**
- receive a full Gender Recognition Certificate.

This means that you will be legally recognised in your acquired gender.

The information **does not** apply to you if:

- you decide not to apply for a Gender Recognition Certificate,
- your application for a Gender Recognition Certificate is unsuccessful; or
- you receive an interim Gender Recognition Certificate. (Please see the explanatory notes for more information on interim Gender Recognition Certificates).

From what date do the changes in this note apply?

The changes described in this note take place from the date of issue of a full Gender Recognition Certificate and are not retrospective.

How do I ensure that my National Insurance, benefit and pension records are updated if I get a full Gender Recognition Certificate?

In your application to the Gender Recognition Panel, you can ask them to notify HMRC/DWP/DSDNI and VA that you have received a full Gender Recognition

Certificate. It is recommended that you do this, as it ensures that your records are updated as soon as possible.

Or you can choose to notify these organisations directly by sending your full Gender Recognition Certificate to HMRC.

Once notified, HMRC will ensure that the amount of NI contributions that you pay is correct. HMRC will automatically update your record to reflect any changes to your personal details e.g. change of name and restrict your record for specialist staff only to access; this is to comply with the extra privacy requirements stipulated in the Gender Recognition Act 2004. HMRC will write to you letting you know that they have updated your records. The letter that is sent to you will not refer to Gender Recognition in any way.

DWP/DSDNI/VA will also reassess any existing benefits and pensions and notify you of any changes that result from getting a full Gender Recognition Certificate. The letter that is sent to you will not refer to Gender Recognition in any way. DWP/DSDNI/VA will also mirror the restrictions placed on your record by HMRC.

However, if you wish, you can waive the restrictions placed on your record by HMRC/DWP/DSDNI/VA; you can do this in several ways.

1. If you are personally notifying HMRC that you have received a full Gender Recognition Certificate, you can at the same time let them know that you wish to waive the restrictions they would normally place on your record.
2. You can write to HMRC/DWP/DSDNI/VA at any time and inform them that you wish to waive the restrictions placed on your record.

Tax and National Insurance (NI) contributions

How will my NI contributions be affected if I get a full Gender Recognition Certificate?

You will pay NI contributions on the basis of your acquired gender.

For example, a transsexual woman aged under 60 will pay NI contributions up to the State Pension age for women. (The State Pension ages for women are shown in the section “State Pension age” on page 5).

A transsexual man aged under 60 will pay NI contributions up to the State Pension age for men, which is 65.

How will my NI contributions be affected if I am aged between 60 and 64 when I get a full Gender Recognition Certificate?

If you are a transsexual woman, aged over 60, you will not have to pay NI contributions from the point when your full Gender Recognition Certificate is issued.

If you are a transsexual man, aged over 60, you will normally have to pay NI contributions on earnings from the point when your full Gender Recognition Certificate is issued until you reach the age of 65.

Will the amount of tax I pay be affected when I get a full Gender Recognition Certificate?

The amount of tax you pay is likely to be affected if you are currently married or in a civil partnership, as you will be required to end your marriage or civil partnership in order to get a full Gender Recognition Certificate. If you end your marriage or civil partnership, the amount of Income Tax, Capital Gains Tax and Inheritance Tax you pay may be affected. This could happen, for example, as a result of financial arrangements you make with your former husband or wife, or civil partner when ending your marriage or civil partnership.

If you do end your marriage or civil partnership, you should contact the HMRC to advise them of your change of circumstances.

It may also help you to read the self assessment helpsheet IR281 – “Husband and wife, civil partners, divorce, dissolution and separation” or talk to an independent financial advisor but you might have to pay for their advice.

If you are not married or in a civil partnership, getting a full Gender Recognition Certificate will have no effect on tax.

If you would like to discuss the impact your application could have on your tax and NI contributions please contact your local HMRC office or for more general information about tax and NI contributions visit their website at www.HMRC.gov.uk.

Child Benefit

Does getting a full Gender Recognition Certificate affect my claim to Child Benefit

No. Transsexual men and transsexual women who get a full Gender Recognition Certificate can claim child benefit in the same way as anyone else in their acquired gender, because child benefit is awarded to individuals.

Tax Credits

Does getting a full Gender Recognition Certification affect my claim to tax credits?

No. Transsexual men and transsexual women who get a full Gender Recognition Certificate can claim tax credits in the same way as anyone else in their acquired gender.

When you get a full Gender Recognition Certificate, your tax credits will be paid on the basis of your acquired gender. If you have previously been awarded tax credits jointly with your former spouse or civil partner, that award may change if you are no longer a couple. However, transsexual men and transsexual women who have previously claimed tax credits as a single person will continue to receive tax credits in the same way as any other single person in their acquired gender.

Benefits and pensions

Will my benefits, pensions and services from DWP/DSDNI/VA be affected when I get my full Gender Recognition Certificate?

