STATES OF JERSEY

SURVIVOR'S BENEFIT: REPEAL OF 2012 CHANGES (P.122/2014) – COMMENTS

Presented to the States on 8th September 2014
by the Minister for Social Security

STATES GREFFE

COMMENTS

Section 1: Introduction and Summary

Introduction

Survivors' benefits are paid to the partner (husband, wife or civil partner) of the deceased, based on the deceased's contribution record. Two contributory survivors' benefits are included within the Social Security scheme: the survivor's allowance is paid for the first 12 months following bereavement; and survivor's pension may then be paid from the end of the first 12 months until the survivor reaches pensionable age. The value of each benefit is based on the contribution record of the deceased partner at the date of their death. The benefits cease if the survivor enters into a new relationship (marriage, civil partnership or cohabitation).

On 1st January 2013, the eligibility conditions for a survivor's pension were amended, restricting entitlement to people who have responsibility for dependent children (children of compulsory school age or up to the age of 25 if in full-time education). People who were already in receipt of the benefit were not affected by the change, and a transition arrangement was put in place enabling people born in or before 1957 to access the benefit even if they did not have a dependent child. Survivor's allowance was not amended, and continues to be available to all survivors for the first 12 months following bereavement.

P.122/2014 seeks to overturn this amendment and to reinstate survivor's pension to all survivors, i.e. to provide a pension to working-age survivors who were born after 1957 and do not have dependent children.

I strongly urge members to oppose this proposition.

Summary

P.122/2014 calls for the recent amendments to survivor's pension to be repealed pending a full Green Paper consultation. In support of this position, it presents 2 arguments: that research and consultation supporting the amendment in 2012 were not sufficient, and that there is a 'contract' which prohibits the States from changing benefit schemes. The views of one survivor are set out.

In summary:

Research and consultation

The decision to tighten eligibility conditions for survivor's pension has been researched by the Social Security Department and, as part of the Comprehensive Spending Review process, analysis, costs and options were subject to thorough consideration. The States have been presented with the rationale for making changes to this benefit and debated these changes on 2 occasions. Both times, the move to restrict the benefit received strong support (P.105/2011 approved by 32 votes to 4; P.101/2012 (principles) approved by 31 votes to 4).

The Government Actuary's report of April 2014 confirmed that the Social Security Fund is due to reach a break-even position in 2016. A similar review of the Health Insurance Fund published last month identified that the Health Insurance Fund has already reached break-even. Research and public consultation on the future of the 2 Funds is planned for 2015. In the next 2 years, the Assembly will be called upon to consider reducing the generosity of the old age pension and other contributory benefits or increasing contributions, possibly both. Reserves may be drawn down, but these will only provide a short-term fix between income and expenditure while strategies are being developed and phased in.

Diverting resources to undertake a standalone consultation on survivors' pensions will delay the decisions that need to be taken to maintain the long-term viability of the Fund as a whole. Equally, it is unlikely that such a consultation would conclude that a benefit as generous and poorly targeted as the old survivor's pension should be reinstated.

The 'Contract' and protection of future claimants

The Social Security Fund must adapt to changing situations. The current Law has been amended many times in its 40 year life; in general, when a benefit is changed, existing claimants can choose to continue with the previous rules or move to the new rules. It is also common to provide interim entitlements as a transition between old and new rules; these provisions have been applied to survivor's pension. There is no principle which guarantees that a benefit which is available now will continue to be available in 10, 20 or 30 years' time. Benefits which are in place when an individual enters the insurance scheme will invariably evolve in response to changes in society during the working life of that member.

Benefits available under the new rules and the account of a survivor's experience

There are a range of benefits available to survivors; some are universal, others are available to people whose partners have contributed to the Social Security Fund and others are means-tested.

The individual account offered in P.122/2014 does not provide an accurate description of these benefits: it fails to mention that survivor's allowance is paid, at an enhanced rate, for the first 12 months following bereavement. The account also suggests that a survivor who is a homeowner is not entitled to Income Support – however, Income Support is available to anyone who has lived in Jersey for the last 5 years if their household income is low.

The table below summarises the weekly amounts available, based on the average contribution record[1] in respect of new claims for survivor's allowance for Jersey residents in 2013.

