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STATUTORY INSTRUMENTS

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**2002 No. 1792**

**The State Pension Credit Regulations 2002**

**PART II**

*Entitlement and amount*

**[<sup>F1</sup> Persons not in Great Britain**

2.—(1) A person is to be treated as not in Great Britain if, subject to the following provisions of this regulation, he is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.

(2) No person shall be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless he has a right to reside in (as the case may be) the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland other than a right to reside which falls within paragraph (3) [<sup>F2</sup>or (3A)].

(3) A right to reside falls within this paragraph if it is one which exists by virtue of, or in accordance with, one or more of the following—

- (a) regulation 13 of the [<sup>F3</sup>Immigration (European Economic Area) Regulations 2016];
- (b) regulation 14 of those Regulations, but only in a case where the right exists under that regulation because the person is—
  - (i) a jobseeker for the purpose of the definition of “qualified person” in regulation 6(1) of those Regulations, or
  - (ii) a family member (within the meaning of regulation 7 of those Regulations) of such a jobseeker;
- (bb) [<sup>F4</sup>regulation 16 of those Regulations, but only in a case where the right exists under that regulation because the person satisfies the criteria in paragraph (5) of that regulation;]
- (c) Article 6 of Council Directive No.2004/38/EC; <sup>F5</sup>...
- (d) [<sup>F6</sup>Article 45 of the Treaty on the Functioning of the European Union] (in a case where the person is seeking work in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland)[<sup>F7</sup>; or
- (e) Article 20 of the Treaty on the Functioning of the European Union (in a case where the right to reside arises because a British citizen would otherwise be deprived of the genuine enjoyment of the substance of their rights as a European Union citizen).]

[<sup>F8</sup>(3A) A right to reside falls within this paragraph if it exists by virtue of a person having been granted limited leave to enter, or remain in, the United Kingdom under the Immigration Act 1971 by virtue of—

- (a) Appendix EU to the immigration rules made under section 3(2) of that Act; or
- (b) being a person with a Zambrano right to reside as defined in Annex 1 of Appendix EU to the immigration rules made under section 3(2) of that Act.]

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- (4) A person is not to be treated as not in Great Britain if he is—
  - [<sup>F9</sup>(za) a qualified person for the purposes of regulation 6 of the [<sup>F10</sup>Immigration (European Economic Area) Regulations 2016] as a worker or a self-employed person;
  - (zb) a family member of a person referred to in sub-paragraph (za) within the meaning of regulation 7(1)(a), (b) or (c) of those Regulations;
  - (zc) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of those Regulations;]
  - <sup>F9</sup>(a) .....
  - <sup>F9</sup>(b) .....
  - <sup>F9</sup>(c) .....
  - <sup>F9</sup>(d) .....
  - <sup>F9</sup>(e) .....
  - <sup>F9</sup>(f) .....
  - (g) a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967;
  - (h) [<sup>F11</sup>a person who has been granted leave or who is deemed to have been granted leave outside the rules made under section 3(2) of the Immigration Act 1971 (where that leave is—
    - (i) discretionary leave to enter or remain in the United Kingdom;
    - (ii) leave to remain under the Destitution Domestic Violence concession; or
    - (iii) leave deemed to have been granted by virtue of regulation 3 of the Displaced Persons (Temporary Protection) Regulations 2005;]
  - [<sup>F12</sup>(hh) a person who has humanitarian protection granted under those rules; [<sup>F13</sup>or]]
    - (i) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999 and who is in the United Kingdom as a result of his deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom;]<sup>F14</sup>...
  - <sup>F15</sup>(j) .....
  - <sup>F15</sup>(k) .....

**Textual Amendments**

- F1** Reg. 2 substituted (30.4.2006) by [The Social Security \(Persons from Abroad\) Amendment Regulations 2006 \(S.I. 2006/1026\)](#), regs. 1, **9(2)** (with reg. 11(2))
- F2** Words in reg. 2(2) inserted (7.5.2019) by [The Social Security \(Income-related Benefits\) \(Updating and Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/872\)](#), regs. 1, **4(2)(a)**
- F3** Words in reg. 2(3)(a) substituted (7.5.2019) by [The Social Security \(Income-related Benefits\) \(Updating and Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/872\)](#), regs. 1, **4(2)(b)**
- F4** Reg. 2(3)(bb) substituted (7.5.2019) by [The Social Security \(Income-related Benefits\) \(Updating and Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/872\)](#), regs. 1, **4(2)(e)**
- F5** Word in reg. 2(3)(c) omitted (8.11.2012) by virtue of [The Social Security \(Habitual Residence\) \(Amendment\) Regulations 2012 \(S.I. 2012/2587\)](#), regs. 1, **4(3)**
- F6** Words in reg. 2(3)(d) substituted (1.8.2012) by [The Treaty of Lisbon \(Changes in Terminology or Numbering\) Order 2012 \(S.I. 2012/1809\)](#), art. 2(1), **Sch. Pt. 2** (with art. 2(2))