When you get your full Gender Recognition Certificate, your social security benefits will be paid on the basis of your acquired gender. This means that your right to any benefit or pension may change. This could result in an increase or decrease in the amount of benefit paid to you or your entitlement to a benefit may start or stop.

The main benefits and pensions affected are:

- State pensions (see page 19 of this note);
- Contracted-out occupational pensions (see page 23 of this note);
- War Disablement Pensions and War Widows Pensions (see page 28 of this note);
- Bereavement Benefits and Widow's Benefits (see page 29 of this note);
- Incapacity Benefits (see page 31 of this note); and
- Child Support Agency (CSA) services.

Also, your age when you get a full Gender Recognition Certificate can affect your entitlement to DWP/DSDNI/VA benefits and services. The tables below set out general principles that will vary depending on individual circumstances.

If you are a transsexual woman, the following tables outline how your age may affect your entitlements.

- Table 1 gives information to transsexual women aged under 60;
- Table 2 gives information to transsexual women aged between 60 and 64; and
- Table 3 gives information to transsexual women aged 65 and over.

If you are a transsexual man, the following tables outline how your age may affect your entitlements.

- Table 4 gives information to transsexual men aged under 60;
- Table 5 gives information to transsexual men aged between 60 and 64; and
- Table 6 gives information to transsexual men aged 65 and over.

NOTE: If you become eligible for a benefit or pension you must make a claim or application for that benefit or pension in the normal way. You are advised to do this immediately as any delay may affect your entitlement. You will not normally be automatically paid a benefit or pension on getting a full Gender Recognition Certificate (the exception to this rule being those who will have their Widowed Mother's Allowance automatically converted to Widowed Parent's Allowance – please see p. 29).

If you are a transsexual woman the following tables outline benefits that may be affected

Table 1: Effect on benefits if you are a Transsexual Woman and under 60 when issued with a full Gender Recognition Certificate

List of benefits where the issue of a full Gender Recognition Certificate **will not** change current rate

- Widowed Parent's Allowance
- Bereavement Allowance
- Carer's Allowance
- Disability Living Allowance
- Industrial Injuries Disablement Benefits
- Jobseeker's Allowance
- Severe Disablement Allowance
- Vaccine Damage Payments
- Basic War Disablement Pension
- Income Support

List of benefits where the issue of a full Gender Recognition Certificate **may** result in change of rate of benefit/termination of benefit

- War Disablement Allowances
- War Widow(er)'s Pension
- Incapacity Benefit
- Unemployability Supplement with Adult Dependency Increase

Table 2: Effect on benefits if you are a Transsexual Woman and aged 60-64 when issued with a full Gender Recognition Certificate

List of benefits where the issue of a full Gender Recognition Certificate **will not** change current rate

- Disability Living Allowance
- Industrial Injuries Disablement Benefit
- Disablement Pension
- Vaccine Damage Payments
- Basic War Disablement Pension

List of benefits where the issue of a full Gender Recognition Certificate **may** result in change of rate of benefit/termination of benefit

- Carer's Allowance (Award may reduce if State Pension awarded)
- Incapacity Benefit (Incapacity Benefit may terminate as customer now of State Pension age)
- Jobseeker's Allowance (Jobseeker's Allowance will end as female customer cannot claim Jobseeker's Allowance from 60)
- Pension Credit (award may reduce because customer becomes entitled to State Pension)
- Can make claim to State Pension
- Bereavement Allowance will stop
- War Disablement Allowances
- War Widow(er)'s Pension
- Widowed Parent's Allowance will stop
- Unemployability Supplement with Adult Dependency Increase
- Reduced Earnings Allowance may be converted to Retirement Allowance.
- Severe Disablement Allowance

Table 3: Effect on benefits if you are a Transsexual Woman and aged 65 and over when issued with a full Gender Recognition Certificate

List of benefits where the issue of a full Gender Recognition Certificate **will not** change current rate

- Attendance Allowance
- Disability Living Allowance (only payable after the age of 65 if the benefit was awarded before the 65th birthday)
- Vaccine Damage Payments
- Basic War Disablement Pension
- Industrial Injuries Disablement Benefits

List of benefits where the issue of a full Gender Recognition Certificate **may** result in change of rate of benefit/termination of benefit

- Pension Credit if State Pension award revised
- State Pension would be recalculated based on female working life
- War Disablement Allowances
- War Widow(er)'s Pension
- Carer's Allowance
- Unemployability Supplement with Adult Dependency Increase

If you are a transsexual man the following tables outline benefits that may be affected

Table 4: Effect on benefits if you are a Transsexual Man and aged under 60 when issued with a full Gender Recognition Certificate

List of benefits where the issue of a full Gender Recognition Certificate **will not** change current rate

