
STATUTORY INSTRUMENTS

2002 No. 1792

The State Pension Credit Regulations 2002

PART I

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the State Pension Credit Regulations 2002 and shall come into force on 6th October 2003.

(2) In these Regulations—

“the Act” means the State Pension Credit Act 2002;

“the 1992 Act” means the Social Security Contributions and Benefits Act 1992^{M1};

[^{F1}“adoption leave” means a period of absence from work on ordinary or additional adoption leave in accordance with section 75A or 75B of the Employment Rights Act 1996;]

“the appointed day” means the day appointed under section 13(3) of the Act;

[^{F2}“the Armed Forces and Reserve Forces Compensation Scheme” means the scheme established under section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004;]

“attendance allowance” means—

- (a) an attendance allowance under section 64 of the 1992 Act;
- (b) an increase of disablement pension under section 104 or 105 of the 1992 Act;
- (c) a payment under regulations made in exercise of the power conferred by paragraph 7(2)(b) of Part II of Schedule 8 to the 1992 Act;
- (d) an increase of an allowance which is payable in respect of constant attendance under paragraph 4 of Part I of Schedule 8 to the 1992 Act;
- (e) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983^{M2} or any analogous payment; or

[^{F3}(f) any payment based on a need for attendance which is paid as part of a war disablement pension, or any other such payment granted in respect of disablement which falls within regulation 15(5)(ac);]

“benefit week” means the period of 7 days beginning on the day on which, in the claimant’s case, state pension credit is payable;

[^{F4}“board and lodging accommodation” means accommodation provided to a person or, if he is a member of a family, to him or any other member of his family, for a charge which is inclusive of—

- (i) the provision of that accommodation, and
- (ii) at least some cooked or prepared meals which both are cooked or prepared (by a person other than the person to whom the accommodation is provided or a member of his family) and are consumed in that accommodation or associated premises,

Status: Point in time view as at 02/10/2009.

Changes to legislation: There are currently no known outstanding effects for the State Pension Credit Regulations 2002. (See end of Document for details)

but not accommodation provided by a close relative of his or of his partner, or other than on a commercial basis;]

“care home” has the meaning it has for the purposes of the Care Standards Act 2000^{M3} by virtue of section 3 of that Act [^{F5} and in Scotland means a care home service];

[^{F6}“care home service” has the meaning assigned to it by section 2(3) of the Regulation of Care (Scotland) Act 2001;]

“the Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations 1987^{M4};

“close relative” means a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, [^{F7} or if any of the preceding persons is one member of a couple, the other member of that couple], the other member of that couple;

[^{F8}“contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act (employment and support allowance);]

[^{F9}“couple” means—

- (a) a man and woman who are married to each other and are members of the same household;
- (b) a man and woman who are not married to each other but are living together as husband and wife;
- (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,

and for the purposes of paragraph (d), 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;]

[^{F10}“the Computation of Earnings Regulations” means the Social Security Benefit (Computation of Earnings) Regulations 1996;]

[^{F10}“dwelling occupied as the home” means the dwelling together with any garage, garden and outbuildings, normally occupied by the claimant as his home including any premises not so occupied which it is impracticable or unreasonable to sell separately, in particular, in Scotland, any croft land on which the dwelling is situated;]

“Eileen Trust” means the charitable trust of that name established on 29th March 1993 out of funds provided by the Secretary of State for the benefit of persons eligible for payment in accordance with its provisions;

[^{F11}“the Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008;]

[^{F12}“enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;]

[^{F13}“equity release scheme” means a loan—

- (a) made between a person (“the lender”) and the claimant;
- (b) by means of which a sum of money is advanced by the lender to the claimant by way of payments at regular intervals; and
- (c) which is secured on a dwelling in which the claimant owns an estate or interest and which he occupies as his home;]

“the Fund” means moneys made available from time to time by the Secretary of State for the benefit of persons eligible for payment in accordance with the provisions of a scheme established by him on 24th April 1992 or, in Scotland, on 10th April 1992;

“full-time student” has the meaning prescribed in regulation 61(1) of the Income Support Regulations;

[^{F14}“the Graduated Retirement Benefit Regulations” means the Social Security (Graduated Retirement Benefit) Regulations 2005;]

[^{F2}“a guaranteed income payment” means a payment made under article 14(1)(b) or article 21(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005;]

[^{F15}“the Health Service Act” means “the National Health Service Act 2006”];]

[^{F15}“the Health Service (Wales) Act” means “the National Health Service (Wales) Act 2006”];]

[^{F16}“income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act (employment and support allowance);]

“the Income Support Regulations” means the Income Support (General) Regulations 1987^{M5};

[^{F17} “independent hospital” in England and Wales has the meaning assigned to it by section 2 of the Care Standards Act 2000, and in Scotland means an independent healthcare service as defined in section 2(5)(a) and (b) of the Regulation of Care (Scotland) Act 2001; ”]

^{F18}
...

[^{F19}“the Independent Living Fund (2006)” means the Trust of that name established by a deed dated 10th April 2006 and made between the Secretary of State for Work and Pensions of the one part and Margaret Rosemary Cooper, Michael Beresford Boyall and Marie Theresa Martin of the other part;]

^{F20}
...

^{F21}
...

^{F22}
...

“the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996^{M6};

[^{F23}“the London Bombings Relief Charitable Fund” means the company limited by guarantee (number 5505072) and registered charity of that name established on 11th July 2005 for the purpose of (amongst other things) relieving sickness, disability or financial need of victims (including families or dependants of victims) of the terrorist attacks carried out in London on 7th July 2005;]

“the Macfarlane (Special Payments) Trust” means the trust of that name, established on 29th January 1990 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia;

“the Macfarlane (Special Payments) (No. 2) Trust” means the trust of that name, established on 3rd May 1991 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia and other beneficiaries;

“the Macfarlane Trust” means the charitable trust, established partly out of funds provided by the Secretary of State to the Haemophilia Society, for the relief of poverty or distress among those suffering from haemophilia;

[^{F1}“paternity leave” means a period of absence from work on leave in accordance with section 80A or 80B of the Employment Rights Act 1996;]

[^{F24}“patient”, except in Schedule II, means a person (other than a prisoner) who is regarded as receiving free in-patient treatment within the meaning of regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005;]

Status: Point in time view as at 02/10/2009.

Changes to legislation: There are currently no known outstanding effects for the State Pension Credit Regulations 2002. (See end of Document for details)

“pension fund holder” means with respect to [^{F25}an occupational pension scheme,] a personal pension scheme or retirement annuity contract, the trustees, managers or scheme administrators, as the case may be, of the scheme or contract concerned;

“policy of life insurance” means any instrument by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life;

“prisoner” means a person who—

- (a) is detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court; or
- (b) is on temporary release in accordance with the provisions of the Prison Act 1952^{M7} or the Prisons (Scotland) Act 1989^{M8},

other than a person detained in hospital under the provisions of the Mental Health Act 1983^{M9}, or in Scotland, under the provisions of the [^{F26}Mental Health (Care and Treatment) (Scotland) Act 2003] or the Criminal Procedure (Scotland) Act 1995^{M10};

[^{F12}“public authority” includes any person certain of whose functions are functions of a public nature;]

“qualifying person” means a person in respect of whom payment has been made from the Fund [^{F27}, the Eileen Trust [^{F28}, the Skipton Fund or the London Bombings Relief Charitable Fund]];

[^{F12}“service user group” means a group of individuals that is consulted by or on behalf of—