- F7** Reg. 2(3)(e) and word added (8.11.2012) by The Social Security (Habitual Residence) (Amendment) Regulations 2012 (S.I. 2012/2587), regs. 1, **4(4)**
- F8** Reg. 2(3A) inserted (7.5.2019) by The Social Security (Income-related Benefits) (Updating and Amendment) (EU Exit) Regulations 2019 (S.I. 2019/872), regs. 1, **4(2)(d)**
- F9** Reg. 2(4)(za)-(zc) substituted for reg. 2(4)(a)-(f) (31.5.2014) by The Social Security (Habitual Residence) (Amendment) Regulations 2014 (S.I. 2014/902), regs. 1, **4**
- F10** Words in reg. 2(4)(za) substituted (7.5.2019) by The Social Security (Income-related Benefits) (Updating and Amendment) (EU Exit) Regulations 2019 (S.I. 2019/872), regs. 1, **4(2)(e)**
- F11** Reg. 2(4)(h) substituted (29.10.2013) by The Social Security (Miscellaneous Amendments) (No. 3) Regulations 2013 (S.I. 2013/2536), regs. 1(1), **10(3)(a)**
- F12** Reg. 2(4)(h)(hh) substituted for reg. 2(4)(h) (9.10.2006) by The Social Security (Persons from Abroad) Amendment (No. 2) Regulations 2006 (S.I. 2006/2528), regs. 1, **4(2)**
- F13** Word in reg. 2(4)(hh) added (29.10.2013) by The Social Security (Miscellaneous Amendments) (No. 3) Regulations 2013 (S.I. 2013/2536), regs. 1(1), **10(3)(b)**
- F14** Word in reg. 2(4)(i) omitted (18.3.2009) by virtue of The Social Security (Habitual Residence) (Amendment) Regulations 2009 (S.I. 2009/362), regs. 1(2), **4(2)**
- F15** Reg. 2(4)(j)(k) omitted (29.10.2013) by virtue of The Social Security (Miscellaneous Amendments) (No. 3) Regulations 2013 (S.I. 2013/2536), regs. 1(1), **10(3)(c)**

**Modifications etc. (not altering text)**

- C1** Reg. 2(4)(a)-(e) applied (with modifications) (30.4.2006) by The Social Security (Persons from Abroad) Amendment Regulations 2006 (S.I. 2006/1026), regs. 1, **10(h)** (with reg. 11(2))

**[F16 Persons temporarily absent from Great Britain**

**3.—(1)** A claimant's entitlement to state pension credit while the claimant is temporarily absent from Great Britain is to continue but for no longer than—

- (a) 4 weeks, provided the absence is not expected to exceed 4 weeks;
- (b) 8 weeks, where paragraph (2) applies; or
- (c) 26 weeks, where paragraph (3) applies,

provided the claimant continues to satisfy the other conditions of entitlement.

(2) This paragraph applies where the absence is not expected to exceed 8 weeks and is in connection with the death of—

- (a) the claimant's partner or a child or qualifying young person normally living with the claimant; or
- (b) a close relative of—
  - (i) the claimant;
  - (ii) the claimant's partner; or
  - (iii) a child or qualifying young person normally living with the claimant,

and the Secretary of State considers that it would be unreasonable to expect the claimant to return to Great Britain within 4 weeks.

(3) This paragraph applies where the absence is not expected to exceed 26 weeks and is solely in connection with—

- (a) the claimant undergoing—
  - (i) treatment for an illness or physical or mental impairment by, or under the supervision of, a qualified practitioner; or

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- (ii) medically approved convalescence or care as a result of treatment for an illness or physical or mental impairment, where the claimant had that illness or impairment before leaving Great Britain; or
- (b) the claimant accompanying his or her partner or a child or qualifying young person normally living with the claimant for treatment or convalescence or care as mentioned in sub-paragraph (a).
- (4) In this regulation and in regulation 5—
  - “medically approved” means certified by a registered medical practitioner;
  - “qualified practitioner” means a person qualified to provide medical treatment, physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment.]

**Textual Amendments**

**F16** Reg. 3 substituted (28.7.2016) by [The Housing Benefit and State Pension Credit \(Temporary Absence\) \(Amendment\) Regulations 2016 \(S.I. 2016/624\)](#), regs. 1, **4(2)** (with reg. 5(3))

**Persons temporarily absent from Great Britain on 6th October 2008**

<sup>F17</sup>**3A.** . . . . .

**Textual Amendments**

**F17** Reg. 3A omitted (28.7.2016) by virtue of [The Housing Benefit and State Pension Credit \(Temporary Absence\) \(Amendment\) Regulations 2016 \(S.I. 2016/624\)](#), regs. 1, **4(3)** (with reg. 5(3))

**Persons receiving treatment outside Great Britain**

<sup>F18</sup>**4.** . . . . .

**Textual Amendments**

**F18** Reg. 4 omitted (28.7.2016) by virtue of [The Housing Benefit and State Pension Credit \(Temporary Absence\) \(Amendment\) Regulations 2016 \(S.I. 2016/624\)](#), regs. 1, **4(4)** (with reg. 5(3))

<sup>F19</sup>**Meaning of “qualifying young person”**

- 4A.—(1)** A person who has reached the age of 16 but not the age of 20 is a qualifying young person for the purposes of these Regulations—
- (a) up to, but not including, the 1st September following the person's 16th birthday; and
  - (b) up to, but not including, the 1st September following the person's 19th birthday, if the person is enrolled on, or accepted for, approved training or a course of education—
    - (i) which is not a course of advanced education within the meaning of regulation 12(3) of the Universal Credit Regulations 2013;
    - (ii) which is provided at a school or college or provided elsewhere but approved by the Secretary of State for the purposes of regulation 5 of the Universal Credit Regulations 2013; and

(iii) where the average time spent during term time in receiving tuition, engaging in practical work or supervised study or taking examinations exceeds 12 hours per week.