- Widowed Parent's Allowance
- Bereavement Allowance
- Carer's Allowance
- Disability Living Allowance
- Industrial Injuries Disablement Benefits
- Jobseeker's Allowance
- Severe Disablement Allowance
- Vaccine Damage Payments
- Basic War Disablement Pension
- Income Support

List of benefits where the issue of a full Gender Recognition Certificate **may** result in change of rate of benefit/termination of benefit

- War Disablement Allowances
- War Widow(er)'s Pension
- Widowed Mother's Allowance and Widows Pension
- Incapacity Benefit

Table 5: Effect on benefits if you are a Transsexual Man and aged 60-64 when issued with a full Gender Recognition Certificate

List of benefits where the issue of a full Gender Recognition Certificate **will not** change current rate

- Disability Living Allowance
- Industrial Injuries Disablement Benefits
- Vaccine Damage Payments
- Basic War Disablement Pension
- Retirement Allowance
- Industrial Death Benefit

List of benefits where the issue of a full Gender Recognition Certificate **may** result in change of rate of benefit/termination of benefit

- Carer's Allowance (Award may increase if State Pension stops)
- Could claim Incapacity Benefit
- Could claim Jobseeker's Allowance
- Pension Credit (The amount of Pension Credit you receive may change if your State Pension award stops)
- State Pension ends
- War Disablement Allowances
- War Widow(er)'s Pension
- Widow's Pension ends
- Widowed Mother's Allowance ends. Widowed Parent's Allowance automatically begins.
- Could claim Bereavement Allowance
- Severe Disablement Allowance

Table 6: Effect on benefits if you are a Transsexual Man and aged 65 and over when issued with a full Gender Recognition Certificate

List of benefits where the issue of a full Gender Recognition Certificate **will not** change current rate

- Attendance Allowance
- Disability Living Allowance (only payable after the age of 65 if the benefit was awarded before the 65th birthday)
- Vaccine Damage Payments
- Basic War Disablement Pension
- Industrial Injuries Disablement Benefit
- Industrial Death Benefit

List of benefits where the issue of a full Gender Recognition Certificate **may** result in change of rate of benefit/termination of benefit

- Pension Credit if State Pension award revised
- State Pension would be recalculated based on male working life
- War Widow(er)'s Pension
- War Pension Allowances
- Carer's Allowance (If SP rate changes)

State Pension

There are two main elements of the State Pension:

- basic State Pension; and
- additional State Pension.

The basic State Pension is paid based on the number of qualifying years for which you have paid, are treated as having paid or have been credited with, NI contributions, subject to a minimum number of qualifying years.

The additional State Pension is related to the level of your earnings on which you have paid (or are treated as having paid) Class 1 NI Contributions during your working life. You may be able to leave, or “contract-out” of, the additional State Pension by joining your employer’s pension scheme or a personal or stakeholder pension scheme.

At what age will I be entitled to State Pension?

Following a successful application for a full Gender Recognition Certificate, you can claim the State Pension when you reach the State Pension age appropriate to your acquired gender. State Pension age is 65 for men and, between 60 and 65 for women (see section on State Pension age on page 5). Using the last known address, the DWP normally invites customers to claim their State Pension four months before their State Pension age.

If you decide to put off claiming your State Pension for at least

- 5 weeks you can increase the amount you get when you do claim it, or
- 12 months you can get a lump sum payment.

If you become eligible for your State Pension following receipt of your full Gender Recognition Certificate, you should not delay in contacting The Pension Service to notify them and claim State Pension if you wish to at that point. Any delay may affect the date from which you become entitled to your State Pension. The proposals in the White Paper will, if adopted, gradually increase State Pension age broadly in line with gains in average life expectancy for anyone born on or after 6 April 1959 (see page 5).

I am a transsexual man and received a lump sum payment before I got a full Gender Recognition Certificate. Will I have to repay the lump sum?

No, the lump sum is not affected by receipt of a full Gender Recognition Certificate. This is because it is a one-off payment and when you put off claiming your State Pension you were legally still a woman and entitled to your State Pension at the time you got the lump sum.

I am between 60 and 64 now. How will getting a full Gender Recognition Certificate affect me?

You are likely to be affected because, currently, a woman can claim State Pension at age 60 and a man at age 65.

The two examples below explain the effect.

Example: A transsexual man who gets his full Gender Recognition Certificate aged 62

He would lose entitlement to the State Pension (received at age 60 in his registered birth {female} gender) and would not be entitled to State Pension until age 65 – the State Pension age of his acquired {male} gender. A new calculation would be made to work out the amount of State Pension he will be entitled to when he makes a claim for it at age 65.

If he subsequently considers putting off claiming his State Pension, or has already done so, then he should seek further advice from DWP/DSDNI as getting a full Gender Recognition Certificate may affect the amount of State Pension he will get.

He can, of course, apply for other income-related benefits such as Pension Credit.