- (a) a Health Board, Special Health Board or the Agency in consequence of a function under section 2B of the National Health Service (Scotland) Act 1978,
- (b) a landlord authority in consequence of a function under section 105 of the Housing Act 1985,
- (c) a public authority in consequence of a function under section 49A of the Disability Discrimination Act 1995,
- (d) a best value authority in consequence of a function under section 3 of the Local Government Act 1999,
- (e) a local authority landlord or registered social landlord in consequence of a function under section 53 of the Housing (Scotland) Act 2001,
- (f) a relevant English body or a relevant Welsh body in consequence of a function under section 242 of the National Health Service Act 2006,
- (g) a Local Health Board in consequence of a function under section 183 of the National Health Service (Wales) Act 2006,
- (h) the Commission or the Office of the Health Professions Adjudicator in consequence of a function under sections 4, 5, or 108 of the Health and Social Care Act 2008,
- (i) the regulator or a registered provider in consequence of a function under sections 98, 193 or 196 of the Housing and Regeneration Act 2008, or
- (j) a public or local authority in Great Britain in consequence of a function conferred under any other enactment,

for the purposes of monitoring and advising on a policy of that body or authority which affects or may affect persons in the group, or of monitoring or advising on services provided by that body or authority which are used (or may potentially be used) by those persons;]

[^{F29}“the Skipton Fund” means the ex-gratia payment scheme administered by the Skipton Fund Limited, incorporated on 25th March 2004, for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with the scheme’s provisions;]

[^{F30}“voluntary organisation” means a body, other than a public or local authority, the activities of which are carried on otherwise than for profit;]

“water charges” means—

- (a) as respects England and Wales, any water and sewerage charges under Chapter 1 of Part V of the Water Industry Act 1991^{M11};
- (b) as respects Scotland, any water and sewerage charges under Schedule 11 to the Local Government Finance Act 1992^{M12};

in so far as such charges are in respect of the dwelling which a person occupies as his home;

[^{F31}“the Welfare Reform Act” means the Welfare Reform Act 2007.]

(3) In these Regulations, unless the context otherwise requires, a member of [^{F32}a couple] is referred to as a partner and both members are referred to as partners.

(4) In these Regulations, unless the context otherwise requires, a reference—

- (a) to a numbered section is to the section of the Act bearing that number;
- (b) to a numbered Part is to the Part of these Regulations bearing that number;
- (c) to a numbered regulation or Schedule is to the regulation in, or Schedule to, these Regulations bearing that number;
- (d) in a regulation or Schedule to a numbered paragraph is to the paragraph in that regulation or Schedule bearing that number;
- (e) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

Textual Amendments

- F1** Words in reg. 1(2) inserted (6.10.2003) by The State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274), regs. 1, **2(2)**
- F2** Words in reg. 1(2) inserted (4.4.2005) by The Social Security (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/574), regs. 1(1), **2(1)**
- F3** Words in reg. 1(2) substituted (5.1.2009) by The Social Security (Miscellaneous Amendments) (No. 7) Regulations 2008 (S.I. 2008/3157), regs. 1(1), **4(2)**
- F4** Words in reg. 1(2) inserted (3.10.2005) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2005 (S.I. 2005/2465), regs. 1(2), **6(2)**
- F5** Words in reg. 1(2) 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. 1(a)**
- F6** Words in reg. 1(2) inserted (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. 1(a)**
- F7** Words in reg. 1(2) substituted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877), art. 1, **Sch. 3 para. 35(2)(a)(i)** (with art. 3)
- F8** Words in reg. 1(2) 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(2)(a)**
- F9** Words in reg. 1(2) inserted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877), art. 1, **Sch. 3 para. 35(2)(a)(ii)** (with art. 3)

Status: Point in time view as at 02/10/2009.

*Changes to legislation: There are currently no known outstanding effects for the
The State Pension Credit Regulations 2002. (See end of Document for details)*

- F10** Words in reg. 1(2) 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(a)**
- F11** Words in reg. 1(2) 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(2)(b)**
- F12** Words in reg. 1(2) inserted (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by The Social Security (Miscellaneous Amendments) (No. 4) Regulations 2009 (S.I. 2009/2655), regs. 1(2)(c), **5(2)**
- F13** Words in reg. 1(2) inserted (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(2)**
- F14** Words in reg. 1(2) inserted (6.4.2006) by The Social Security (Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit) (Miscellaneous Provisions) Regulations 2005 (S.I. 2005/2677), regs. 1(1), **13(2)**
- F15** Words in reg. 1(2) inserted (17.11.2008) by The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008 (S.I. 2008/2767), regs. 1(2), **5(2)(b)**
- F16** Words in reg. 1(2) 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(2)(c)**
- F17** Words in reg. 1(2) inserted (24.10.2005) by The Social Security (Care Homes and Independent Hospitals) Regulations 2005 (S.I. 2005/2687), reg. 1, **Sch. 5 para. 1**
- F18** Words in reg. 1(2) omitted (17.11.2008) by virtue of The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008 (S.I. 2008/2767), regs. 1(2), **5(2)(a)(i)**
- F19** Words in reg. 1(2) inserted (1.10.2007) by The Independent Living Fund (2006) Order 2007 (S.I. 2007/2538), arts. 1, **6(2)**
- F20** Words in reg. 1(2) omitted (17.11.2008) by virtue of The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008 (S.I. 2008/2767), regs. 1(2), **5(2)(a)(ii)**
- F21** Words in reg. 1(2) omitted (17.11.2008) by virtue of The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008 (S.I. 2008/2767), regs. 1(2), **5(2)(a)(iii)**
- F22** Words in reg. 1(2) omitted (17.11.2008) by virtue of The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008 (S.I. 2008/2767), regs. 1(2), **5(2)(a)(iv)**
- F23** Words in reg. 1(2) inserted (12.12.2005) by The Income-related Benefits (Amendment) (No. 2) Regulations 2005 (S.I. 2005/3391), regs. 1, **7(2)(a)**
- F24** Words in reg. 1(2) substituted (10.4.2006) by The Social Security (Hospital In-Patients) Regulations 2005 (S.I. 2005/3360), regs. 1(a), **8(2)**
- F25** Words in reg. 1(2) inserted (1.10.2007) by The Social Security (Miscellaneous Amendments) (No. 5) Regulations 2007 (S.I. 2007/2618), regs. 1(1), **10(2)**
- F26** Words in reg. 1(2) substituted (5.10.2005) (S) 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(1)**; (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(2)**
- F27** Words in reg. 1(2) substituted (12.5.2004) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2004 (S.I. 2004/1141), regs. 1(1), **2(a)**
- F28** Words in reg. 1(2) substituted (12.12.2005) by The Income-related Benefits (Amendment) (No. 2) Regulations 2005 (S.I. 2005/3391), regs. 1, **7(2)(b)**
- F29** Words in reg. 1(2) inserted (12.5.2004) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2004 (S.I. 2004/1141), regs. 1(1), **2(b)(iv)**
- F30** Words in reg. 1(2) inserted (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. 1(b)**
- F31** Words in reg. 1(2) 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(2)(d)**
- F32** Words in reg. 1(3) substituted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877), art. 1, **Sch. 3 para. 35(2)(b)** (with art. 3)

Marginal Citations

- M1** 1992 c. 4.
M2 S.I.1983/686; the relevant amending Instruments are S.I. 1983/1164 and 1984/1675.
M3 2000 c. 14.
M4 S.I. 1987/1968; the relevant amending Instrument is S.I.1999/3108.
M5 S.I. 1987/1967.
M6 S.I.1996/207.
M7 1952 c. 52.
M8 1989 c. 45.
M9 1983 c. 20.
M10 1995 c. 46.
M11 1991 c. 56.
M12 1992 c. 14.

[^{F33}Disapplication of section 1(1A) of the Social Security Administration Act

1A. Section 1(1A) of the Social Security Administration Act 1992 (requirement to state a national insurance number) shall not apply to a person who—

- (a) is a person in respect of whom a claim for state pension credit is made;
- (b) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act 1999;
- (c) does not satisfy the conditions of entitlement to state pension credit as specified in section 1(2); and
- (d) has not previously been allocated a national insurance number.]

Textual Amendments

- F33** Reg. 1A inserted (6.4.2009) by The Social Security (National Insurance Number Information: Exemption) Regulations 2009 (S.I. 2009/471), regs. 1, 8

PART II

Entitlement and amount

[^{F34} 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).

(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 Immigration (European Economic Area) Regulations 2006;

Status: Point in time view as at 02/10/2009.