(2) Where the young person is aged 19, he or she must have started the education or training or been enrolled on or accepted for it before reaching that age.

(3) The education or training referred to in paragraph (1) does not include education or training provided by means of a contract of employment.

(4) “Approved training” means training in pursuance of arrangements made under section 2(1) of the Employment and Training Act 1973 or section 2(3) of the Enterprise and New Towns (Scotland) Act 1990 which is approved by the Secretary of State for the purposes of regulation 5 of the Universal Credit Regulations 2013.

(5) A person who is receiving universal credit, a contributory employment and support allowance, a contribution-based jobseeker's allowance, an income-related employment and support allowance, an income-based jobseeker's allowance or income support is not a qualifying young person.]

**Textual Amendments**

**F19** Reg. 4A inserted (28.7.2016) by [The Housing Benefit and State Pension Credit \(Temporary Absence\) \(Amendment\) Regulations 2016 \(S.I. 2016/624\)](#), regs. 1, **4(5)** (with reg. 5(3))

**Persons treated as being or not being members of the same household**

5.—(1) A person is to be treated as not being a member of the same household as the claimant if—

- (a) he is living away from the claimant and—
  - (i) he does not intend to resume living with the claimant; or
  - (ii) his absence is likely to exceed 52 weeks except where there are exceptional circumstances (for example the person is in hospital or otherwise has no control over the length of his absence), and the absence is unlikely to be substantially more than 52 weeks;
- (b) he or the claimant is permanently in a care home <sup>F20</sup>or an independent hospital];
- (c) he or the claimant is, or both are—
  - (i) detained in a hospital provided under the provisions of the Mental Health Act 1983, the <sup>F21</sup>Mental Health (Care and Treatment) (Scotland) Act 2003], or the Criminal Procedure (Scotland) Act 1995; or
  - (ii) detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court; or
  - (iii) on temporary release in accordance with the provisions of <sup>F22</sup>the Prison Act 1952 <sup>M1</sup> or] the Prison (Scotland) Act 1989<sup>M2</sup>;
- (d) the claimant is abroad and does not satisfy <sup>F23</sup>... regulation 3 (persons <sup>F24</sup>temporarily] absent from Great Britain).

<sup>F25</sup>(e) .....

<sup>F26</sup>(f) except in circumstances where paragraph (1A) applies, he is absent from Great Britain;]

<sup>F27</sup>(g) .....

<sup>F28</sup>(h) he is a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999]

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[<sup>F29</sup>(1A) A person is to be treated as being a member of the same household as the claimant while he is absent from Great Britain but for no longer than—

- (a) 4 weeks, provided the absence is not expected to exceed 4 weeks;
- (b) 8 weeks, where paragraph (1B) applies; or
- (c) 26 weeks, where paragraph (1C) applies.]

[<sup>F29</sup>(1B) This paragraph applies where the absence is not expected to exceed 8 weeks and is in connection with the death of—

- (a) a child or qualifying young person normally living with the person; or
- (b) a close relative of—
  - (i) the person;
  - (ii) the person's partner; or
  - (iii) a child or qualifying young person normally living with the person,

and the Secretary of State considers that it would be unreasonable to expect the person to return to Great Britain within 4 weeks.

(1C) This paragraph applies where the absence is not expected to exceed 26 weeks and is solely in connection with—

- (a) the person undergoing—
  - (i) treatment for an illness or physical or mental impairment by, or under the supervision of, a qualified practitioner; or
  - (ii) medically approved convalescence or care as a result of treatment for an illness or physical or mental impairment, where the person had that illness or impairment before leaving Great Britain; or
- (b) the person accompanying his partner or a child or qualifying young person normally living with the person for treatment or convalescence or care as mentioned in sub-paragraph (a).]

(2) Subject to paragraph (1), partners shall be treated as members of the same household notwithstanding that they are temporarily living apart.

<sup>F30</sup>(3) .....

#### Textual Amendments

- F20** Words in reg. 5(1)(b) inserted (24.10.2005) by [The Social Security \(Care Homes and Independent Hospitals\) Regulations 2005 \(S.I. 2005/2687\)](#), reg. 1, **Sch. 5 para. 2**
- F21** Words in reg. 5(1)(c)(i) substituted (S.) (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Subordinate Legislation\) Order 2005 \(S.S.I. 2005/445\)](#), arts. 1, 2, **sch. para. 35(2)**; (5.10.2005) (E.W.N.I) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 1(1), **Sch. 2 para. 22(3)**
- F22** Words in reg. 5(1)(c)(iii) omitted (temp.) (8.4.2020) by virtue of [The Social Security \(Coronavirus\) \(Prisoners\) Regulations 2020 \(S.I. 2020/409\)](#), regs. 1, **3(1)(b)** (with reg. 6(2))
- F23** Words in reg. 5(1)(d) omitted (6.10.2003) by virtue of [The State Pension Credit \(Transitional and Miscellaneous Provisions\) Amendment Regulations 2003 \(S.I. 2003/2274\)](#), regs. 1, **2(5)(b)**
- F24** Word in reg. 5(1)(d) substituted (28.7.2016) by [The Housing Benefit and State Pension Credit \(Temporary Absence\) \(Amendment\) Regulations 2016 \(S.I. 2016/624\)](#), regs. 1, **4(6)(a)** (with reg. 5(3))
- F25** Reg. 5(1)(e) omitted (2.10.2006) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2006 \(S.I. 2006/2378\)](#), regs. 1(3), **14(2)(a)**
- F26** Reg. 5(1)(f) substituted (28.7.2016) by [The Housing Benefit and State Pension Credit \(Temporary Absence\) \(Amendment\) Regulations 2016 \(S.I. 2016/624\)](#), regs. 1, **4(6)(b)** (with reg. 5(3))