Example: A transsexual woman who gets her full Gender Recognition Certificate aged 62

She will immediately be entitled to claim her State Pension. The amount of her State Pension entitlement would be worked out using her NI contribution record and the number of qualifying years appropriate for a woman to qualify.

If she is considering putting off claiming her State Pension she should seek further advice from DWP/DSDNI as getting a full Gender Recognition Certificate may affect the amount of State Pension she will get.

Any other DWP/DSDNI/VA benefits in payment at this point would also be reassessed and the entitlement or amount payable may change.

I am a transsexual woman aged between 60 and 64. Can I get my State Pension backdated to my 60th birthday?

No. Eligibility to State Pension can only start from the date that you are successfully awarded a full Gender Recognition Certificate. In addition, you will need to make a claim for your State Pension and will need to meet the NI contribution conditions appropriate to your acquired gender.

I am already over State Pension age – will getting a full Gender Recognition Certificate make any difference to me?

A change in gender **may** change the rate of State Pension that you receive.

Upon issue of your full Gender Recognition Certificate, your State Pension will be recalculated on the basis of your acquired gender rather than your registered birth gender.

I am below current State Pension age – will getting a full Gender Recognition Certificate make any difference to me?

The issue of a full Gender Recognition Certificate may change the future rate of State Pension that you receive.

This is because the calculation of your State Pension will be based on your acquired gender rather than your registered birth gender.

Why could the amount of State Pension change when I get a full Gender Recognition Certificate?

This is because the amount of State Pension to which you will be entitled will need to be assessed using NI contributions you have paid, are treated as having paid or have been credited with, during a “working life” appropriate to your acquired gender. Your NI contribution record is used to determine the number of “qualifying years” you have during your “working life” (see pages 5 and 6 of this note for an explanation of the terms “qualifying years” and “working life”). The proposals in the White Paper will, if adopted, affect the number of qualifying years needed for a full basic State Pension for a man or woman reaching State Pension age on or after 6 April 2010 (see page 5).

What is the impact on additional State Pension (SERPS and State Second Pension)?

The additional State Pension used to be known as the State Earnings-Related Pension Scheme (SERPS) and ran from 1978 to 2002 when it was reformed by the State Second Pension.

The amount of additional State Pension you get depends on:

- the level of your earnings while you are working and are paying (or are treated as paying) Class 1 NI contributions;
- whether you are contracted in or out of the State Scheme;
- the growth in national average earnings in the period up to your State Pension age; and
- the rules for calculating the rate at which your additional State Pension will build up when you reach State Pension age.

Contributions you pay if you are self-employed do not count towards the additional State Pension. There are special rules that provide some additional State Pension to certain carers and people with long-term illnesses or disabilities, if they do not otherwise qualify.

The amount of additional State Pension you get may be affected by being a member of a stakeholder pension scheme, an occupational pension scheme or an appropriate personal pension scheme.

The effect of getting a full Gender Recognition Certificate on the additional State Pension would depend on a person’s age and individual circumstances.

In the case of a transsexual woman aged 60 and over, the number of tax years used to calculate her additional State Pension would need to be shortened which, in turn, may increase the amount payable.

In the case of a transsexual man aged 60 and over, the number of tax years used to calculate his additional State Pension would need to be increased which, in turn, may reduce the amount payable.

I have to end my marriage/civil partnership in order to get a full Gender Recognition Certificate. How will my State Pension be affected?

After ending your marriage or civil partnership you may be able to substitute the record of qualifying years of your former husband, wife or civil partner for your own if your basic State Pension does not reach the full rate. This does not apply if you then remarry or form a Civil Partnership when under State Pension age.

When a marriage or civil partnership is ended, a Court can make a pension sharing order as part of the financial settlement. Your additional State Pension may be affected by such an order and you might wish to seek further advice about this. Your basic State Pension will not be affected.

You should notify HMRC/DWP/DSDNI/VA by providing evidence of when your marriage/civil partnership ended. This will ensure your NI Contributions and benefits are reassessed correctly.

If you do not let them know about any changes to your marital/civil partnership status, this may cause difficulties in reassessing your NI contributions and benefit.

Also HMRC/DWP/DSDNI/VA may not be able to update your records for your acquired gender and pay any new benefits you may be entitled to. They may have to seek advice from the Gender Recognition Panel. If they have to contact the Gender Recognition Panel they will write to you to let you know that they have done this.

When the Gender Recognition Panel responds HMRC/DWP/DSDNI/VA will reassess your NI contributions, any benefits, pensions and services and notify you of any changes. The letter that is sent to you will not refer to Gender Recognition in any way.

Contracting-out: occupational and private pension schemes

Contracting-out is the term used to describe leaving the additional State Pension. You do this when you join an employer's pension scheme, sometimes called a superannuation scheme, or take out a personal pension or a stakeholder pension that pays you a pension in place of the additional State Pension. Pensions such as these are known as contracted-out pensions. If you are not sure whether your pension is contracted-out, check with your employer if you are a member of his scheme or with your pension provider if you have a personal pension or a stakeholder pension.