Changes to legislation: There are currently no known outstanding effects for the The State Pension Credit Regulations 2002. (See end of Document for details)

- (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;
 - (c) Article 6 of Council Directive No.2004/38/EC; or
 - (d) Article 39 of the Treaty establishing the European Community (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).
- (4) A person is not to be treated as not in Great Britain if he is—
- (a) a worker for the purposes of Council Directive No.2004/38/EC;
 - (b) a self-employed person for the purposes of that Directive;
 - (c) a person who retains a status referred to in sub-paragraph (a) or (b) pursuant to Article 7(3) of that Directive;
 - (d) a person who is a family member of a person referred to in sub-paragraph (a), (b) or (c) within the meaning of Article 2 of that Directive;
 - (e) a person who has a right to reside permanently in the United Kingdom by virtue of Article 17 of that Directive;
 - [^{F35}(f) a person who is treated as a worker for the purpose of the definition of “qualified person” in regulation 6(1) of the Immigration (European Economic Area) Regulations 2006 pursuant to—
 - (i) regulation 5 of the Accession (Immigration and Worker Registration) Regulations 2004 (application of the 2006 Regulations in relation to a national of the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Slovenia or the Slovak Republic who is an “accession State worker requiring registration”), or
 - (ii) regulation 6 of the Accession (Immigration and Worker Authorisation) Regulations 2006 (right of residence of a Bulgarian or Romanian who is an “accession State national subject to worker authorisation”);]
 - (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) [^{F36}a person who has exceptional leave to enter or remain in the United Kingdom granted outside the rules made under section 3(2) of the Immigration Act 1971;]
 - [^{F36}(hh) a person who has humanitarian protection granted under those rules;]
 - (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; ^{F37}...
 - (j) a person in Great Britain who left the territory of Montserrat after 1st November 1995 because of the effect on that territory of a volcanic eruption][^{F38}; or]
 - [^{F38}(k) a person who—
 - (i) arrived in Great Britain on or after 28th February 2009 but before 18th March 2011;
 - (ii) immediately before arriving there had been resident in Zimbabwe; and

(iii) before leaving Zimbabwe, had accepted an offer, made by Her Majesty's Government, to assist that person to move to and settle in the United Kingdom.]

Textual Amendments

- F34** 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))
- F35** Reg. 2(4)(f) substituted (1.1.2007) by [The Social Security \(Bulgaria and Romania\) Amendment Regulations 2006 \(S.I. 2006/3341\)](#), regs. 1, **4(2)**
- F36** 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)**
- F37** 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)**
- F38** Reg. 2(4)(k) and word added (18.3.2009) by [The Social Security \(Habitual Residence\) \(Amendment\) Regulations 2009 \(S.I. 2009/362\)](#), regs. 1(2), **4(3)**

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))

[^{F39} Persons temporarily absent from Great Britain

3. A claimant's entitlement to state pension credit during periods of temporary absence from Great Britain is to continue for up to 13 weeks if—

- (a) the period of the claimant's absence from Great Britain is unlikely to exceed 52 weeks; and
- (b) while absent from Great Britain the claimant continues to satisfy the other conditions of entitlement to state pension credit.]

Textual Amendments

- F39** Reg. 3 substituted (6.10.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2008 \(S.I. 2008/2424\)](#), regs. 1, **3(2)**

[^{F40} Persons temporarily absent from Great Britain on 6th October 2008

3A. Where a claimant—

- (a) is already temporarily absent from Great Britain on 6th October 2008;
- (b) had a continuing entitlement to state pension credit immediately before that day; and
- (c) while absent from Great Britain, continues to satisfy the other conditions of entitlement to state pension credit,

the claimant's entitlement to state pension credit is to continue during that period of absence from Great Britain for up to 13 weeks.]

Textual Amendments

- F40** Reg. 3A inserted (6.10.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2008 \(S.I. 2008/2424\)](#), regs. 1, **3(3)**

Status: Point in time view as at 02/10/2009.

*Changes to legislation: There are currently no known outstanding effects for the
The State Pension Credit Regulations 2002. (See end of Document for details)*

Persons receiving treatment outside Great Britain

4.—^{F41}(1) For the purposes of the Act, a person who is receiving treatment at a hospital or other institution outside Great Britain shall be treated as being in Great Britain if the treatment is being provided—

- (a) under section 6(2) of the Health Service Act (performance of functions outside England) or section 6(2) of the Health Service (Wales) Act (performance of functions outside Wales);
- (b) pursuant to arrangements made under section 12(1) of the Health Service Act (Secretary of State's arrangements with other bodies), section 10(1) of the Health Service (Wales) Act (Welsh Ministers' arrangements with other bodies), paragraph 18 of Schedule 4 to the Health Service Act (joint exercise of functions) or paragraph 18 of Schedule 3 to the Health Service (Wales) Act (joint exercise of functions);
- (c) under equivalent provision in Scotland or pursuant to arrangements made under such provision.]

^{F42}(2) Paragraph (1) applies only where—

- (a) the “person” is the claimant or his partner; and
- (b) the claimant satisfied the conditions for entitlement to state pension credit immediately before he or, as the case may be, his partner, left Great Britain.]

Textual Amendments

- F41** Reg. 4(1) substituted (17.11.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.6\) Regulations 2008 \(S.I. 2008/2767\)](#), regs. 1(2), **5(3)**
- F42** Reg. 4(2) 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(b)**

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 ^{F43}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 ^{F44}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 the Prison Act 1952 ^{M13} or the Prison (Scotland) Act 1989^{M14};
- (d) the claimant is abroad and does not satisfy ^{F45}... regulation 3 (persons temporary absent from Great Britain).

^{F46}(e)

[^{F47}(f) he is absent from Great Britain for more than 13 weeks;]

^{F48}(g)

[^{F49}(h) he is a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999]

[^{F50}(1A) Paragraph (1)(d) and (f) shall not apply where a person is treated as being in Great Britain in accordance with regulation 4.]

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

^{F51}(3)

Textual Amendments

- F43** 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**
- F44** 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)**
- F45** 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)**
- F46** 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)**
- F47** Reg. 5(1)(f) substituted (6.10.2008) by The Social Security (Miscellaneous Amendments) (No.4) Regulations 2008 (S.I. 2008/2424), regs. 1, **3(4)(a)**
- F48** 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)**
- F49** 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**
- F50** Reg. 5(1A) inserted (2.10.2006) by The Social Security (Miscellaneous Amendments) (No. 4) Regulations 2006 (S.I. 2006/2378), regs. 1(3), **14(2)(b)**
- F51** 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

- M13** 1952 c. 52.
M14 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) [^{F52}£198.45] per week in the case of a claimant who has a partner;
(b) [^{F53}£130.00] 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.

Status: Point in time view as at 02/10/2009.

Changes to legislation: There are currently no known outstanding effects for the The State Pension Credit Regulations 2002. (See end of Document for details)

- (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, [^{F54}£52.85] per week if paragraph 1(1)(a), (b) or (c) of Part I of Schedule I is satisfied; or
 - (b) [^{F55}£105.70] 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 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); or
 - (c) except where paragraph (7) applies, in accordance with Schedule II (housing costs).
- (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 [^{F56}£29.50] 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 ^{M15} or, as the case may be, detained pending sentence upon conviction.