Benefit type	*Weekly value*
Average weekly benefit – Survivor's allowance	£172.25 p
Average weekly benefit – Survivor's pension	£143.54 p
Income Support – homeowner, no medical components, under pension age	£155.54 p
Old age pension (for widow using deceased husband's record)	£145.11 p

[1] 75% for survivors resident in Jersey

Circumstances of survivors in 2013

An analysis of claims submitted during 2013 does not suggest that the withdrawal of survivor's pension from people born after 1957 without dependent children has had a significant negative impact on this group. There have been no additional claims for income support from local residents who did not receive survivor's pension under the new rules.

Financial implications

There was no reduction in benefit spend in 2013. Savings will start to accrue from 2014. The long-term savings associated with the current legislation will increase each year to reach an estimated total of £3.6 million per year by 2023. These savings have already been included in the recent actuarial review.

Rescinding this decision would create a significant additional financial burden on the Social Security Fund, leading to the need for cuts in other benefits and/or an increase in the contribution rate.

Conclusion

A move to rescind an existing decision requires support from 4 States Members – it is a serious matter to return to a decision that has already been democratically made. The rescindment motion should identify an area where the existing decision is no longer valid, or identify circumstances that have changed so markedly that the decision needs to be revisited. The arguments set out in the report accompanying P.122/2014 do not raise any such substantive issues.

Supporting the rescindment will not secure better outcomes for Islanders – on the contrary, it will delay important actions that need to be taken to maintain the long-term sustainability of the Social Security Fund.

The current balance of pensions, benefits and contribution rate cannot be maintained – the Government Actuary report shows the Fund will reach break-even point in 2016. The Health Insurance Fund has already reached this point and could be completely exhausted by 2025. The Actuary has advised that action must be taken to protect the future operation of the Funds. Difficult choices will need to be made over the next few years; adopting this proposition will lead to delays in this process and an increase in benefit spending; these are retrograde steps that will only add to our ongoing problems.

Section 2: Previous States decisions

In July 2011, the States voted by 32 votes to 4 to accept the proposition of Senator F. du. H. Le Gresley (at that time a backbencher) to review survivors' benefits with the aim of achieving savings in future expenditure. At the time, Senator Le Gresley argued that the benefit was outdated, based on an earlier society where women remained at home to be provided for by their husbands. Further, the benefit was too generous; it could pay a widow or widower the standard rate of benefit over a period of decades until they reached their pension age, with no element of means-testing. The Assembly accepted the proposition, and the Social Security Department was tasked with reviewing the benefit to reduce expenditure.

The Department undertook further research and a separate review was commissioned from the Social Security Advisory Council. The Council is established under the Social Security Law to give ‘advice and assistance’ regarding proposals to amend benefits and changes in Social Security Legislation. As such, the Council is a statutory body charged with a duty under the Law. Its findings have been dismissed in comments made by Deputy G.P. Southern of St. Helier asserting that the Council lacks professional expertise – however, the Council is made up of members drawn from a wide range of professional and community sectors and it is able to offer an informed perspective independent of the Department.

As Deputy Southern notes – the Council also found the benefit generous and recommended significant cuts.

Plans to adapt survivor’s pension were thus duly presented in P.101/2012 and debated on 5th December 2012. This proposition put forward changes to the Social Security Law and sought to restrict survivor’s pension to people who had dependent children. As a transitional arrangement, it was also proposed that people aged 57 or over on 1st January 2013 should continue to be able to access the survivor’s pension under the old rules. Some members sought to capture a greater number of people in this transitional arrangement, and 2 amendments were proposed that people aged over 55 or aged over 50 on 1st January 2013 should be included in the transitional protection. The States rejected the option of protection from age 50 and a clear majority supported the option of age 55.

Section 3: Protecting future claimants (the ‘contract’)

The report accompanying P.122/2014 suggests that there is a ‘contract’ between the States and contributors to the Social Security Scheme, and that this contract serves to prevent the States from changing the operation of the Scheme. The concept of a contract in statutory insurance schemes is not uncommon – however, the interpretation in this proposition is inaccurate and completely unworkable. There have been, and will continue to be, changes to the Social Security system to ensure that it remains viable as a long-term Fund and adapts to changes in society; it is essential that benefits can be modernised.