In order to find out how your contracted-out pension may be affected if you receive a full Gender Recognition Certificate, you will need to know what type of scheme you belong to. If you are unsure, please check the descriptions below of the different types of contracted-out pensions available;

Box A tells you about Occupational Pension Schemes

Box B tells you about Personal Pension Schemes

Box C tells you about Stakeholder Pension Schemes

A. Occupational pension schemes

There are two main types of contracted-out occupational pension scheme

- Contracted-out salary-related schemes (COSRS) also called defined benefit schemes which give you a pension related to your earnings (usually during the years leading to retirement) and the number of years you have been in the scheme; and
- Contracted-out money purchase schemes (COMPS), which give you a pension based on the value of the fund you have built up during the years you have been in the scheme.

B. Personal pension schemes

Since April 1988, an employee has been able to start a personal pension that, if it meets certain conditions, can be used in place of additional State Pension.

C. Stakeholder pension schemes

Since 6 April 2001, a person has been able to start a stakeholder pension which, if it meets certain conditions, it can be used in place of the additional State Pension.

Personal pensions and stakeholder pensions give you a pension based on the value of the fund you have built up during the years you have been in the scheme.

If you are still unsure which type of pension you have, check with your employer or pension provider.

How will my contracted-out COSR pension scheme be affected by getting a full Gender Recognition Certificate?

COSR schemes must meet certain requirements before they are allowed to contract-out. From April 1978 to April 1997, members of COSR schemes built up rights to a guaranteed minimum pension (GMP). GMP rights build up at a different rate for men to that for women because women reach pensionable age at 60 and men at 65.

Since April 1997, COSR schemes have to satisfy a test of overall quality and from that date, men and women have built up rights at the same rate.

If you get a full Gender Recognition Certificate, any GMP rights that you built up between 1978 and 1997 would have been worked out on the basis of your birth gender rather than your acquired gender. But any pension rights built up in a COSR scheme since April 1997 will not be affected if you get a full Gender Recognition Certificate because since that date rights for men and women have built up at the same rate.

How will my contracted-out money purchase (COMP) scheme, Appropriate Personal Pension scheme or Stakeholder Pension scheme be affected by getting a full Gender Recognition Certificate?

Most people who contract out of the additional State Pension by joining either a COMP scheme or an Appropriate Personal Pension scheme (including a Stakeholder Pension scheme) will have a pension fund made up of both protected rights (rights made up mainly from the rebate on NI contributions and its investment return) and non-protected rights.

At retirement, the existing rules require that annuities (pensions payable for life) purchased with the protected rights must be the same for both men and women. This requirement does not apply to the non-protected rights (rights made up mainly from the investment of payments made by the employee and/or his or her employer). This means that annuities purchased with the non-protected rights are in most cases higher for men because women, on average, live longer and their annuities are likely to have to pay out for longer. So, most members of these types of scheme will find that some of their benefits **will** be affected when they get a full Gender Recognition Certificate.

Those people who have already purchased an annuity before they get a full Gender Recognition Certificate **will not** be affected.

At what age will I be entitled to my occupational pension?

The pensionable age for GMPs is 60 for women and 65 for men. Following receipt of a full Gender Recognition Certificate, you will be able to claim your GMP at the pensionable age appropriate to your acquired gender. This rule applies to the GMP. If the pensionable age for getting other benefits in your occupational pension scheme is different, you will get those benefits at the different age.

I am between 60 and 64 now and have built up GMP rights in a contracted-out occupational pension scheme. How will getting a full Gender Recognition Certificate affect these rights?

Getting a full Gender Recognition Certificate affects the age at which you can get your GMP. This is because a woman is entitled to a GMP at age 60 and a man at age 65. Once you get a full Gender Recognition Certificate, the age at which you can receive your GMP will change.

Example: Transsexual man

A transsexual man, aged 62, who gets a full Gender Recognition Certificate, would lose entitlement to a GMP (which he would have got at age 60 in his birth {female} gender). His GMP will start again at age 65 and would be revalued for the interim period.

Example: Transsexual woman

A transsexual woman aged 62, who gets a full Gender Recognition Certificate, will immediately become entitled to a GMP.

I am a transsexual woman aged 63 and I have just got a full Gender Recognition Certificate – can I get my GMP backdated to my 60th birthday?

No. Any entitlement to a GMP will only start from the date that you are successfully awarded a full Gender Recognition Certificate.

I am already over pensionable age – will the value of my GMP be affected?

No. Your GMP is part of your occupational pension and is based on your pensionable service built up before 6th April 1997. The value of your GMP will not, therefore, be affected if you get a full Gender Recognition Certificate.