Textual Amendments

- F52** Word in [reg. 6\(1\)\(a\)](#) substituted (with effect in accordance with art. 1(2)(k) (3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), arts. 1(2)(k), **26(2)(a)**
- F53** Word in [reg. 6\(1\)\(b\)](#) substituted (with effect in accordance with art. 1(2)(k) (3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), arts. 1(2)(k), **26(2)(b)**
- F54** Word in [reg. 6\(5\)\(a\)](#) substituted (with effect in accordance with art. 1(2)(k) (3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), arts. 1(2)(k), **26(2)(c)**
- F55** Word in [reg. 6\(5\)\(b\)](#) substituted (with effect in accordance with art. 1(2)(k) (3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), arts. 1(2)(k), **26(2)(d)**
- F56** Word in [reg. 6\(8\)](#) substituted (with effect in accordance with art. 1(2)(k) (3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), arts. 1(2)(k), **26(2)(e)**

Modifications etc. (not altering text)

- C2** Reg. 6(1)(a) sum confirmed (7.4.2003) by [The Social Security Benefits Up-rating Order 2003 \(S.I. 2003/526\)](#), arts. 1(2)(c), **25(2)(a)**
- C3** Reg. 6(1)(b) sum confirmed (7.4.2003) by [The Social Security Benefits Up-rating Order 2003 \(S.I. 2003/526\)](#), arts. 1(2)(c), **25(2)(b)**
- C4** Reg. 6(3)(a) modified (7.4.2003) by [The Social Security Benefits Up-rating Order 2003 \(S.I. 2003/526\)](#), arts. 1(2)(c), 25(6), **Sch. 16**
- C5** Reg. 6(3)(a) sum maintained (12.4.2004) by [The Social Security Benefits Up-rating Order 2004 \(S.I. 2004/552\)](#), arts. 1(2)(c), 26(6), **Sch. 20**
- C6** Reg. 6(3)(a)(b) sums maintained (11.4.2005) by [The Social Security Benefits Up-rating Order 2005 \(S.I. 2005/522\)](#), arts. 1(2)(c), 26(6), **Sch. 20**
- C7** Reg. 6(3)(a) modified (10.4.2006) by [The Social Security Benefits Up-rating Order 2006 \(S.I. 2006/645\)](#), arts. 1(2)(d), 26(6), **Sch. 20**
- C8** Reg. 6(3)(a) modified (for specified purposes and with effect in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(l), 26(6), **Sch. 20**
- C9** Reg. 6(3)(a) modified (with effect in accordance with art. 1(2)(k) (3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), arts. 1(2)(k), 26(6), **Sch. 17**
- C10** Reg. 6(3)(b) modified (7.4.2003) by [The Social Security Benefits Up-rating Order 2003 \(S.I. 2003/526\)](#), arts. 1(2)(c), 25(6), **Sch. 16**
- C11** Reg. 6(3)(b) sum maintained (12.4.2004) by [The Social Security Benefits Up-rating Order 2004 \(S.I. 2004/552\)](#), arts. 1(2)(c), 26(6), **Sch. 20**
- C12** Reg. 6(3)(b) modified (10.4.2006) by [The Social Security Benefits Up-rating Order 2006 \(S.I. 2006/645\)](#), arts. 1(2)(d), 26(6), **Sch. 20**
- C13** Reg. 6(3)(b) modified (for specified purposes and with effect in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(l), 26(6), **Sch. 20**
- C14** Reg. 6(3)(b) modified (with effect in accordance with art. 1(2)(k) (3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), arts. 1(2)(k), 26(6), **Sch. 17**
- C15** Reg. 6(5)(a) sum confirmed (7.4.2003) by [The Social Security Benefits Up-rating Order 2003 \(S.I. 2003/526\)](#), arts. 1(2)(c), **25(2)(c)**
- C16** Reg. 6(5)(b) sum confirmed (7.4.2003) by [The Social Security Benefits Up-rating Order 2003 \(S.I. 2003/526\)](#), arts. 1(2)(c), **25(2)(d)**
- C17** Reg. 6(8) sum confirmed (7.4.2003) by [The Social Security Benefits Up-rating Order 2003 \(S.I. 2003/526\)](#), arts. 1(2)(c), **25(2)(e)**

Marginal Citations

- M15** 1993 c. 47.

Savings Credit

- 7.—(1) The percentage prescribed for the purposes of determining—
- the maximum savings credit is 60 per cent.;
 - “amount A” in section 3(4) is 60 per cent.;
 - “amount B” in section 3(4) is 40 per cent.
- (2) The amount prescribed for the savings credit threshold is [^{F57}£96.00] for a claimant who has no partner and [^{F57}£153.40] for a claimant who has a partner.
- (3) The maximum savings credit shall be taken to be Nil in the case of—
- prisoners; and

Status: Point in time view as at 02/10/2009.

Changes to legislation: There are currently no known outstanding effects for the The State Pension Credit Regulations 2002. (See end of Document for details)

(b) members of religious orders who are fully maintained by their order.

[^{F58}(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

- F57** Word in [reg. 7\(2\)](#) substituted (with effect in accordance with art. 1(2)(k) (3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), arts. 1(2)(k), **26(3)(b)**
- F58** 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)

- C18** Reg. 7(1)(a)(b)(c) sums confirmed (7.4.2003) by [The Social Security Benefits Up-rating Order 2003 \(S.I. 2003/526\)](#), arts. 1(2)(c), **25(3)(a)**
- C19** Reg. 7(1)(a)(b)(c) sums maintained (12.4.2004) by [The Social Security Benefits Up-rating Order 2004 \(S.I. 2004/552\)](#), arts. 1(2)(c), **26(3)(a)**
- C20** Reg. 7(1)(a)(b)(c) sums maintained (11.4.2005) by [The Social Security Benefits Up-rating Order 2005 \(S.I. 2005/522\)](#), arts. 1(2)(c), **26(3)(a)**
- C21** Reg. 7(1)(a) sum confirmed (10.4.2006) by [The Social Security Benefits Up-rating Order 2006 \(S.I. 2006/645\)](#), arts. 1(2)(d), **26(3)(a)**
- C22** Reg. 7(1)(a) sum confirmed (for specified purposes and with effect in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(l), **26(3)(a)**
- C23** Reg. 7(1)(a) sum confirmed (for specified purposes and with effect in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(l), **26(3)(a)**
- C24** Reg. 7(1)(a)-(c) sum confirmed (with effect in accordance with art. 1(2)(k) (3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), arts. 1(2)(k), **26(3)(a)**
- C25** Reg. 7(1)(b) sum confirmed (10.4.2006) by [The Social Security Benefits Up-rating Order 2006 \(S.I. 2006/645\)](#), arts. 1(2)(d), **26(3)(a)**
- C26** Reg. 7(1)(b) sum confirmed (for specified purposes and with effect in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(l), **26(3)(a)**
- C27** Reg. 7(1)(b) sum confirmed (for specified purposes and with effect in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(l), **26(3)(a)**
- C28** Reg. 7(1)(c) sum confirmed (10.4.2006) by [The Social Security Benefits Up-rating Order 2006 \(S.I. 2006/645\)](#), arts. 1(2)(d), **26(3)(a)**
- C29** Reg. 7(1)(c) sum confirmed (for specified purposes and with effect in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(l), **26(3)(a)**
- C30** Reg. 7(1)(c) sum confirmed (for specified purposes and with effect in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(l), **26(3)(a)**
- C31** Reg. 7(3) modified (7.4.2003) by [The Social Security Benefits Up-rating Order 2003 \(S.I. 2003/526\)](#), arts. 1(2)(c), 25(6), **Sch. 16**
- C32** Reg. 7(3) sum maintained (12.4.2004) by [The Social Security Benefits Up-rating Order 2004 \(S.I. 2004/552\)](#), arts. 1(2)(c), 26(6), **Sch. 20**
- C33** Reg. 7(3) sum maintained (11.4.2005) by [The Social Security Benefits Up-rating Order 2005 \(S.I. 2005/522\)](#), arts. 1(2)(c), 26(6), **Sch. 20**

- C34** Reg. 7(3) modified (10.4.2006) by [The Social Security Benefits Up-rating Order 2006 \(S.I. 2006/645\)](#), arts. 1(2)(d), 26(6), **Sch. 20**
- C35** Reg. 7(3) modified (for specified purposes and with effect in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(l), 26(6), **Sch. 20**
- C36** Reg. 7(3) modified (with effect in accordance with art. 1(2)(k) (3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), arts. 1(2)(k), 26(6), **Sch. 17**

Special groups

8. Schedule III shall have effect in the case of members of polygamous marriages and patients.

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 within the meaning of section 1(4) of the Jobseekers Act 1995^{M16};
- (d) severe disablement allowance;
- (e) maternity allowance;
- (f) payments referred to in regulation 15(5)(d) (maintenance payments).
- [^{F59}(g) contributory employment and support allowance.]