- F27** Reg. 5(1)(g) omitted (6.10.2003) by virtue of The State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274), regs. 1, **2(5)(e)**
- F28** Reg. 5(1)(g)(h) added (6.10.2003) by The State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) (No. 2) Regulations 2002 (S.I. 2002/3197), reg. 1(1)(b), **Sch. para. 2**
- F29** Reg. 5(1A)-(1C) substituted for reg. 5(1A) (28.7.2016) by The Housing Benefit and State Pension Credit (Temporary Absence) (Amendment) Regulations 2016 (S.I. 2016/624), regs. 1, **4(6)(c)** (with reg. 5(3))
- F30** Reg. 5(3) omitted (6.10.2008) by virtue of The Social Security (Miscellaneous Amendments) (No.4) Regulations 2008 (S.I. 2008/2424), regs. 1, **3(4)(b)**

#### Marginal Citations

- M1** 1952 c. 52.  
**M2** 1989 c. 45.

#### Amount of the guarantee credit

6.—(1) Except as provided in the following provisions of these Regulations, the standard minimum guarantee is—

- (a) [<sup>F31</sup>£265.20] per week in the case of a claimant who has a partner;
  - (b) [<sup>F32</sup>£173.75] per week in the case of a claimant who has no partner.
- (2) Paragraph (3) applies in the case of—
- (a) prisoners; and
  - (b) members of religious orders who are fully maintained by their order.
- (3) In a case to which this paragraph applies—
- (a) section 2(3) has effect with the substitution for the reference to the standard minimum guarantee in section 2(3)(a) of a reference to a nil amount; and
  - (b) except in the case of a person who is a remand prisoner, nil is the prescribed additional amount for the purposes of section 2(3)(b).
- (4) Except in a case to which paragraph (3) applies, an amount additional to that prescribed in paragraph (1) shall be applicable under paragraph (5) if the claimant is treated as being a severely disabled person in accordance with paragraph 1 of Part I of Schedule I.
- (5) The additional amount applicable is—
- (a) except where paragraph (b) applies, [<sup>F33</sup>£66.95] per week if paragraph 1(1)(a), (b) or (c) of Part I of Schedule I is satisfied; or
  - (b) [<sup>F34</sup>£133.90] per week if paragraph 1(1)(b) of Part I of Schedule I is satisfied otherwise than by virtue of paragraph 1(2)(b) of that Part and no one is entitled to and in receipt of an allowance under section 70 of the 1992 Act [<sup>F35</sup>, or has an award of universal credit which includes the carer element under regulation 29 of the Universal Credit Regulations 2013,] in respect of caring for either partner.
- (6) Except in a case to which paragraph (3) applies, an amount additional to that prescribed in paragraph (1) shall be applicable—
- (a) if paragraph 4 of Part II of Schedule I is satisfied (amount applicable for carers);
  - (b) in accordance with Part III of Schedule I (amount applicable for former claimants of income support or income-based jobseeker's allowance); <sup>F36</sup> ...
  - (c) except where paragraph (7) applies, in accordance with Schedule II (housing costs) [<sup>F37</sup>; or]

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[<sup>F38</sup>(d) except where paragraph (11) applies, or entitlement ceases by virtue of paragraph (14), in accordance with Schedule IIA (additional amount applicable for claimants responsible for a child or qualifying young person).]

(7) This paragraph applies in the case of a person who has been detained in custody for more than 52 weeks pending trial or sentence following conviction by a court.

(8) The amount applicable if paragraph 4 of Part II of Schedule I is satisfied is [<sup>F39</sup>£37.50] per week, and in the case of partners, this amount is applicable in respect of each partner who satisfies that paragraph.

(9) In the case of a remand prisoner paragraph (6) shall apply as if sub-paragraphs (a) and (b) were omitted.

(10) In this regulation, “remand prisoner” means a person who, for a period not exceeding 52 weeks, has been detained in custody on remand pending trial or, as a condition of bail, required to reside in a hostel approved under section 27(1) of the Probation Service Act 1993 <sup>M3</sup> or, as the case may be, detained pending sentence upon conviction.

[<sup>F40</sup>(11) This paragraph applies in the case of a person who is awarded, or who is treated as having an award of, a tax credit under the Tax Credits Act.

(12) For the purposes of paragraph (11)—

- (a) a person is to be treated as having an award of a working tax credit with effect from the start of the current tax year even though a decision has not been made under section 14 of the Tax Credits Act in respect of a claim for that tax credit for that tax year, if the person was awarded a working tax credit for the previous tax year and any of the cases specified in paragraph (13) applies; and
- (b) a person is to be treated as having an award of a child tax credit with effect from the start of the current tax year even though a decision has not been made under section 14 of the Tax Credits Act in respect of a claim for that tax credit for that tax year, if the person was awarded a child tax credit for the previous tax year and any of the cases specified in paragraph (13) applies.