I am currently getting a survivor GMP benefit from my deceased husband/wife/civil partner's occupational pension scheme – can I continue to receive this?

Yes. As your survivor benefit is based on your deceased husband/wife/civil partner's previous earnings, your right to the amount of benefit will not change. However, you will be required to meet the eligibility conditions such as continuing to have an underlying entitlement to certain social security benefits.

These are:

- State Pension based on your late husband's/wife's/civil partner's rights;
- Widowed Parent's Allowance; or
- Bereavement Allowance.

These entitlements could come to an end, however, if you remarry, form a civil partnership or live with someone as husband and wife or as if a civil partner.

I am a surviving civil partner, can I get a survivor benefit based on my deceased civil partner's GMP rights built up?

Yes, provided you meet certain conditions. You would be entitled to receive a survivor benefit based on your deceased civil partner's GMP rights accrued from 1988 irrespective of your current gender.

This entitlement could come to an end, however, if you form a subsequent civil partnership, marry or live with someone as husband and wife or as if a civil partner.

I have to end my marriage or civil partnership in order to get a full Gender Recognition Certificate. How will my occupational pension be affected?

Many occupational pension schemes will only pay a survivor's benefit to a legal husband, wife or civil partner. Ending your marriage or civil partnership may therefore mean that your husband/wife or civil partner may not be entitled to a survivor benefit should you die before him/her. So, you should find out from the people who run your pension scheme whether or not ending your marriage or civil partnership will affect your pension. When a marriage or civil partnership ends, a Court can make a pension sharing order as part of the financial settlement. Your occupational pension may be affected by such an order and you might wish to seek further advice about this.

When I left my contracted-out pension scheme my employers bought an annuity/insurance policy. Will this be affected?

No. The pension rights that you built up will have been secured by a policy that was contracted on the basis of your birth gender and this will not be affected.

Who can I contact to find out more about my pension scheme?

For further information and advice on your pension scheme you will need to approach your scheme's Trustees or administrators. They will be able to offer further advice on your rights according to your scheme's Trust Deed and Scheme Rules.

I am not sure whether my occupational pension scheme is contracted-out or not. Does this make a difference?

There are specific rules that apply to occupational pension schemes that are contracted-out because contracted-out schemes must provide certain benefits in place of the additional State Pension.

Schemes that are not contracted-out, or which provide benefits over and above contracted-out rights, must introduce their own procedures to comply with the provisions of the Gender Recognition Act.

War disablement pensions and war widows' benefits

What is the Impact of Gender Recognition on War Pensions?

The basic war disablement pensions and majority of allowances are unaffected.

For further advice please contact the Veterans Agency Free Helpline on 0800 169 2277 or visit the Veterans Agency Website at www.veteransagency.mod.uk

Bereavement benefits/Widow's benefits

How will getting a full Gender Recognition Certificate affect my Bereavement Benefits?

If you get a full Gender Recognition Certificate your Bereavement Benefits, such as Widowed Parent's Allowance or Bereavement Allowance, will not be affected.

If you are a transsexual man who gets a full Gender Recognition Certificate, then your entitlement to certain other benefits will stop. This is because certain benefits, such as Widow's Pension and Widowed Mother's Allowance, are only payable to women.

Example: Widow's Pension

A transsexual man aged under 60 is getting a Widow's Pension. If he gets a full Gender Recognition Certificate, his entitlement to Widow's Pension will stop, as it is not payable to men. He may apply for other DWP/DSDNI benefits such as Income Support and he could claim State Pension at age 65.

Example: Widowed Mother's Allowance

A transsexual man aged under 65 is getting a Widowed Mother's Allowance. If he gets a full Gender Recognition Certificate his entitlement to Widowed Mother's Allowance will stop, as it is not payable to men. Instead, he would automatically get Widowed Parent's Allowance.

Income-related benefits

How will getting a full Gender Recognition Certificate affect my income-related benefits?

Transsexual men and transsexual women can claim income-related benefits in the same way as anyone else in their acquired gender.

In most cases, your income-related benefits (such as Jobseeker's Allowance {Income-Based}, Income Support, Social Fund, Pension Credit and Council Tax Benefit) will not be affected if you get a full Gender Recognition Certificate.

Incapacity Benefit (IB)

How will getting a full Gender Recognition Certificate affect my IB?

Whether or not your IB will be affected will depend on your age and the State Pension age of your acquired gender. This is because IB is not payable at the same time as State Pension.

If you are a transsexual woman aged under 60 your entitlement to IB would currently stop at age 60. This is because State Pension is currently payable to women from age 60. (See note on State Pension age on page 5).

If you are a transsexual man aged under 60 your entitlement to IB would continue until you reach age 65 (as long as you continue to satisfy the conditions for receiving it). This is because State Pension is payable to men from age 65.

What if I am a transsexual man between 60 and 64 previously receiving State Pension?

