

2004 No. 110

SOCIAL SECURITY

**The State Pension Credit (Miscellaneous Amendments)
Regulations (Northern Ireland) 2004**

Made - - - - - *12th March 2004*

Coming into operation *5th April 2004*

The Department for Social Development, in exercise of the powers conferred by Articles 11(6), 74(1), (3) and (5) of the Social Security (Northern Ireland) Order 1998(a), and now vested in it(b), and sections 7(4), 15(3), (4), (6)(a) and (b) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002(c), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the State Pension Credit (Miscellaneous Amendments) Regulations (Northern Ireland) 2004 and shall come into operation on 5th April 2004.

Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations

2. In the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(d), in regulation 7 (date from which a decision superseded under Article 11 takes effect) –

(a) for paragraphs (17B) and (17C)(e) there shall be substituted the following paragraphs –

“(17B) Paragraph (17C) applies where –

- (a) a claimant is awarded state pension credit;
- (b) the claimant or his partner is aged 65 or over;
- (c) his appropriate minimum guarantee (as defined by the State Pension Credit Act) includes housing costs determined in accordance with Schedule 2 to the State Pension Credit Regulations, and
- (d) after the date from which sub-paragraph (c) applies –
 - (i) a non-dependant (as defined in that Schedule) begins to reside with the claimant, or
 - (ii) a non-dependant’s income increases and this affects the applicable amount of the claimant’s housing costs.

(a) S.I. 1998/1506 (N.I. 10); in consequence of transfer of functions made by sections 49 and 50 of the Tax Credits Act 2002 (c. 21), Article 74(1) was amended by paragraph 17(2) of Schedule 4 to that Act
(b) See Article 8(b) of S.R. 1999 No. 481
(c) 2002 c. 14 (N.I.)
(d) S.R. 1999 No. 162; relevant amending Regulations are S.R. 2003 No. 191
(e) Paragraphs (17B) and (17C) were inserted by regulation 18(e) of S.R. 2003 No. 191

(17C) In the circumstances specified in paragraph (17B) a decision made under Article 11 shall take effect –

(a) where there is more than one change of the kind specified in paragraph (17B)(d) in respect of the same non-dependant within the same 26 week period, 26 weeks after the date on which the first such change occurred, and

(b) in any other circumstances, 26 weeks after the date on which a change specified in paragraph (17B)(d) occurred.”;

(b) in paragraph (23)(a) omit “, (17B)”.

Amendment of the State Pension Credit Regulations

3.—(1) The State Pension Credit Regulations (Northern Ireland) 2003(b) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 10 (assessed income period) –

(a) for paragraph (5) there shall be substituted the following paragraphs –

“(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 under the claimant’s retirement pension scheme or annuity contract; and

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

(b) in paragraph (6), for sub-paragraph (a) there shall be substituted the following sub-paragraph –

“(a) on the day in April each year on which increases in the additional pensions in the rates of long-term benefits come into operation by virtue of an order under section 132(1) of the Administration Act if that is the first day of a benefit week but if it is not from the next following such day, and”.

(3) After regulation 17 (calculation of weekly income) there shall be inserted the following regulation –

“Treatment of final payments of income

17ZA.—(1) Save where regulation 13B(c) applies, this regulation applies where –

(a) a claimant has been receiving a regular payment of income;

(a) Paragraph (23) was substituted by regulation 18(f) of S.R. 2003 No. 191
(b) S.R. 2003 No. 28; relevant amending Regulations are S.R. 2003 No.191
(c) Regulation 13B was inserted by regulation 23(3) of S.R. 2003 No. 191

- (b) that payment is coming to an end or has ended, and
- (c) the claimant receives a payment of income whether as the last of the regular payments or following the last of them (“the final payment”).

(2) For the purposes of regulation 17(1) –

- (a) where the amount of the final payment is less than or equal to the amount of the preceding, or the last, regular payment, the whole amount shall be treated as being paid in respect of a period of the same length as that in respect of which that regular payment was made;
- (b) where the amount of the final payment is greater than the amount of that regular payment –
 - (i) to the extent that it comprises (whether exactly or with an excess remaining) one or more multiples of that amount, each such multiple shall be treated as being paid in respect of a period of the same length as that in respect of which that regular payment was made; and
 - (ii) any excess shall be treated as paid in respect of a further period of the same length as that in respect of which that regular payment was made.

(3) A final payment referred to in paragraph (2)(a) shall, where not in fact paid on the date on which a regular payment would have been paid had it continued in payment, be treated as paid on that date.

(4) Each multiple and any excess referred to in paragraph (2)(b) shall be treated as paid on the dates on which a corresponding number of regular payments would have been made had they continued in payment.

(5) For the purposes of this regulation, a “regular payment” means a payment of income made in respect of a period –

- (a) referred to in regulation 17(1)(a) or (b) on a regular date, or
- (b) which is subject to the provisions of regulation 17(2).”.

(4) In regulation 21 (notional capital), for paragraph (2) there shall be substituted the following paragraph –

- “(2) A person who disposes of a capital resource for the purpose of –
- (a) reducing or paying a debt owed by the claimant, or
 - (b) purchasing goods or services if the expenditure was reasonable in the circumstances of the claimant’s case,

shall be regarded as not depriving himself of it.”.

(5) Paragraph 24 of Schedule 5 as inserted by regulation 23(9)(c) of the State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations (Northern Ireland) 2003(a) shall be renumbered paragraph 23A.

Saving

4. Regulation 2 shall not apply where –

- (a) a person’s claim for state pension credit is backdated in accordance with regulation 36 (claims for state pension credit) of the State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations (Northern Ireland) 2003, and
- (b) a change of a kind specified in the paragraph (17C) substituted by regulation 2 or, as the case may be, the first such change occurred before 5th April 2004.

Sealed with the Official Seal of the Department for Social Development on 12th March 2004.

(L.S.)

John O’Neill
Senior Officer of the Department for Social Development

(a) S.R. 2003 No. 191

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations further amend the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 and the State Pension Credit Regulations (Northern Ireland) 2003 (“the State Pension Credit Regulations”) in respect of state pension credit.

Regulation 2 provides that, where a state pension credit claimant aged 65 or over is awarded housing costs, a change in a non-dependant’s circumstances which reduces the award shall take effect 26 weeks after the change occurred.

Regulation 3 amends the State Pension Credit Regulations. It amends the provisions relating to the date which occupational pensions increase (regulation 10(5) of the State Pension Credit Regulations) and the provisions relating to the treatment of deemed increases to the assessed amount made under the annual Social Security Benefits Up-rating Order (regulation 10(6) of the State Pension Credit Regulations). Regulation 3 also inserts a new provision in respect of the treatment of final payments of income (regulation 17ZA) and amends regulation 21 of the State Pension Credit Regulations to provide that a person shall not be treated as depriving himself of a capital resource if he disposes of it for the purpose of paying or reducing a debt or, in certain cases, purchasing goods or services.

Regulation 4 makes a consequential saving.

These Regulations make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992 (c. 8), are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

These Regulations do not impose any charge on business.

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Dd. N1416. C2. 3/04. Gp. 130. 14567.

£3.00

ISBN 0-337-95449-6



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