(13) The cases specified for the purposes of paragraph (12) are—

- (a) a final notice has not been given to the person under section 17 of the Tax Credits Act in respect of the previous tax year;
- (b) a final notice has been given which includes provision by virtue of subsection (2) or (4) of section 17, or a combination of those subsections and subsection (6), and—
  - (i) the date specified in the notice for the purposes of section 17(2) and (4) or, where different dates are specified, the later of them has not passed and no claim for a tax credit for the current tax year has been made or treated as made; or
  - (ii) a claim for a tax credit has been made or treated as made on or before the date mentioned in paragraph (i), but no decision has been made in relation to that claim under section 14 of that Act; or
- (c) a final notice has been given, no claim for a tax credit for the current tax year has been made or treated as made, and no decision has been made under section 18(1) of the Tax Credits Act in respect of an award of a tax credit for the previous tax year.

(14) Entitlement to the additional amount specified in Schedule IIA ceases where a person is awarded a tax credit in the circumstances specified in paragraph (15) or (16).

(15) The circumstances specified in this paragraph are—

- (a) the person was awarded a tax credit for the previous tax year which was not terminated by Her Majesty’s Revenue and Customs under section 16 of the Tax Credits Act;



- (b) a final notice has been given to the person under section 17 of the Tax Credits Act in respect of that tax year; and
- (c) either—
- (i) the person makes a declaration during the period of 30 days following the cessation of payment of a tax credit made under section 24(4) of the Tax Credits Act; or
  - (ii) the person makes a declaration after the end of the period of 30 days following the cessation of payment of a tax credit made under section 24(4) of the Tax Credits Act but before 31st January of the tax year following the period to which the notice relates, and, in the opinion of Her Majesty’s Revenue and Customs, the person had good reason for not making the declaration by the date specified in paragraph (13)(b).
- (16) The circumstances specified in this paragraph are that a decision under section 14(1), 15(1), 16(1), 18(1), (5), (6) or (9), 19(3) or 20(1) or (4) of the Tax Credits Act is revised in favour of the claimant following—
- (a) a revision by virtue of section 21 of the Tax Credits Act;
  - (b) a request for a review under section 21A of the Tax Credits Act;
  - (c) an appeal under section 38 of the Tax Credits Act; or
  - (d) a revision, in any other circumstances, of a decision by Her Majesty’s Revenue and Customs relating to an award of a tax credit under the Tax Credits Act.
- (17) In this regulation—
- “a tax credit” includes a child tax credit and a working tax credit;
- “the Tax Credits Act” means the Tax Credits Act 2002;
- “child tax credit” means a child tax credit under and by virtue of section 8 of the Tax Credits Act;
- “working tax credit” means a working tax credit under and by virtue of section 10 of the Tax Credits Act and includes the child care element by virtue of section 12 of that Act.]

#### Textual Amendments

- F31** Sum in reg. 6(1)(a) substituted (coming into force in accordance with art. 1(3)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2020 \(S.I. 2020/234\)](#), **art. 30(2)(a)**
- F32** Sum in reg. 6(1)(b) substituted (coming into force in accordance with art. 1(3)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2020 \(S.I. 2020/234\)](#), **art. 30(2)(b)**
- F33** Sum in reg. 6(5)(a) substituted (coming into force in accordance with art. 1(3)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2020 \(S.I. 2020/234\)](#), **art. 30(2)(c)**
- F34** Sum in reg. 6(5)(b) substituted (coming into force in accordance with art. 1(3)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2020 \(S.I. 2020/234\)](#), **art. 30(2)(d)**
- F35** Words in reg. 6(5)(b) inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Universal Credit and Miscellaneous Amendments Regulations 2015 \(S.I. 2015/1754\)](#), regs. 1(1), **16(2)**
- F36** Word in reg. 6(6)(b) omitted (1.2.2019) by virtue of [The State Pension Credit \(Additional Amount for Child or Qualifying Young Person\) \(Amendment\) Regulations 2018 \(S.I. 2018/676\)](#), regs. 1, **2(2)(a)**
- F37** Word in reg. 6(6)(c) substituted (1.2.2019) by [The State Pension Credit \(Additional Amount for Child or Qualifying Young Person\) \(Amendment\) Regulations 2018 \(S.I. 2018/676\)](#), regs. 1, **2(2)(b)**
- F38** Reg. 6(6)(d) added (1.2.2019) by [The State Pension Credit \(Additional Amount for Child or Qualifying Young Person\) \(Amendment\) Regulations 2018 \(S.I. 2018/676\)](#), regs. 1, **2(2)(c)**
- F39** Sum in reg. 6(8) substituted (coming into force in accordance with art. 1(3)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2020 \(S.I. 2020/234\)](#), **art. 30(2)(e)**
- F40** Reg. 6(11)-(17) inserted (1.2.2019) by [The State Pension Credit \(Additional Amount for Child or Qualifying Young Person\) \(Amendment\) Regulations 2018 \(S.I. 2018/676\)](#), regs. 1, **2(3)**

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#### Modifications etc. (not altering text)

- C2** Reg. 6(3)(a) sum maintained (coming into force in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2017 \(S.I. 2017/260\)](#), arts. 1(2)(l), 25(1)(6), **Sch. 13**
- C3** Reg. 6(3)(b) sum maintained (coming into force in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2017 \(S.I. 2017/260\)](#), arts. 1(2)(l), 25(1)(6), **Sch. 13**

#### Marginal Citations

- M3** 1993 c. 47.

