

**THIRD SUPPLEMENT TO THE GIBRALTAR  
GAZETTE**

No. 3,632 of 6th December, 2007

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B. 44/07

**BILL**

**FOR**

**AN ACT** to amend the Social Security (Open Long-Term Benefits Scheme) Act so as to make provision for use of a former spouse's contributions.

**ENACTED** by the Legislature of Gibraltar.

**Title and commencement.**

1. This Act may be cited as the Social Security (Open Long-Term Benefits Scheme) (Amendment) Act 2007 and shall be deemed to have come into operation on 1 July 2007.

**Amendment to the Social Security (Open Long-Term Benefits Scheme) Act 1997.**

2. The Social Security (Open Long-Term Benefits Scheme) Act 1997 is amended by inserting after section 18 (old age pensions) the following provisions—

**“Old age pensions for persons whose marriages have been dissolved.**

18A. (1) This section applies to any person whose last marriage terminated otherwise than by the death of his spouse and such person shall be referred to in this section as “ the beneficiary”.

(2) Where a beneficiary—

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- (a) has been married, and
- (b) does not satisfy the contribution conditions for the standard rate of old age pension,

then the beneficiary may elect that contributions of that beneficiary's former spouse during the period of the marriage be treated to the extent specified in this section as though they were that beneficiary's own contributions.

- (3) For the purposes of this section the standard rate of old age pension means the weekly rate of old age pension payable to an insured person by virtue of his own insurance as set out in Part I of Schedule 2 of the Act.
- (4) For the purposes of this section—
  - (a) “the beneficiary's relevant contributions” are the beneficiary's own contributions excluding those for each contribution year falling wholly or partly within the period of the marriage; and
  - (b) “the former spouse's relevant contributions” are the contributions made by the beneficiary's former spouse for each contribution year falling wholly or partly within the period of the marriage;

the beneficiary shall be treated as satisfying the condition set out in part 3(1)(a) of Part 1 of Schedule 3 if the total of the beneficiary's relevant contributions and the former spouse's relevant contributions is not less than one hundred and fifty-six.

- (5) For the purposes of paragraph 3(1)(b) of Part 1 of Schedule 3, and subject to this section, the contributions paid by or credited to the former spouse for each contribution year falling wholly or partly within the period of the marriage shall be credited to or treated as paid by the beneficiary.

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- (6) The yearly average for the beneficiary shall be calculated on the basis of the total of the beneficiary's relevant contributions and the former spouse's relevant contributions.
- (7) The "theoretical rate" is the amount of entitlement that would be payable on the basis of the yearly average calculated under sub-section (8).
- (8) The beneficiary's entitlement shall be the sum of—
  - (a) the number of the beneficiary's relevant contributions multiplied by the theoretical rate, and divided by the total number of contributions used for calculating the beneficiary's yearly average; and
  - (b) the number of the former spouse's relevant contributions multiplied by the half of the theoretical rate, and divided by the total number of contributions used for calculating the beneficiary's yearly average.
- (9) Where a person has been married more than once this section applies only to the last marriage and the references to his marriage and his former spouse shall be construed accordingly.
- (10) For the purposes of this section, where a decree of nullity was granted in relation to a person on the ground that the marriage was void, that person shall be treated as a person whose marriage has been terminated by divorce from the date on which that decree was made absolute.
- (11) Nothing in this section shall entitle any person to claim any payments or benefits to which this section applies, in respect of any period prior to 1 July 2007."

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**EXPLANATORY MEMORANDUM**

This Act amends the Social Security (Open Long-Term Benefits Scheme) Act 1997 so as to allow in certain cases substitution of the contribution record of a former spouse to give or enhance the entitlement to an old age pension.

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