Textual Amendments

- F59** [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)**

Marginal Citations

- M16** 1995 c. 18.

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.
- [^{F60}(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
 - (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.]

Status: Point in time view as at 02/10/2009.

*Changes to legislation: There are currently no known outstanding effects for the
The State Pension Credit Regulations 2002. (See end of Document for details)*

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

- [^{F61}(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.

[^{F62}(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^{F63}...; 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—

- [^{F64}(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 [^{F65}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.

^{F66}(8)

Textual Amendments

- F60** 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)**
- F61** 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)**
- F62** 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)**
- F63** 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)**
- F64** 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)**
- F65** 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)**
- F66** 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. 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.

End of assessed income period

12. An assessed income period shall end at such time as—
- (a) the claimant no longer satisfies a condition of entitlement to state pension credit;
 - (b) 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^{M17};
 - (c) a claimant who has no partner is provided with accommodation in a care home [^{F67}or an independent hospital] other than on a temporary basis.

Textual Amendments

- F67** Words in reg. 12(c) inserted (24.10.2005) by [The Social Security \(Care Homes and Independent Hospitals\) Regulations 2005 \(S.I. 2005/2687\)](#), reg. 1, **Sch. 5 para. 3**

Status: Point in time view as at 02/10/2009.

*Changes to legislation: There are currently no known outstanding effects for the
The State Pension Credit Regulations 2002. (See end of Document for details)*

Marginal Citations

M17 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.

[^{F68}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 income support^[F69], 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.

(2) For the purpose of determining the amount of the guarantee credit payable in respect of the part-week, no regard shall be had to any income of the claimant and his partner.

(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, taking into account the requirements of paragraph (2), 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,

any fraction of a penny being rounded up to the nearest penny.

Textual Amendments

F68 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)**

F69 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)**

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 within the meaning of section 1(4) of the Jobseekers Act 1995.

[contributory employment and support allowance.]

^{F70}(e)

(2) All benefits except those mentioned in paragraph (1) shall be treated as paid on the first day of the benefit week in ^{F71}... which the benefit is payable.]

Textual Amendments

- F68** 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)**
- F70** 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)**
- F71** Words in reg. 13B(2) omitted (6.10.2003) by virtue of [The State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) \(No. 2\) Regulations 2002 \(S.I. 2002/3197\)](#), reg. 1(1)(b), **Sch. para. 3**

PART III

Income

Calculation of income and capital

- 14.** The income and capital of—
- (a) the claimant; and
 - (b) any partner of the claimant,

shall be calculated in accordance with the rules set out in this Part; and any reference in this Part to the claimant shall apply equally to any partner of the claimant.

Income for the purposes of the Act

15.—(1) For the purposes of section 15(1)(e) (income), all social security benefits are prescribed except—

- (a) disability living allowance;
- (b) attendance allowance payable under section 64 of the 1992 Act;
- (c) an increase of disablement pension under section 104 or 105 of the 1992 Act;
- (d) a payment under regulations made in exercise of the power conferred by paragraph 7(2)(b) of Part II of Schedule 8 to the 1992 Act^{M18};
- (e) an increase of an allowance payable in respect of constant attendance under paragraph 4 of Part I of Schedule 8 to the 1992 Act;
- (f) any child special allowance payable under section 56 of the 1992 Act;
- (g) any guardian's allowance payable under section 77 of the 1992 Act;
- (h) any increase for a dependant, other than the claimant's partner, payable in accordance with Part IV of the 1992 Act;
- (i) any social fund payment made under Part VIII of the 1992 Act;
- (j) child benefit payable in accordance with Part IX of the 1992 Act;
- (k) Christmas bonus payable under Part X of the 1992 Act;
- [^{F72}(l) housing benefit;
- (m) council tax benefit;
- (n) bereavement payment;
- (o) statutory sick pay;

Status: Point in time view as at 02/10/2009.

Changes to legislation: There are currently no known outstanding effects for the State Pension Credit Regulations 2002. (See end of Document for details)

- (p) statutory maternity pay;
 - (q) statutory paternity pay payable under Part 12ZA of the 1992 Act;
 - (r) statutory adoption pay payable under Part 12ZB of the 1992 Act;
 - (s) any benefit similar to those mentioned in the preceding provisions of this paragraph payable under legislation having effect in Northern Ireland.]
- (2) For the purposes of section 15(1)(f) (foreign social security benefits), income includes all foreign social security benefits which are similar to the social security benefits prescribed under paragraph (1).
- (3) Where the payment of any social security benefit prescribed under paragraph (1) is subject to any deduction (other than an adjustment specified in paragraph (4)) the amount to be taken into account under paragraph (1) shall be the amount before the deduction is made.
- (4) The adjustments specified in this paragraph are those made in accordance with—
- (a) the Social Security (Overlapping Benefits) Regulations 1979^{M19};
 - [^{F73}(b) regulation 2 of the Social Security (Hospital In-Patients) Regulations 2005;]
 - (c) section 30DD or section 30E of the 1992 Act^{M20} (reductions in incapacity benefit in respect of pensions and councillor’s allowances).
 - [^{F74}(d) section 3 of the Welfare Reform Act (deductions from contributory allowance).]
- (5) For the purposes of section 15(1)(j) (income to include income of prescribed descriptions), income of the following descriptions is prescribed—
- [^{F75}(a) a payment made—
 - (i) under article 30 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006, in any case where article 30(1)(b) applies; or
 - (ii) under article 12(8) of that Order, in any case where sub-paragraph (b) of that article applies;]
 - [^{F76}(aa) a guaranteed income payment;
 - (ab) a payment made under article 21(1)(c) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005^{F77}, in any case where article 23(2)(c) applies;]
 - [^{F78}(ac) any retired pay, pension or allowance granted in respect of disablement or any pension or allowance granted to a widow, widower or surviving civil partner in respect of a death due to service or war injury under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003, where such payment does not fall within paragraph (a) of the definition of “war disablement pension” in section 17(1) of the State Pension Credit Act 2002 or, in respect of any retired pay or pension granted in respect of disablement, where such payment does not fall within paragraph (b) of that definition;]
 - (b) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria;
 - (c) payments under a scheme made under the Pneumoconiosis etc. (Worker’s Compensation) Act 1979^{M21};
 - (d) payments made towards the maintenance of the claimant by his spouse^{F79}, civil partner, former spouse or former civil partner] or towards the maintenance of the claimant’s partner by his spouse^{F79}, civil partner, former spouse or former civil partner], including payments made—
 - (i) under a court order;

- (ii) under an agreement for maintenance; or
 - (iii) voluntarily;
 - (e) payments due from any person in respect of board and lodging accommodation provided by the claimant^{F80} ...;
 - [^{F81}(f) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark;]
 - [^{F82}(g) any payment in respect of any—
 - (i) book registered under the Public Lending Right Scheme 1982; or
 - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982;]
 - [^{F83}(h) any income in lieu of that specified in—
 - (i) paragraphs (a) to (i) of section 15(1) of the Act, or
 - (ii) in this regulation;
 - (i) any payment of rent made to a claimant who—
 - (i) owns the freehold or leasehold interest in any property or is a tenant of any property;
 - (ii) occupies part of that property; and
 - (iii) has an agreement with another person allowing that person to occupy that property on payment of rent.]
 - [^{F84}(j) any payment made at regular intervals under an equity release scheme.]
 - [^{F85}(k) PPF periodic payments.]
- (6) For the purposes of section 15(2), a claimant's capital, other than capital disregarded under Schedule V, shall be deemed to yield a weekly income—
- (a) in the case of a claimant residing permanently in accommodation to which paragraph (7) applies, of £1 for each £500 in excess of £10,000 and £1 for any excess which is not a complete £500;
 - (b) in any other case, of £1 for each £500 in excess of £6,000 and £1 for any excess which is not a complete £500.
- (7) This paragraph applies to accommodation provided—
- (a) in a care home;
 - (b) in an establishment run by the Abbeyfield Society (including all bodies corporate or incorporate which are affiliated to the Society);
 - (c) under section 3 of, and Part II of the Schedule to, the Polish Resettlement Act 1947^{M22} (provision of accommodation) where the claimant requires personal care;
 - [^{F86}(d) in an independent hospital;]
- (8) For the purposes of paragraph (6), a person shall be treated as residing permanently in the accommodation—
- (a) except where sub-paragraph (b) applies, notwithstanding that he is absent from it for a period not exceeding 52 weeks;
 - (b) if it is accommodation to which paragraph (7)(c) applies—
 - (i) notwithstanding that he is absent from it for a period not exceeding 13 weeks; and
 - (ii) if he, with the agreement of the manager of the home, intends to return to it in due course.