Since the scheme was introduced in the 1950s, there have been many changes. The levels of contributions have increased and a new 2% contribution above the standard earning limit has been introduced. Married women who are working can no longer opt out of paying contributions. New benefits have been introduced and other benefits withdrawn. Survivors’ benefits have been amended, giving men and women equal access, and recently extended to civil partners. These changes were applied to everyone in the scheme, not just to people who joined the scheme after the change.

The suggestion made by Deputy Southern is that any reduction in benefit should only be applied to young people starting to make contributions for the first time, and everyone who has already made contributions at the date of an amendment should continue with the old rules. The Deputy does not explain whether this principle should extend to the level of contributions people are obliged to pay or should exclude current contributors from adaptations to benefits which would be more favourable to them.

A ‘contract’ which froze benefits and contributions at the date of entry into the scheme creates significant unfairness, with a disproportionate burden being placed on younger workers. For example, the contribution rate set at 8% in 1974 is well below the cost of providing for today's pension payments, and as a result the contributions required from young people entering the scheme would have progressively increased to a much higher rate than that currently paid.

That said, I fully accept that there is a social contract between contributors, benefit claimants and the Social Security Fund. As the Minister for Social Security, I take this contract very seriously. It is my responsibility to protect the long-term sustainability of the Fund, to make sure that the Fund continues to provide pensions and other benefits into the future; to adjust both contributions and benefits in line with changes in our society and with the ability of workers to meet these costs. Workers who are making contributions now need to be confident that they will be able to draw a pension in their old age, just as they are supporting the current generation of pensioners.

To reiterate, anyone already receiving a survivor's pension has been protected from these changes. However, it is wholly unrealistic to provide a blanket protection to individuals who have not yet made a claim for a particular benefit but may do so in the future.

Section 4: Benefits available and the account of a survivor's experience

P.122/2014 sets out events as described by an individual. Unfortunately, the description of benefits and eligibility suggested by the text quoted in P.122/2014 do not fully reflect the benefits available. To clarify –

- All survivors receive 12 months' benefit, paid at the highest rate of any Social Security benefit (120% of the standard rate)

- All survivors receive contribution credits during that 12 months to enable them to claim other contributory benefits at the end of the 12 month period

- Female survivors[2] can claim an old age pension based on their late husband's record, if it is to their advantage

- Homeowners can receive support through the income support system.

A detailed explanation of the various benefits available to a survivor is set out below.

Survivor's allowance

Survivor's benefits are based on the contribution record of the deceased partner; a person has a 100% record if they have no gaps in their contribution record between the age of 18 and the date of their death. Survivor's allowance is paid at an enhanced rate of up to £229.67 per week. Analysis of the claims for survivor's allowance from Jersey residents in 2013 show an average contribution record of around 75%; this gives an average benefit rate of £172.25 per week. A survivor will receive the allowance for 12 months following the death of their partner; during that time the survivor will also receive full contribution credits (regardless of the percentage rate of benefit).

[2] Married before April 2001

Survivor's pension

Prior to 1st January 2013, at the end of the 12 month survivor allowance period, a working age survivor would automatically move across to a survivor's pension which was paid until the claimant reached state pension age. The 2013 changes introduced a new eligibility condition for survivor's pension, and now it is only paid to survivors who have a dependent child[3].

The average contribution record of 75% for Jersey survivors in 2013 would result in a survivor's pension payment of £143.54 per week.

Working age benefits and the married woman's exemption

A survivor's contribution record is fully credited during the first 12 months after bereavement while they are claiming survivor's allowance. Following on from this period, the survivor will become responsible for their own contribution record. This has always been the case and was not affected by the changes introduced in January 2013.

The case presented in P.122/2014 describes a widow who chose to opt out of making social security contributions when she got married, having elected to take a married woman's exemption[4] (often know as a 'red card'). Under this provision working wives made no contributions to the Social Security scheme, but they were not entitled to claim working age benefits such as sickness benefit or maternity benefit. Women who have taken a married woman's exemption can claim an old age pension based on their husband's contribution record.