This is quite complicated as the payment of IB is dependent on you having paid enough contributions in two of the three tax years before the benefit year in which your claim for IB is made.

Example: Transsexual man aged 60

Before reaching age 60 he worked and paid NI contributions for many years. His entitlement to State Pension stops when he gets a full Gender Recognition Certificate at age 60. As he is unfit for work, he claims IB. He is eligible for IB because he paid enough contributions in two of the three tax years before the year of claim.

Instead of claiming IB he may prefer to apply for other benefits or pensions such as Pension Credit.

Example: Transsexual man aged 64

Before reaching age 60, he worked and paid NI contributions for many years. At age 64 he gets a full Gender Recognition Certificate and his entitlement to State Pension stops. He is unfit for work and so he needs to apply for IB but the NI contributions he paid before age 60 do not fall in two of the three tax years before the year of his claim. As a result, he is not eligible for IB.

However, he can apply for other benefits or pensions such as Pension Credit.

I currently get IB because I used to get Invalidation Benefit under special rules for widows and widowers. Will this continue if I get a full Gender Recognition Certificate?

Your IB will stop when you get your full Gender Recognition Certificate. This is because this type of IB was only payable because of special rules that were specific to a woman at the time of bereavement or were specific to a man at the time of bereavement. Upon issue of a full Gender Recognition Certificate, the special rules to each gender at bereavement no longer apply. You can, however, apply for other at DWP/DSDNI/VA benefits and pensions.

Industrial injuries Disablement Benefits

How will getting a full Gender Recognition certificate affect my Industrial Injuries Disablement Benefits?

Industrial Injuries Disablement Benefits is not affected.

Reduced Earnings Allowance/Retirement Allowance

If you are under age 60, or if you are 65 or over your Reduced Earnings Allowance will not normally change. However if you cease work, change your hours of work or change, your job, you should immediately report this to the office paying your Industrial Injuries Disablement Benefits.

If you are transsexual women aged 60 to 64, and are in receipt of Reduced Earnings Allowance, your benefit will depend on whether you are working.

If you are not working, your Reduced Earnings Allowance will be converted to Retirement Allowance from the date of issue of the certificate.

If you have continued to work at least 10 hours per week from the date of issue of the full Gender Recognition Certificate, your Reduced Earnings Allowance should not be affected. However you should immediately report any change of job to the office paying your Industrial Injuries Disablement Benefits.

If you are a transsexual man, aged 60 to 64, in receipt of Retirement Allowance, your benefit will not change. This is because Regulations do not permit you to reclaim Reduced Earnings Allowance once Retirement Allowance is in payment.

If you are a transsexual man or women, aged 65 or over and in receipt of Retirement Allowance, your benefit will not change.

Industrial Death Benefit (IDB)

How will getting a full Gender Recognition Certificate affect my Industrial Death Benefit?

Your entitlement to Industrial Death Benefit will continue. You should contact the IDB Unit in Barrow, if you require further information.

Unemployability Supplement

How will getting a full Gender Recognition Certificate affect my Unemployability Supplement?

Your entitlement to the basic award will remain unchanged as will any child dependency addition if you still have responsibility for the care of the child.

If you are in receipt of Adult Dependency Addition you should contact the office in Barrow for advice.

Transsexual men and transsexual women who have partners

I am married/in a civil partnership. Do I need to end my marriage/civil partnership to get a full Gender Recognition Certificate?

You do need to end your marriage or civil partnership to get a full Gender Recognition Certificate.

If you do get a full Gender Recognition Certificate, any HMRC tax credits, DWP/DSDNI/VA benefits, pensions or services you were receiving during your marriage/civil partnership would need to be reassessed. You and your partner will need to make new applications for HMRC tax credits, DWP/DSDNI/VA benefits.

Your application should include details of the changes to your marital /civil partnership status before and/or after receiving a full Gender Recognition Certificate. This is because HMRC collects NI Contributions and DWP/DSDNI /VA pay some benefits, based on a whether a person is married/in a civil partnership or single. If you do not let them know about any changes to your marital/civil partnership status, this may cause difficulties in reassessing your NI contributions and benefit.

What if I get married or form a civil partnership?

Any rules on benefits/pensions and tax credits that relate to couples who are married or who are in a civil partnership will apply to transsexual men or women who have a full Gender Recognition Certificate and who marry or form a civil partnership in their acquired gender.

In addition, their husband's/wife's/civil partner's circumstances may be taken into account in a Child Support Maintenance Assessment.

NOTE: The Civil Partnership and Marriage laws allow, in certain circumstances, for a couple to either re-marry or form a civil partnership without having to wait a formal notice period when they have ended their legal relationship and they have an interim Gender Recognition Certificate. This ensures that a couple are not left for a long period where their relationship has no legal recognition, which could have an adverse effect on pensions.