Status: Point in time view as at 02/10/2009.

Changes to legislation: There are currently no known outstanding effects for the The State Pension Credit Regulations 2002. (See end of Document for details)

Textual Amendments

- F72** Reg. 15(1)(l)-(s) substituted for reg. 15(1)(l) (6.10.2003) by [The State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) Regulations 2002](#) (S.I. 2002/3019), regs. 1(2)(b), **23(g)**
- F73** Reg. 15(4)(b) substituted (10.4.2006) by [The Social Security \(Hospital In-Patients\) Regulations 2005](#) (S.I. 2005/3360), regs. 1(a), **8(3)**
- F74** Reg. 15(4)(d) 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(6)**
- F75** Reg. 15(5)(a) substituted (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008](#) (S.I. 2008/3157), regs. 1(2), **4(3)(a)**
- F76** Reg. 15(5)(aa)(ab) inserted (4.4.2005) by [The Social Security \(Miscellaneous Amendments\) Regulations 2005](#) (S.I. 2005/574), regs. 1(1), **2(2)**
- F77** Words in reg. 15(5)(ab) substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008](#) (S.I. 2008/3157), regs. 1(1), **4(3)(b)**
- F78** Reg. 15(5)(ac) inserted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008](#) (S.I. 2008/3157), regs. 1(1), **4(3)(c)**
- F79** Words in reg. 15(5)(d) substituted (5.12.2005) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005](#) (S.I. 2005/2877), art. 1, **Sch. 3 para. 35(3)** (with art. 3)
- F80** Words in reg. 15(5)(e) omitted (3.10.2005) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2005](#) (S.I. 2005/2465), regs. 1(2), **6(3)**
- F81** Reg. 15(5)(f) substituted (for specified purposes and with effect in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Miscellaneous Amendments\) Regulations 2009](#) (S.I. 2009/583), **reg. 5(2)(a)**
- F82** Reg. 15(5)(g) substituted (for specified purposes and with effect in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Miscellaneous Amendments\) Regulations 2009](#) (S.I. 2009/583), **reg. 5(2)(b)**
- F83** Reg. 15(5)(h)(i) added (6.10.2003) by [The State Pension Credit \(Transitional and Miscellaneous Provisions\) Amendment Regulations 2003](#) (S.I. 2003/2274), regs. 1, **2(7)(b)**
- F84** Reg. 15(5)(j) added (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(3)**
- F85** Reg. 15(5)(k) added (6.4.2006) by [The Social Security \(Miscellaneous Amendments\) Regulations 2006](#) (S.I. 2006/588), regs. 1(2), **4(2)**
- F86** Reg. 15(7)(d) substituted (24.10.2005) by [The Social Security \(Care Homes and Independent Hospitals\) Regulations 2005](#) (S.I. 2005/2687), reg. 1, **Sch. 5 para. 4**

Marginal Citations

- M18** See in particular paragraph 7(2)(b) of Schedule 8.
- M19** [S.I. 1979/597](#).
- M20** Sections 30DD and 30E were inserted by section 3(1) of the [Social Security \(Incapacity for Work\) Act 1994](#) (c. 18).
- M21** 1979 c. 41; amended by section 24 of the [Social Security Act 1985](#) (c. 53).
- M22** 1947 c. 19.

Retirement pension income

16. There shall be added to the descriptions of income listed in section 16(1) (retirement pension income) the following [^{F87}paragraphs]—

“(k) any sum payable by way of pension out of money provided under the Civil List Act 1837^{M23}, the Civil List Act 1937^{M24}, the Civil List Act 1952^{M25}, the Civil List Act 1972^{M26} or the [^{F88}Civil List Act 1975]^{M27}[^{F89};

(1) 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.]

[^{F90}(m) any payment made at regular intervals under an equity release scheme.]

[^{F91}(n) any payment made under the Financial Assistance Scheme Regulations 2005.”]

Textual Amendments

- F87** Word in reg. 16 substituted (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. 4(a)**
- F88** Words in reg. 16 substituted (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. 4(b)**
- F89** Words in reg. 16 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. 4(c)**
- F90** Words in reg. 16 added (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)**
- F91** Words in reg. 16 added (18.12.2005) by [The State Pension Credit \(Amendment\) Regulations 2005 \(S.I. 2005/3205\)](#), regs. 1, **2(3)**

Marginal Citations

- M23** 1837 c. 2.
M24 1937 c. 32.
M25 1952 c. 37.
M26 1972 c. 7.
M27 1975 c. 82.

Calculation of weekly income

17.—(1) Except where paragraph (2) and (4) apply, for the purposes of calculating the weekly income of the claimant, where the period in respect of which a payment is made—

- (a) does not exceed a week, the whole of that payment shall be included in the claimant’s weekly income;
- (b) exceeds a week, the amount to be included in the claimant’s weekly income shall be determined—
- (i) in a case where that period is a month, by multiplying the amount of the payment by 12 and dividing the product by 52;
- (ii) in a case where that period is three months, by multiplying the amount of the payment by 4 and dividing the product by 52;
- (iii) in a case where that period is a year, by dividing the amount of the payment by 52;
- (iv) in any other case, by multiplying the amount of the payment by 7 and dividing the product by the number of days in the period in respect of which it is made.

(2) Where—

- (a) the claimant’s regular pattern of work is such that he does not work the same hours every week; or

Status: Point in time view as at 02/10/2009.

Changes to legislation: There are currently no known outstanding effects for the The State Pension Credit Regulations 2002. (See end of Document for details)

- (b) the amount of the claimant's income fluctuates and has changed more than once, the weekly amount of that claimant's income shall be determined—
- (i) if, in a case to which sub-paragraph (a) applies, there is a recognised cycle of work, by reference to his average weekly income over the period of the complete cycle (including, where the cycle involves periods in which the claimant does no work, those periods but disregarding any other absences); or
 - (ii) in any other case, on the basis of—
 - (aa) the last two payments if those payments are one month or more apart;
 - (bb) the last four payments if the last two payments are less than one month apart; or
 - (cc) such other payments as may, in the particular circumstances of the case, enable the claimant's average weekly income to be determined more accurately.
- (3) For the purposes of paragraph (2)(b) the last payments are the last payments before the date the claim was made or treated as made or, if there is a subsequent supersession under section 10 of the Social Security Act 1998 ^{M28}, the last payments before the date of the supersession.
- (4) If a claimant is entitled to receive a payment to which paragraph (5) applies, the amount of that payment shall be treated as if made in respect of a period of a year.
- (5) This paragraph applies to—
- [^{F92}(a) royalties or other sums received as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark;]
 - [^{F93}(b) any payment in respect of any—
 - (i) book registered under the Public Lending Right Scheme 1982; or
 - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982;]
 - (c) any payment which is made on an occasional basis.
- (6) Where payments are made in a currency other than Sterling, the value of the payment shall be determined by taking the Sterling equivalent on the date the payment is made.
- (7) Income specified in Schedule IV is to be disregarded in the calculation of a claimant's income.
- (8) Schedule V shall have effect so that—
- (a) the capital specified in Part I shall be disregarded for the purpose of determining a claimant's income; and
 - (b) the capital specified in Part II shall be disregarded for the purpose of determining a claimant's income under regulation 15(6).
- [^{F94}(9) The sums specified in Schedule VI shall be disregarded in calculating—
- (a) the claimant's earnings; and
 - (b) [^{F95}any amount to which paragraph (5) applies where the claimant is the first owner of the copyright, design, patent or trademark, or an original contributor to the book or work referred to in paragraph (5)(b).]
- (9A) For the purposes of paragraph (9)(b), and for that purpose only, the amounts specified in paragraph (5) shall be treated as though they were earnings.]
- (10) [^{F96}Subject to regulation [^{F97}17B(6)] (deduction of tax and contributions for self-employed earners),] in the case of any income taken into account for the purpose of calculating a person's income, there shall be disregarded—
- (a) any amount payable by way of tax;

- (b) any amount deducted by way of National Insurance Contributions under the 1992 Act or under the Social Security Contributions and Benefits (Northern Ireland) Act 1992^{M29};

^{F98}(c)

[^{F99}(11) In the case of the earnings of self-employed earners, the amounts specified in paragraph (10) shall be taken into account in accordance with paragraph (4) or, as the case may be, paragraph (10) of regulation 13 of the Computation of Earnings Regulations, as having effect in the case of state pension credit.]

