



# State Pension Credit Act 2002

## 2002 CHAPTER 16

### *Interpretation of state pension credit provisions*

#### **15 Income and capital**

- (1) In this Act “income” means income of any of the following descriptions—
  - (a) earnings;
  - (b) working tax credit;
  - (c) retirement pension income;
  - (d) income from annuity contracts (other than retirement pension income);
  - (e) prescribed social security benefits (other than retirement pension income and state pension credit);
  - (f) foreign social security benefits of any prescribed description;
  - (g) a war disablement pension or war widow’s or widower’s pension;
  - (h) a foreign war disablement pension or foreign war widow’s or widower’s pension;
  - (i) income from capital;
  - (j) income of any prescribed description.
- (2) Regulations may provide that a person’s capital shall be deemed to yield him income at a prescribed rate.
- (3) Income and capital shall be calculated or estimated in such manner as may be prescribed.
- (4) A person’s income in respect of any period shall be calculated in accordance with prescribed rules.
- (5) The rules may provide for the calculation to be made by reference to an average over a period (which need not consist of or include the whole or any part of the period concerned).
- (6) Circumstances may be prescribed in which—
  - (a) a person is treated as possessing capital or income which he does not possess;

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- (b) capital or income which a person does possess is to be disregarded;
- (c) income is to be treated as capital; or
- (d) capital is to be treated as income.

(7) Subsections (2) to (6) have effect for the purposes of this Act.

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

- C1** [S. 15](#): power to apply conferred by 1992 c. 4, s. 136A(3)(b) (as inserted (27.1.2003 for specified purposes, 6.10.2003 in so far as not already in force) by [State Pension Credit Act 2002 \(c. 16\)](#), s. 22(3), [Sch. 2 para. 3](#); [S.I. 2003/83](#), art. 2; [S.I. 2003/1766](#), art. 2(a))

#### Commencement Information

- I1** [S. 15](#) partly in force; [s. 15](#) not in force at Royal Assent, see [s. 22\(3\)](#); [s. 15](#) in force for certain purposes at 2.7.2002 by [S.I. 2002/1691](#), art. 2
- I2** [S. 15](#) in force at 6.10.2003 in so far as not already in force by [S.I. 2003/1766](#), art. 2(a)

## 16 Retirement pension income

(1) In this Act “retirement pension income” means any of the following—

- (a) a Category A or Category B retirement pension payable under sections 43 to 55 of—
  - (i) the Contributions and Benefits Act; or
  - (ii) the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7);
- (b) a shared additional pension payable under section 55A of either of those Acts (utilisation of State scheme pension credits on divorce);
- (c) graduated retirement benefit payable under section 62 of either of those Acts;
- (d) a Category C or Category D retirement pension payable under section 78 of either of those Acts;
- (e) age addition payable under section 79 of either of those Acts;
- (f) income from an occupational pension scheme or a personal pension scheme;
- (g) income from an overseas arrangement;
- (h) income from a retirement annuity contract;
- (i) income from annuities or insurance policies purchased or transferred for the purpose of giving effect to rights under a personal pension scheme or an overseas arrangement;
- (j) income from annuities purchased or entered into for the purpose of discharging liability under—
  - (i) section 29(1)(b) of the Welfare Reform and Pensions Act 1999 (c. 30) (pension credits on divorce); or
  - (ii) Article 26(1)(b) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) (corresponding provision for Northern Ireland).
- [<sup>F1</sup>(k) any sum payable by way of pension under section 5 of the Civil List Act 1837 or section 7 of the Civil List Act 1952;]
- [<sup>F2</sup>(l) any payment, other than a payment ordered by a court or made in settlement of a claim, made by or on behalf of a former employer of a person on account of the early retirement of that person on grounds of ill-health or disability]

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- [<sup>F3</sup>(m) any payment made at regular intervals under an equity release scheme.]  
[<sup>F4</sup>(n) any payment made under the Financial Assistance Scheme Regulations 2005.]
- (2) The Secretary of State may by regulations amend subsection (1); and any such regulations may—
- (a) add to or vary the descriptions of income for the time being listed in that subsection; or
- (b) remove any such description from that subsection.
- (3) In this section—
- “overseas arrangement” has the meaning given by section 181(1) of the Pension Schemes Act 1993 (c. 48);
- “retirement annuity contract” means a contract or scheme approved under Chapter 3 of Part 14 of the Income and Corporation Taxes Act 1988 (c. 1).