I am living with my partner but we are not married/civil partners.

The tax credit and benefit rules currently treat:

- two people of the opposite sex who are living together as husband and wife in the same way as a married couple.
- a same sex couple who are living together as if they were civil partners in the same way as a couple who have formed a civil partnership.

What do you mean by living together?

DWP/DSDNI/VA/HMRC apply a “living together” test to decide whether two people are living together as husband and wife/civil partners. The test takes into account a number of factors, including domestic and financial arrangements. If they are found to be living together as husband and wife/civil partners this may affect the amount of benefits they get. In addition, a partner’s circumstances may be taken into account in a Child Support Maintenance Assessment.

Transsexual men and transsexual women who are parents

How will getting a full Gender Recognition Certificate affect my child support position?

Your status as a parent of a child will not be affected if you get a full Gender Recognition Certificate.

This means that a person's status as a non-resident parent or parent with care in child support terms is not affected.

However if, due to getting a full Gender Recognition Certificate, a person's benefit entitlement changes then the amount of child support that they have to pay may also change.

In addition, a partner's circumstances may be taken into account in a Child Support Maintenance assessment.

Backdating of DWP/DSDNI/VA claims

Any backdating of DWP/DSDNI/VA claims for benefits will only apply to the date of claim or the date of issue of your full Gender Recognition Certificate depending on the rules of the appropriate benefits.

Overpayments of benefits/pensions

If you are overpaid DWP/DSDNI/VA benefits or pensions, you may be liable to repay them.

Other things to think about

There are other situations where the issue of a full Gender Recognition Certificate may affect your dealings with DWP/DSDNI/VA.

Some examples of this are, if you:

- don't have enough NI contributions and are thinking about paying additional contributions. The proposals in the White Paper will, if adopted, affect the number of qualifying years needed for a full basic State Pension for a man or woman reaching State Pension age on or after 6 April 2010 (see page 5),
- are thinking about putting off claiming your State Pension,
- are eligible for a Category B State Pension.

You are strongly advised to seek further information from DWP/DSDNI/VA in cases such as these so that you are fully aware of their effects on you.

Information for Isle of Man residents

Isle of Man residents should note that, from 4th April 2005, a transsexual man or transsexual woman who has been issued with a full Gender Recognition Certificate (by the U.K. Gender Recognition Panel) will be legally recognised in their acquired gender **for social security and National Insurance purposes only**. However, administrative easements have already been made to provide transsexual persons with passports and driving licences in their acquired gender.

The Isle of Man Government is currently considering whether a Bill should be brought to Tynwald which would provide that transsexual people are legally recognised in their acquired gender for any other/all purposes. Until such time as a Bill is enacted, transsexual people who were born on the Isle of Man will not be able to obtain a new birth certificate in their acquired gender, even if they have made a successful application to the U.K. Gender Recognition Panel. Isle of Man residents who were born in the U.K., and who have made a successful application to the U.K. Gender Recognition Panel, can apply to the General Registrar for England and Wales for a new birth certificate in their acquired gender.

Whilst there will be no Gender Recognition Panel in the Isle of Man, resident transsexuals of the Isle of Man who meet the qualifying criteria will be able to make an application to the U.K. Gender Recognition Panel.

Further information

Jobcentre Plus

To get information about benefits and to make a claim, customers should visit their local Jobcentre Plus office or phone them, the number for your local office can be found in the yellow pages. Calls are charged at local rates. Lines are open 8.30am to 6.00pm Monday to Friday.

Website Address

www.jobcentreplus.gov.uk

The Pension Service

Contact your Pension Centre

Telephone: 0845 606 0265

Textphone: 0845 606 0285

Opening Hours: 8.00am to 8.00pm Monday to Friday

Website Address: www.thepensionservice.gov.uk

Child Support Agency

Contact the Child Support Agency

Telephone: 08457 133 133

Minicom: 08457 138 924

Address: PO Box 55, Brierley Hill, West Midlands DY5 1YL

Opening hours: Monday to Friday; 0800 to 2000 and Saturday; 0900 to 1700

Disability Living Allowance/Attendance Allowance

Telephone: 08457 12 34 56

Textphone: 08457 22 44 33

Carer's Allowance

Telephone: 01253 85 61 23

Textphone: 01772 89 94 89

Website Address: www.direct.gov.uk

Veterans Agency

Telephone: 0800 169 2277

Textphone: 0800 169 3458

Website Address: www.veteransagency.mod.uk

Customers in Northern Ireland

Northern Ireland customers can obtain further information from their local Social Security Jobs & Benefits office, the Pension Service Windsor House Belfast (details in your phone book), Pension Credit Enquiry Line on 0808 100 2658 or from the Benefit Shop, Royal Avenue Belfast on 0800 22 0674. You can also obtain further information on the Northern Ireland Department of Social Development website at www.dsdni.gov.uk