### Savings Credit

7.—(1) The percentage prescribed for the purposes of determining—

- (a) the maximum savings credit is 60 per cent.;
- (b) “amount A” in section 3(4) is 60 per cent.;
- (c) “amount B” in section 3(4) is 40 per cent.

(2) The amount prescribed for the savings credit threshold is [<sup>F41</sup>£150.47] for a claimant who has no partner and [<sup>F41</sup>£239.17] for a claimant who has a partner.

(3) The maximum savings credit shall be taken to be Nil in the case of—

- (a) prisoners; and
- (b) members of religious orders who are fully maintained by their order.

[<sup>F42</sup>(4) If a calculation made for the purposes of paragraph (1)(b) or (c) results in a fraction of a penny, that fraction shall, if it would be to the claimant’s advantage, be treated as a penny; otherwise it shall be disregarded.]

#### Textual Amendments

- F41** Sums in [reg. 7\(2\)](#) substituted (coming into force in accordance with art. 1(3)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2020 \(S.I. 2020/234\)](#), **art. 30(3)**
- F42** Reg. 7(4) added (6.10.2003) by [The State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) Regulations 2002 \(S.I. 2002/3019\)](#), regs. 1(2)(b), **23(d)**

#### Modifications etc. (not altering text)

- C4** Reg. 7(1)(a) sum maintained (coming into force in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2017 \(S.I. 2017/260\)](#), arts. 1(2)(l), **25(3)(a)**
- C5** Reg. 7(1)(b) sum maintained (coming into force in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2017 \(S.I. 2017/260\)](#), arts. 1(2)(l), **25(3)(a)**
- C6** Reg. 7(1)(c) sum maintained (coming into force in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2017 \(S.I. 2017/260\)](#), arts. 1(2)(l), **25(3)(a)**
- C7** Reg. 7(3) sum maintained (coming into force in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2017 \(S.I. 2017/260\)](#), arts. 1(2)(l), 25(1)(6), **Sch. 13**

### [<sup>F43</sup>Limitation of savings credit for certain mixed-age couples

7A. A person who is a member of a mixed-age couple, is not entitled to a savings credit unless one of the members of the couple—

- (a) has been awarded a savings credit with effect from a day before 6th April 2016 and was entitled to a savings credit immediately before 6th April 2016, and

(b) remained entitled to a savings credit at all times since the beginning of 6th April 2016. ]

#### Textual Amendments

**F43** Reg. 7A inserted (6.4.2016) by [The State Pension Credit \(Amendment\) Regulations 2015 \(S.I. 2015/1529\)](#), regs. 1, **2(2)**

#### Special groups

**8.** Schedule III shall have effect in the case of members of polygamous marriages and [<sup>F44</sup>persons serving a sentence of imprisonment detained in hospital].

#### Textual Amendments

**F44** Words in reg. 8 substituted (25.3.2010) by [The Social Security \(Persons Serving a Sentence of Imprisonment Detained in Hospital\) Regulations 2010 \(S.I. 2010/442\)](#), regs. 1, **4(2)**

#### Qualifying income for the purposes of savings credit

**9.** For the purposes of section 3 (savings credit), all income is to be treated as qualifying income except the following which is not to be treated as qualifying income—

- (a) working tax credit;
- (b) incapacity benefit;
- (c) a contribution-based jobseeker's allowance<sup>F45</sup> ...;
- (d) severe disablement allowance;
- (e) maternity allowance;
- (f) payments referred to in regulation 15(5)(d) (maintenance payments).
- [<sup>F46</sup>(g) contributory employment and support allowance.]

#### Textual Amendments

- F45** Words in reg. 9(c) omitted (29.4.2013) by virtue of [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **33(3)**
- F46** Reg. 9(g) added (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **4(3)**

#### Assessed income period

**10.—(1)** For the purposes of section 6(2)(b) (circumstances in which the Secretary of State is prevented from specifying an assessed income period), the circumstances are—

- (a) in the case of partners, one partner is under the age of 60; or
- (b) state pension credit is awarded, or awarded at a higher rate, because an element of the claimant's retirement provision which is due to be paid to the claimant stops temporarily.

[<sup>F47</sup>(c) that—

- (i) the Secretary of State has sent the claimant the notification required by regulation 32(6)(a) of the Claims and Payments Regulations; and

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- (ii) the claimant has not provided sufficient information to enable the Secretary of State to determine whether there will be any variation in the claimant's retirement provision throughout the period of 12 months beginning with the day following the day on which the previous assessed income period ends.]

(2) The circumstances prescribed for the purposes of section 7(4) (circumstances in which assessed amounts are deemed not to change) are that—

- [<sup>F48</sup>(a) except where sub-paragraph (b) applies, the arrangements under which the assessed amount is paid contain no provision for periodic increases in the amount payable; or]
- (b) the assessed income comprises income from capital other than income to which paragraph (7) applies.