#### Textual Amendments

- F1** S. 16(1)(k) substituted (1.4.2012) by [Sovereign Grant Act 2011 \(c. 15\)](#), s. 15(1), [Sch. 1 para. 32](#)
- F2** S. 16(1)(l) added by virtue of S.I. 2002/1792, reg. 16 (as amended (6.10.2003) by [The State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) \(No. 2\) Regulations 2002 \(S.I. 2002/3197\)](#), reg. 1(b), [Sch. para. 4\(c\)](#))
- F3** S. 16(1)(m) added by S.I. 2002/1792, reg. 16 (as amended (4.10.2004) by [The Social Security \(Housing Benefit, Council Tax Benefit, State Pension Credit and Miscellaneous Amendments\) Regulations 2004 \(S.I. 2004/2327\)](#), regs. 1(1)(a), [7\(4\)](#))
- F4** S. 16(1)(n) added by S.I. 2002/1792, reg. 16 (as amended (18.12.2005) by [The State Pension Credit \(Amendment\) Regulations 2005 \(S.I. 2005/3205\)](#), regs. 1, [2\(3\)](#))

#### Commencement Information

- I3** S. 16 partly in force; s. 16 not in force at Royal Assent, see s. 22(3); s. 16 in force for certain purposes at 2.7.2002 by [S.I. 2002/1691](#), [art. 2](#)
- I4** S. 16 in force at 6.10.2003 in so far as not already in force by [S.I. 2003/1766](#), [art. 2\(a\)](#)

## 17 Other interpretation provisions

- (1) In this Act—
- “the Administration Act” means the Social Security Administration Act 1992 (c. 5);
- “assessed income period” shall be construed in accordance with sections 6 and 9;
- “appropriate minimum guarantee” shall be construed in accordance with section 2(3);
- “capital” shall be construed in accordance with section 15;
- “claimant” means a claimant for state pension credit;
- “the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992 (c. 4);
- [<sup>F5</sup>[<sup>F6</sup>“couple” means—
- (a) a man and woman who are married to each other and are members of the same household;

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- (b) a man and woman who are not married to each other but are living together as husband and wife otherwise than in prescribed circumstances;
- (c) two people of the same sex who are civil partners of each other and are members of the same household; or
- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners otherwise than in prescribed circumstances;]]

[<sup>F5</sup>“couple” means—

- (a) two people who are married to, or civil partners of, each other and are members of the same household; or
- (b) two people who are not married to, or civil partners of, each other but are living together as a married couple otherwise than in prescribed circumstances;]

(and, in relation to any other benefit within the meaning of section 1 of the Administration Act or section 27 of the Social Security Act 1998, in accordance with that section or (as the case may be) both of those sections in addition to any other conditions relating to that benefit);

“earnings” has the same meaning as in Parts 1 to 5 of the Contributions and Benefits Act (see sections 3(1) and 112, and the definition of “employment” in section 122, of that Act);

“element”, in relation to the claimant’s retirement provision, shall be construed in accordance with section 7(6);

“entitled”, in relation to state pension credit, shall be construed in accordance with—

- (a) this Act,
- (b) section 1 of the Administration Act (entitlement to be dependent on making of claim etc), and
- (c) section 27 of the Social Security Act 1998 (c. 14) (restrictions on entitlement to benefit in certain cases of error),

(and, in relation to any other benefit within the meaning of section 1 of the Administration Act or section 27 of the Social Security Act 1998, in accordance with that section or (as the case may be) both of those sections in addition to any other conditions relating to that benefit);

“foreign social security benefit” means any benefit, allowance or other payment which is paid under the law of a country outside the United Kingdom and is in the nature of social security;

“foreign war disablement pension” means any retired pay, pension, allowance or similar payment granted by the government of a country outside the United Kingdom—

- (a) in respect of disablement arising from forces’ service or war injury; or
- (b) corresponding in nature to any retired pay or pension to which [<sup>F7</sup>section 641 of the Income Tax (Earnings and Pensions) Act 2003] applies;

“foreign war widow’s or widower’s pension” means any pension, allowance or similar payment granted to a [<sup>F8</sup>widow, widower or surviving civil partner] by the government of a country outside the United Kingdom—

- (a) in respect of a death due to forces’ service or war injury; or

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(b) corresponding in nature to a pension or allowance for a [<sup>F8</sup>widow, widower or surviving civil partner] under any scheme mentioned in [<sup>F9</sup>section 641(1)(e) or (f) of the Income Tax (Earnings and Pensions) Act 2003];

“guarantee credit” shall be construed in accordance with sections 1 and 2;

“income” shall be construed in accordance with section 15;

<sup>F10</sup>  
...

“occupational pension scheme” has the meaning given by section 1 of the Pension Schemes Act 1993 (c. 48);

“pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995 (c. 26) (equalisation of pensionable ages for men and women);

“personal pension scheme” means a personal pension scheme—

(a) as defined in section 1 of the Pension Schemes Act 1993; or

(b) as defined in section 1 of the Pension Schemes (Northern Ireland) Act 1993 (c. 49);

[<sup>F11</sup>“PPF periodic payments” means—

(a) any periodic compensation payments made in relation to a person, payable under the pension compensation provisions as specified in section 162(2) of the Pensions Act 2004 or Article 146(2) of the Pensions (Northern Ireland) Order 2005 (the pension compensation provisions); or

(b) any periodic payments made in relation to a person, payable under section 166 of the Pensions Act 2004 or Article 150 of the Pensions (Northern Ireland) Order 2005 (duty to pay scheme benefits unpaid at assessment date etc.);]

“prescribed” means specified in, or determined in accordance with regulations;

“the qualifying age” has the meaning given by section 1(6);

“regulations” means regulations made by the Secretary of State;

“retirement pension income” shall be construed in accordance with section 16;

“retirement provision” shall be construed in accordance with section 7(6);

“savings credit” shall be construed in accordance with sections 1 and 3;

“social security benefits” means benefits payable under the enactments relating to social security in any part of the United Kingdom;

“standard minimum guarantee” shall be construed in accordance with section 2(3) to (5) and (9);

<sup>F10</sup>  
...