Textual Amendments

- F92** Reg. 17(5)(a) substituted (for specified purposes and with effect in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/583\)](#), **reg. 5(3)(a)**
- F93** Reg. 17(5)(b) substituted (for specified purposes and with effect in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/583\)](#), **reg. 5(3)(b)**
- F94** Reg. 17(9)(9A) substituted for reg. 17(9) (6.10.2003) by [The State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) Regulations 2002 \(S.I. 2002/3019\)](#), regs. 1(2)(b), **23(h)(ii)**
- F95** Reg. 17(9)(b) substituted (for specified purposes and with effect in accordance with reg. 1(4) of the amending S.I.) by [The Social Security \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/583\)](#), **reg. 5(3)(c)**
- F96** Words in reg. 17(10) 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(h)(iii)**
- F97** Word in reg. 17(10) substituted (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. 5**
- F98** Reg. 17(10)(c) omitted (6.10.2003) by virtue of [The State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) \(No. 2\) Regulations 2002 \(S.I. 2002/3197\)](#), reg. 1(1)(b), **Sch. para. 5**
- F99** Reg. 17(11) 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(h)(iv)**

Marginal Citations

- M28** 1998 c. 14.
- M29** 1992 c. 7.

[^{F100}Treatment of final payments of income

- 17ZA.**—(1) Save where regulation 13B applies, this regulation applies where—
- (a) a claimant has been receiving a regular payment of income;
 - (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

Status: Point in time view as at 02/10/2009.

Changes to legislation: There are currently no known outstanding effects for the The State Pension Credit Regulations 2002. (See end of Document for details)

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).]

Textual Amendments

F100 Reg. 17ZA inserted (5.4.2004) by [The State Pension Credit \(Miscellaneous Amendments\) Regulations 2004 \(S.I. 2004/647\)](#), regs. 1, **3(4)**

[^{F101}Earnings of an employed earner

17A.—(1) For the purposes of state pension credit, the provisions of this regulation which relate to the earnings of employed earners, shall have effect in place of those prescribed for such earners in the Computation of Earnings Regulations.

(2) Subject to paragraphs [^{F102}(3), (4) and (4A)], “earnings” in the case of employment as an employed earner, means any remuneration or profit derived from that employment and includes—

- (a) any bonus or commission;
- (b) any payment in lieu of remuneration except any periodic sum paid to a claimant on account of the termination of his employment by reason of redundancy;
- (c) any payment in lieu of notice;
- (d) any holiday pay;
- (e) any payment by way of a retainer;
- (f) any payment made by the claimant’s employer in respect of expenses not wholly, exclusively and necessarily incurred in the performance of the duties of the employment, including any payment made by the claimant’s employer in respect of—
 - (i) travelling expenses incurred by the claimant between his home and place of employment;
 - (ii) expenses incurred by the claimant under arrangements made for the care of a member of his family owing to the claimant’s absence from home;
- (g) the amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person’s earnings in accordance with Part V of Schedule 3 to the Social Security (Contributions) Regulations 2001;
- (h) statutory sick pay and statutory maternity pay payable by the employer under the 1992 Act;
- (i) statutory paternity pay payable under Part 12ZA of the 1992 Act;
- (j) statutory adoption pay payable under Part 12ZB of the 1992 Act;

- (k) any sums payable under a contract of service—
- (i) for incapacity for work due to sickness or injury; or
 - (ii) by reason of pregnancy or confinement.
- (3) “Earnings” shall not include—
- (a) subject to paragraph (4), any payment in kind;
 - (b) any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
 - (c) any occupational pension;
 - (d) any lump sum payment made under the Iron and Steel Re-adaptation Benefits Scheme^{F103};
 - (e) any payment of compensation made pursuant to an award by an employment tribunal in respect of unfair dismissal or unlawful discrimination]
 - ^{F104}(f) [any payment in respect of expenses arising out of the claimant’s participation in a service user group.]
- (4) Paragraph (3)(a) shall not apply in respect of any non-cash voucher referred to in paragraph (2)(g).
- [^{F105}(4A) One half of any sum paid by a claimant by way of a contribution towards an occupational pension scheme or a personal pension scheme shall, for the purpose of calculating his earnings in accordance with this regulation, be disregarded.]
- (5) In this regulation “employed earner” means a person who is gainfully employed in Great Britain either under a contract of service, or in an office (including elective office) with emoluments chargeable to income tax under Schedule E.

Textual Amendments

- F101** Reg. 17A - Reg. 17B 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(i)**
- F102** Words in reg. 17A(2) substituted (6.10.2003) by [The State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) \(No. 2\) Regulations 2002 \(S.I. 2002/3197\)](#), regs. 1(1)(b), **3(1)(a)**
- F103** Reg. 17A(3)(e) added (6.10.2003) by [The State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) \(No. 2\) Regulations 2002 \(S.I. 2002/3197\)](#), regs. 1(1)(b), **3(1)(b)**
- F104** Reg. 17A(3)(f) added (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Miscellaneous Amendments\) \(No. 4\) Regulations 2009 \(S.I. 2009/2655\)](#), regs. 1(2)(c), **5(3)**
- F105** Reg. 17A(4A) inserted (6.10.2003) by [The State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) \(No. 2\) Regulations 2002 \(S.I. 2002/3197\)](#), regs. 1(1)(b), **3(1)(c)**

Earnings of self-employed earners

17B.—(1) For the purposes of state pension credit, the provisions of the Computation of Earnings Regulations in their application to the earnings of self-employed earners, shall have effect in so far as provided by this regulation.

(2) In their application to state pension credit, regulations 11 to 14 of the Computation of Earnings Regulations shall have effect as if—

- [“board and lodging accommodation” has the same meaning as in ^{F107}regulation 1(2);]
- ^{F106}(za)

Status: Point in time view as at 02/10/2009.