(3) Paragraphs (4) and (5) do not apply where the assessed amount comprises income from capital.

(4) Where the Secretary of State is informed that the arrangements under which the assessed amount is paid contains provision—

- (a) for the payment to be increased periodically;
- (b) for the date on which the increase is to be paid; and
- (c) for determining the amount of the increase,

the assessed amount shall be deemed to increase from the day specified in paragraph (5) by an amount determined by applying those provisions to the amount payable apart from this paragraph.

[<sup>F49</sup>(5) The day referred to in this paragraph is—

- (a) in a case to which paragraph (5A) applies—
  - (i) where the first increased payment date is the day on which the benefit week begins, that day;
  - (ii) where head (i) does not apply, the first day of the next benefit week which begins after that increased payment date;
- (b) in a case to which paragraph (5A) does not apply—
  - (i) where the second increased payment date is the day on which the benefit week begins, that day;
  - (ii) where head (i) does not apply, the first day of the next benefit week following that increased payment date.

(5A) This paragraph applies where the period which—

- (a) begins on the date from which the increase in the assessed amount is to accrue; and
- (b) ends on the first increased payment date,

is a period of the same length as the period in respect of which the last payment of the pre-increase assessed amount was made.

(5B) In paragraphs (5) and (5A)—

“increased payment date” means a date on which the increase in the assessed amount referred to in paragraph (4) is paid as part of a periodic payment<sup>F50</sup> ...; and

“pre-increase assessed amount” means the assessed amount prior to that increase.]

(6) Except where paragraph (4) applies, the assessed amount shall be deemed to increase—

- [<sup>F51</sup>(a) on the day in April each year on which increases under section 150(1)(c) of the Administration Act come into force if that is the first day of a benefit week but if it is not from the next following such day; and]

- (b) by an amount produced by applying to the assessed amount the same percentage increase as that applied for the purposes of additional pensions under section 150(1)(c) and 151(1) of the Administration Act.
- (7) Where the assessed amount comprises income from capital, it shall be deemed to increase or decrease—
  - (a) on the first day of the next benefit week to commence [<sup>F52</sup>on or after] the day on which the income increases or decreases; and
  - (b) by an amount equal to the change in the claimant’s income produced by applying to his income changes made to the yields capital is deemed to produce, or to the capital amounts, specified in regulation 15(6), or to both if both are changed.
- <sup>F53</sup>(8) .....

**Textual Amendments**

**F47** Reg. 10(1)(c) added (6.10.2003) by [The State Pension Credit \(Transitional and Miscellaneous Provisions\) Amendment Regulations 2003 \(S.I. 2003/2274\)](#), regs. 1, **2(6)**

**F48** Reg. 10(2)(a) substituted (18.12.2005) by [The State Pension Credit \(Amendment\) Regulations 2005 \(S.I. 2005/3205\)](#), regs. 1, **2(2)(a)**

**F49** Reg. 10(5)-(5B) substituted for reg. 10(5) (5.4.2004) by [The State Pension Credit \(Miscellaneous Amendments\) Regulations 2004 \(S.I. 2004/647\)](#), regs. 1, **3(2)**

**F50** Words in reg. 10(5B) omitted (18.12.2005) by virtue of [The State Pension Credit \(Amendment\) Regulations 2005 \(S.I. 2005/3205\)](#), regs. 1, **2(2)(b)**

**F51** Reg. 10(6)(a) substituted (5.4.2004) by [The State Pension Credit \(Miscellaneous Amendments\) Regulations 2004 \(S.I. 2004/647\)](#), regs. 1, **3(3)**

**F52** Words in reg. 10(7)(a) substituted (6.10.2003) by [The State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) Regulations 2002 \(S.I. 2002/3019\)](#), regs. 1(2)(b), **23(e)**

**F53** Reg. 10(8) omitted (2.10.2006) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2006 \(S.I. 2006/2378\)](#), regs. 1(3), **14(3)**

**Retirement provision in assessed income period**

- 11.**—<sup>F54</sup>(1) Where an element of a person’s retirement provision ceases to be payable by one source but—
- (a) responsibility for that element is assumed by another source, income from both those sources shall be treated as income from the same source; or
  - (b) in consequence of that element ceasing, income of a different description becomes payable from a different source, that income shall be treated as income of the same description from the same source as the element which ceased to be payable.
- <sup>F55</sup>(2) For the purposes of section 7(6) (meaning of retirement provision) of the Act, a foreign state retirement pension is to be treated as a benefit under the 1992 Act.]

**Textual Amendments**

**F54** Reg. 11(1): reg. 11 renumbered as reg. 11(1) (13.4.2010) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2010 \(S.I. 2010/641\)](#), regs. 1(4)(c), **6(4)**

**F55** Reg. 11(2) added (13.4.2010) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2010 \(S.I. 2010/641\)](#), regs. 1(4)(c), **6(4)**

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**End of assessed income period**

- 12. An assessed income period shall end <sup>F56</sup>...—
  - (a) [<sup>F57</sup>at such time as] the claimant no longer satisfies a condition of entitlement to state pension credit;
  - (b) [<sup>F58</sup>at such time as] payments of an element of the claimant’s retirement provision which is due to be paid to him stops temporarily or the amount paid is less than the amount due and in consequence his award of state pension credit is superseded under section 10 of the Social Security Act 1998<sup>M4</sup>;
  - (c) [<sup>F59</sup>at such time as] a claimant who has no partner is provided with accommodation in a care home [<sup>F60</sup>or an independent hospital] other than on a temporary basis[<sup>F61</sup>;
  - [<sup>F61</sup>(d) if, apart from this sub-paragraph, it would have ended on a date falling within the period specified in column 1 of the table in Schedule IIIA, on the corresponding date shown against that period in column 2 of that table]