“war disablement pension” means—

(a) any retired pay, pension or allowance granted in respect of disablement under powers conferred by or under—

(i) the Air Force (Constitution) Act 1917 (c. 51);

(ii) the Personal Injuries (Emergency Provisions) Act 1939 (c. 82);

(iii) the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939 (c. 83);

(iv) the Polish Resettlement Act 1947 (c. 19); or

(v) Part 7 or section 151 of the Reserve Forces Act 1980 (c. 9); or

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- (b) without prejudice to paragraph (a), any retired pay or pension to which <sup>[F12]</sup>any of paragraphs (a) to (f) of section 641(1) of the Income Tax (Earnings and Pensions) Act 2003] applies;  
 “war widow’s or widower’s pension” means—
- (a) <sup>[F13]</sup>any widow's, widower’s or surviving civil partner's] pension or allowance granted in respect of a death due to service or war injury and payable by virtue of any enactment mentioned in paragraph (a) of the definition of “war disablement pension”; or
- (b) a pension or allowance for a <sup>[F14]</sup>widow, widower or surviving civil partner] granted under any scheme mentioned in <sup>[F15]</sup>section 641(1)(e) or (f) of the Income Tax (Earnings and Pensions) Act 2003];
- “working tax credit” means a working tax credit under the Tax Credits Act 2002 to which a person is entitled whether alone or jointly with another.
- <sup>[F16]</sup>(1A) <sup>[F17]</sup>For the purposes of this Act, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.]]
- (2) Regulations may make provision for the purposes of this Act—
- (a) as to circumstances in which persons are to be treated as being or not being members of the same household;
- (b) as to circumstances in which persons are to be treated as being or not being severely disabled.
- (3) The following provisions of the Contributions and Benefits Act, namely—
- (a) section 172 (references to Great Britain or United Kingdom to include reference to adjacent territorial waters etc), and
- (b) section 173 (meaning of attaining an age etc),
- shall apply for the purposes of this Act as they apply for the purposes of that Act.

#### Textual Amendments

- F5** Words in s. 17(1) substituted (E.W.) (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), **Sch. 1 para. 28(2)** and said words also substituted (S.) (16.12.2014) by [The Marriage and Civil Partnership \(Scotland\) Act 2014 and Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014 \(S.I. 2014/3229\)](#), art. 1(2), **Sch. 5 para. 14(2)**
- F6** Words in s. 17(1) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(8)(d), **Sch. 24 para. 142(2)**; S.I. 2005/3175, art. 2(1), Sch. 1
- F7** Words in s. 17(1) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 6 para. 263(2)** (with Sch. 7)
- F8** Words in s. 17(1) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(8)(d), **Sch. 24 para. 142(3)**; S.I. 2005/3175, art. 2(1), Sch. 1
- F9** Words in s. 17(1) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 6 para. 263(3)** (with Sch. 7)
- F10** Words in s. 17(1) repealed (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(8)(d), Sch. 24 para. 142(4), **Sch. 30**; S.I. 2005/3175, art. 2(1)(6), Sch. 1
- F11** Words in s. 17(1) inserted (14.2.2006) by [The Pensions Act 2004 \(PPF Payments and FAS Payments\) \(Consequential Provisions\) Order 2006 \(S.I. 2006/343\)](#), art. 1(1), **Sch. para. 3(2)**
- F12** Words in s. 17(1) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 6 para. 263(4)** (with Sch. 7)

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- F13** Words in s. 17(1) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 142(5)(a)**; S.I. 2005/3175, art. 2(1), Sch. 1
- F14** Words in s. 17(1) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 142(5)(b)**; S.I. 2005/3175, art. 2(1), Sch. 1
- F15** Words in s. 17(1) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 6 para. 263(5)** (with Sch. 7)
- F16** S. 17(1A) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 143**; S.I. 2005/3175, art. 2(1), Sch. 1
- F17** S. 17(1A) omitted (E.W.) (13.3.2014) by virtue of The Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) Order 2014 (S.I. 2014/560), art. 1(2), **Sch. 1 para. 28(3)** and said sub-provision also omitted (S.) (16.12.2014) by virtue of The Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014 (S.I. 2014/3229), art. 1(2), **Sch. 5 para. 14(3)**

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#### **Commencement Information**

- I5** S. 17 not in force at Royal Assent, see s. 22(3); s. 17 in force for certain purposes at 2.7.2002 by S.I. 2002/1691, **art. 2**
- I6** S. 17 in force at 6.10.2003 in so far as not already in force by S.I. 2003/1766, **art. 2(a)**

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