Survivors who have previously elected to take a 'red card' will often become eligible for incapacity benefits, having received contribution credits for 12 months whilst receiving survivor's allowance.

In the example provided, Long-Term Incapacity Benefit is now being received. This benefit is paid with reference to the level of the incapacity, and claimants may undertake employment with no loss of benefit.

Old age pension

A survivor as described in P.122/2014, who previously held a red card and has not made contributions in her own right whilst she was married, is able to claim a pension based on either her deceased husband's record up to the time of his death or her own record – whichever is more favourable to her. This was not affected by the changes made in 2013. If her husband had a full contribution record at the time of his death, she will receive a 100% pension, regardless of the age of her husband when he died.

[3] Including a student under 25 in full-time education

[4] A married woman's exemption is not available to women who have married after April 2001, but these terms are still available to women who have already taken the exemption or were married before April 2001

Income support

People who have lived in Jersey for 5 years before making a claim (or for 10 years at any point in the past) can claim Income Support. This benefit is available to homeowners and tenants alike.

For example a homeowner living alone will be entitled to an income of at least £155.54[5] per week. Income Support also includes components to support people with medical conditions and health needs. Depending on the specifics, a claimant may also receive a personal care payment (ranging from £22.96 to £145.24 per week), mobility payments (£22.96 or 45.92 per week), or clinical costs (£3.15 or £6.30 per week).

Section 5: Circumstances of survivors in 2013

Survivor's allowance is paid irrespective of age and responsibility for dependent children, and has not been affected by the changes introduced in January 2013. Survivor's allowance claims submitted during 2013 provide an insight into the number of people affected by the changes to survivor's pension and give an indication of their circumstances.

During 2013, 104 claims were initiated for survivor's allowance. The majority of claimants were Jersey residents (77%) and were female (76%).

Some 24 claimants lived outside Jersey, of which 16 either featured a dependent child or were captured in the transition arrangement, and therefore were eligible for a survivor's pension. Overall, 8 claimants (one-third of the total) will not receive a further benefit after the 12 month period during which survivor's allowance is paid. People off-Island average a 31% contribution record, equivalent to a survivor's allowance of £71.20 per week and survivor's pension of £59.33 per week.

Eighty claims were made from Jersey residents, and the contribution record for these people averages around 75%. This is equivalent to a survivor's allowance payment of £172.25 per week and a survivor's pension of £143.54 per week.

Of these 80 people –

- 10 had a dependent child and will qualify for survivor's pension under the new rules

- 47 people were born in or before 1957 and qualified under the transitional arrangement

- 23 people did not have a dependent child and were born after 1957. They will not receive a survivor's pension after their 12 month entitlement to survivor's allowance.

As noted in section 4, survivors in Jersey with 5 years' residency can qualify for Income Support. Of the 23 local people who did not receive survivor's pension under the new rules, none have gone on to claim Income Support.

[5] Based on owning a 3 bedroom house

Section 6: Cost of rescindment

Deputy Southern's report provides little detail as to the financial impact of the proposal. He suggests that the maximum impact would be "just over half a million pounds". Members will recall that the details provided in the original proposition (P.101/2012) identified a saving to the Social Security Fund of £3.6 million per annum. This amount will build up gradually, and will be fully realised when the provisions of the transition arrangement have been exhausted in 2023.

The significant cost of reversing this saving must be balanced and viewed alongside the analysis of the actual outcomes for claimants – where no local survivor, who was unable to claim a survivor's pension, opened a new income support claim in the year after the bereavement.

The Minister published the Government Actuary's review of the Social Security Fund in April of this year. This review noted that the Social Security Fund is about to reach break-even point – where expenditure of benefits is only just matched by the amount of money raised in contributions. As a result of this, the Actuary has advised the States to take urgent action to review the Fund.

Next year we must consider increases in contributions and/or a reduction and restriction in the pensions and benefits paid, if we are to maintain the sustainability of the Fund for future generations. The Department will undertake a review of the options, which will include public consultation. A review of the impact of the recent changes to survivor's benefits will be included in that process.

However, there is no justification to rescind the recent changes, which will only serve to divert effort, resource and funding from more pressing concerns.