Textual Amendments	
<b>F56</b>	Words in reg. 12 omitted (6.4.2016) by virtue of <a href="#">The State Pension Credit (Amendment) Regulations 2015 (S.I. 2015/1529)</a> , regs. 1, <b>2(3)(a)</b>
<b>F57</b>	Words in reg. 12(a) inserted (6.4.2016) by <a href="#">The State Pension Credit (Amendment) Regulations 2015 (S.I. 2015/1529)</a> , regs. 1, <b>2(3)(b)</b>
<b>F58</b>	Words in reg. 12(b) inserted (6.4.2016) by <a href="#">The State Pension Credit (Amendment) Regulations 2015 (S.I. 2015/1529)</a> , regs. 1, <b>2(3)(b)</b>
<b>F59</b>	Words in reg. 12(c) inserted (6.4.2016) by <a href="#">The State Pension Credit (Amendment) Regulations 2015 (S.I. 2015/1529)</a> , regs. 1, <b>2(3)(b)</b>
<b>F60</b>	Words in reg. 12(c) inserted (24.10.2005) by <a href="#">The Social Security (Care Homes and Independent Hospitals) Regulations 2005 (S.I. 2005/2687)</a> , reg. 1, <b>Sch. 5 para. 3</b>
<b>F61</b>	Reg. 12(d) added (6.4.2016) by <a href="#">The State Pension Credit (Amendment) Regulations 2015 (S.I. 2015/1529)</a> , regs. 1, <b>2(3)(c)</b>

  

Marginal Citations	
<b>M4</b>	1998 c. 14.

**Small amounts of state pension credit**

13. Where the amount of state pension credit payable is less than 10 pence per week, the credit shall not be payable unless the claimant is in receipt of another benefit payable with the credit.

**[<sup>F62</sup>Part-weeks**

13A.—(1) The guarantee credit shall be payable for a period of less than a week (“a part-week”) at the rate specified in paragraph (3) if—

- (a) the claimant was entitled to [<sup>F63</sup>universal credit.] income support[<sup>F64</sup>, an income-related employment and support allowance] or an income-based jobseeker’s allowance immediately before the first day on which the conditions for entitlement to the credit are satisfied; and
- (b) the claimant’s entitlement to the credit is likely to continue throughout the first full benefit week which follows the part-week.

<sup>F65</sup>(2) .....

- (3) The amount of the guarantee credit payable in respect of the part-week shall be determined—
- (a) by dividing by 7 the weekly amount of the guarantee credit which<sup>F66</sup>... would be payable in respect of a full week; and then
  - (b) multiplying the resulting figure by the number of days in the part-week,

<sup>F67</sup>  
...

#### Textual Amendments

- F62** Reg. 13A - Reg. 13B inserted (6.10.2003) by [The State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) Regulations 2002 \(S.I. 2002/3019\)](#), regs. 1(2)(b), **23(f)**
- F63** Words in reg. 13A(1)(a) inserted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **33(4)**
- F64** Words in reg. 13A(1)(a) inserted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **4(4)**
- F65** Reg. 13A(2) omitted (6.4.2010) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 6\) Regulations 2009 \(S.I. 2009/3229\)](#), regs. 1, **3(3)(a)**
- F66** Words in reg. 13A(3)(a) omitted (6.4.2010) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 6\) Regulations 2009 \(S.I. 2009/3229\)](#), regs. 1, **3(3)(b)**
- F67** Words in reg. 13A(3) omitted (6.4.2010) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 6\) Regulations 2009 \(S.I. 2009/3229\)](#), regs. 1, **3(3)(c)**

#### Date on which benefits are treated as paid

**13B.**—(1) The following benefits shall be treated as paid on the day of the week in respect of which the benefit is payable—

- (a) severe disablement allowance;
- (b) short-term and long-term incapacity benefit;
- (c) maternity allowance;
- (d) contribution-based jobseeker's allowance<sup>F68</sup>....

[ contributory employment and support allowance.]

<sup>F69</sup>(e)

[<sup>F70</sup>(2) All benefits except those mentioned in paragraph (1) shall be treated as paid—

- (a) where the benefit is paid in advance, on the first day of the benefit week in which the benefit is payable;
- (b) where the benefit is paid in arrears, on the last day of the benefit week in which the benefit is payable.]]

#### Textual Amendments

- F62** Reg. 13A - Reg. 13B inserted (6.10.2003) by [The State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) Regulations 2002 \(S.I. 2002/3019\)](#), regs. 1(2)(b), **23(f)**
- F68** Words in reg. 13B(1)(d) omitted (29.4.2013) by virtue of [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **33(5)**
- F69** Reg. 13B(1)(e) added (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **4(5)**

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**F70** Reg. 13B(2) substituted (6.4.2010) by [The Social Security \(Miscellaneous Amendments\) \(No. 6\) Regulations 2009 \(S.I. 2009/3229\)](#), regs. 1, **3(4)**



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