

**THIRD SUPPLEMENT TO THE GIBRALTAR  
GAZETTE**

**No. 3,632 of 6th December, 2007**

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**B. 43/07**

**BILL**

**FOR**

**AN ACT** to amend the Social Security (Closed Long-Term Benefits and Scheme) Act 1996 so as to make provision for use of former spouse's contributions and for a further right of election to pay arrears.

**ENACTED** by the Legislature of Gibraltar.

**Title and commencement.**

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

**Amendment to the Social Security (Closed Long-Term Benefits And Scheme) Act 1996.**

2.(1) The Social Security (Closed Long-Term Benefits and Scheme) Act is amended as follows—

(2) For the present section 7B substitute—

**“Further right of election to pay arrears.**

7B.(1) Every person who was required to be insured under the 1955 Act on 6<sup>th</sup> January, 1975, but who was not so insured at any period of time prior to that date may elect to pay all arrears of contributions (both of an insured person and an employer) at the rates from time to time in force, in respect of any period of time in which he was self-employed or any

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period of time during which he was employed but not compulsorily insured prior to and until 5<sup>th</sup> January, 1975.

Provided that notice in writing of such election is received by the Director prior to 1 June 2008.

(2) Any person who entered or re-entered insurance under the 1955 Act with effect from 2<sup>nd</sup> July, 1973 in exercise of the right conferred on him by section 3A of the Social Insurance Act but who did not elect to pay all the arrears of contributions (both of the insured person and of the employer) whether under that section, or under section 3B of the Social Insurance Act at the rates from time to time in force, may elect to pay all arrears at the rates from time to time in force in respect of any period of time in which he was self-employed or any period of time during which he was employed but not compulsorily insured prior to and until 1<sup>st</sup> July, 1973.

Provided that notice in writing of such election is received by the Director prior to 1 June 2008.

(3) Payment of arrears of contributions under this section shall be made—

(a) in a manner approved by the Director;

(b) prior to 1 June 2008.

Provided that in the case of a person who has not yet reached pensionable age, all arrears shall be paid before he reaches pensionable age.

(4) The widow or widower of every person eligible to pay arrears under subsections (1) or (2) above may elect to pay all the deceased spouse's arrears of contributions pursuant to the provisions of subsections (1) and (2) above.

Provided that notice in writing of such election is received by the Director prior to 1 June 2008.

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(5) Payment of arrears of contributions under subsection (4) shall be made—

(a) in a manner approved by the Director;

(b) prior to 1 June 2008.

(6) The right to pay arrears shall be extinguished on the failure by any person to comply with the requirements of this section.

(7) For the avoidance of doubt, a reference in this section to—

(a) section 3A of the Social Insurance Act is a reference to the section 3A enacted under section 2 of the Social Insurance (Amendment) Act 1973, and as amended from time to time;

(b) section 3B of the Social Insurance Act is a reference to the section 3B enacted under section 2 of the Social Insurance (Amendment) Act 1975, and as amended from time to time.

(8) 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<sup>st</sup> July 2007.”.

(3) After section 12 (old age pensions) insert the following provisions—

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

12A.(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—

(a) has been married, and

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- (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 may 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.

(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—

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- (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 (Closed Long-Term Benefits and Scheme) Act 1996 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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Printing Office, 2, Library Gardens,  
Government Printers for Gibraltar,  
Copies may be purchased at 6, Convent Place, Price £0.40p**