*Changes to legislation: There are currently no known outstanding effects for the
The State Pension Credit Regulations 2002. (See end of Document for details)*

- (a) “claimant” referred to a person claiming state pension credit and any partner of the claimant;
- (b) “personal pension scheme” referred to a personal pension scheme—
 - (i) as defined in section 1 of the Pension Schemes Act 1993; or
 - (ii) as defined in section 1 of the Pension Schemes (Northern Ireland) Act 1993.
- (3) In regulation 11 (calculation of earnings of self-employed earners), paragraph (1) shall have effect, but as if the words “Except where paragraph (2) applies” were omitted.
- (4) In regulation 12 (earnings of self-employed earners)—
 - (a) paragraph (1) shall have effect;
 - (b) for paragraph (2), the following provision shall have effect—
- (“ Earnings does not include—
 - (a) where a claimant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation for which payment is made, those payments;
 - (b) any payment made by a local authority to a claimant—
 - (i) with whom a person is accommodated by virtue of arrangements made under section 23(2)(a) of the Children Act 1989 (provision of accommodation and maintenance for a child whom they are looking after) or, as the case may be, section 26(1) of the Children (Scotland) Act 1995; or
 - (ii) with whom a local authority foster a child under the Fostering of Children (Scotland) Regulations 1996;
 - (c) any payment made by a voluntary organisation in accordance with section 59(1)(a) of the Children Act 1989 (provision of accommodation by voluntary organisations);
 - (d) any payment made to the claimant or his partner for a person (“the person concerned”) who is not normally a member of the claimant’s household but is temporarily in his care, by—
 - (i) a health authority;
 - (ii) a local authority;
 - (iii) a voluntary organisation;
 - (iv) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948; ^{F108}...
 - (v) a primary care trust established under section 16A of the National Health Service Act [^{F109}1977 or established by an order made under section 18(2)(c) of the Health Service Act; or];
 - [a Local Health Board established under section 16BA of the National Health Service ^{F110}(vi) Act 1977 or established by an order made under section 11 of the Health Service (Wales) Act;]
 - (e) any sports award.”.
- (5) In regulation 13 (calculation of net profit of self-employed earners)—
 - (a) for paragraphs (1) to (3), the following provision shall have effect—
- (“ For the purposes of regulation 11 (calculation of earnings of self-employed earners), the earnings of a claimant to be taken into account shall be—
 - (a) in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;
 - (b) in the case of a self-employed earner whose employment is carried on in partnership, his share of the net profit derived from that employment less—

- (i) an amount in respect of income tax and of social security contributions payable under the Contributions and Benefits Act calculated in accordance with regulation 14 (deduction of tax and contributions for self-employed earners); and
 - (ii) one half of any premium paid in the period that is relevant under regulation 11 in respect of a retirement annuity contract or a personal pension scheme.”
- (b) paragraphs (4) to (12) shall have effect.
- (6) Regulation 14 (deduction of tax and contributions for self-employed earners) shall have effect.]

Textual Amendments

- F101** Reg. 17A - Reg. 17B 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(i)**
- F106** Reg. 17B(2)(za) inserted (6.10.2003) by [The State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) \(No. 2\) Regulations 2002 \(S.I. 2002/3197\)](#), regs. 1(1)(b), **3(2)(a)**
- F107** Words in reg. 17B(2)(za) substituted (3.10.2005) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2005 \(S.I. 2005/2465\)](#), regs. 1(2), **6(4)**
- F108** Word in reg. 17B(4)(b) omitted (5.1.2009) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **4(4)(a)**
- F109** Words in reg. 17B(4)(b) substituted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **4(4)(b)**
- F110** Words in reg. 17B(4)(b) inserted (5.1.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 7\) Regulations 2008 \(S.I. 2008/3157\)](#), regs. 1(1), **4(4)(c)**

Notional income

18.—^{F111}(1) A claimant who has attained the qualifying age shall be treated as possessing the amount of any retirement pension income—

- (a) to which section 16(1)(a) to (e) applies,
- (b) for which no claim has been made, and
- (c) to which the claimant might expect to be entitled if a claim for it were made,

but only from the date on which that income could be expected to be acquired if a claim for it were made.]

^{F112}(1A) Paragraph (1) is subject to paragraphs (1B) ^{F113}(1CA) and (1CB)].]

^{F114}(1B) Where a claimant—

- (a) has deferred entitlement to retirement pension income to which section 16(1)(a) to (c) applies for at least 12 months, and
- (b) would have been entitled to make an election under Schedule 5 or 5A to the 1992 Act or under Schedule 1 to the Graduated Retirement Benefit Regulations,

he shall be treated for the purposes of paragraph (1) as possessing the amount of retirement pension income to which he might expect to be entitled if he were to elect to receive a lump sum.]

^{F115}(1C) Paragraphs (1CA) and (1CB) apply for the purposes of paragraph (1) (or, where applicable, paragraph (1) read with paragraph (1B)).

(1CA) Where a benefit or allowance in payment in respect of the claimant would be adjusted under the Social Security (Overlapping Benefits) Regulations 1979 if the retirement pension income had been claimed, he shall be treated as possessing that income minus the benefit or allowance in payment.

Status: Point in time view as at 02/10/2009.

Changes to legislation: There are currently no known outstanding effects for the The State Pension Credit Regulations 2002. (See end of Document for details)

(1CB) Where a benefit or allowance in payment in respect of the claimant would require an adjustment to be made under the Social Security (Overlapping Benefits) Regulations 1979 to the amount of retirement pension income payable had it been claimed, he shall be treated as possessing that retirement pension income minus the adjustment which would be made to it.]

[^{F116}(1D) A claimant who has attained the qualifying age shall be treated as possessing income from an occupational pension scheme which he elected to defer, but only from the date on which it could be expected to be acquired if a claim for it were made.]

(2) Where a person, aged not less than 60, is a person entitled to money purchase benefits under an occupational pension scheme or a personal pension scheme, or is a party to, or a person deriving entitlement to a pension under, a retirement annuity contract, and—

- (a) he fails to purchase an annuity with the funds available in that scheme where—
 - (i) he defers, in whole or in part, the payment of any income which would have been payable to him by his pension fund holder;
 - (ii) he fails to take any necessary action to secure that the whole of any income which would be payable to him by his pension fund holder upon his applying for it, is so paid; or
 - (iii) income withdrawal is not available to him under that scheme; or
- (b) in the case of a retirement annuity contract, he fails to purchase an annuity with the funds available under that contract,

the amount of any income foregone shall be treated as possessed by him, but only from the date on which it could be expected to be acquired were an application for it to be made.

(3) The amount of any income foregone in a case to which either head (i) or (ii) of paragraph (2) (a) applies shall be the maximum amount of income which may be withdrawn from the fund.

(4) The amount of any income foregone in a case to which either head (iii) of paragraph (2) (a) or paragraph (2)(b) applies shall be the income that the claimant could have received without purchasing an annuity had the funds held under the relevant scheme or retirement annuity contract been held under a personal pension scheme or occupational pension scheme where income withdrawal was available and shall be determined in the manner specified in paragraph (3).

(5) In paragraph (2), “money purchase benefits” has the meaning it has in the Pensions Scheme Act 1993^{M30}.

(6) [^{F117}Subject to [^{F118}the following paragraphs],] a person shall be treated as possessing income of which he has deprived himself for the purpose of securing entitlement to state pension credit or increasing the amount of that benefit.

[^{F119}(7) Paragraph (6) shall not apply in respect of the amount of an increase of pension or benefit where a person, having made an election in favour of that increase of pension or benefit under Schedule 5 or 5A to the 1992 Act or under Schedule 1 to the Graduated Retirement Benefit Regulations, changes that election in accordance with regulations made under Schedule 5 or 5A to that Act in favour of a lump sum.

[^{F120}(7A) Paragraph (6) shall not apply in respect of any amount of income other than earnings, or earnings of an employed earner, arising out of the claimant’s participation in a service user group.]

(8) In paragraph (7), “lump sum” means a lump sum under Schedule 5 or 5A to the 1992 Act or under Schedule 1 to the Graduated Retirement Benefit Regulations.]

[^{F121}(9) For the purposes of paragraph (6), a person is not to be regarded as depriving himself of income where—

- (a) his rights to benefits under a registered pension scheme are extinguished and in consequence of this he receives a payment from the scheme, and
- (b) that payment is a trivial commutation lump sum within the meaning given by paragraph 7 of Schedule 29 to the Finance Act 2004.
- (10) In paragraph (9), "registered pension scheme" has the meaning given in section 150(2) of the Finance Act 2004.]

Textual Amendments

- F111** Reg. 18(1) substituted (2.10.2006) by The Social Security (Miscellaneous Amendments) (No. 4) Regulations 2006 (S.I. 2006/2378), regs. 1(3), **14(4)(a)**
- F112** Reg. 18(1A) inserted (2.10.2006) by The Social Security (Miscellaneous Amendments) (No. 4) Regulations 2006 (S.I. 2006/2378), regs. 1(3), **14(4)(a)**
- F113** Words in reg. 18(1A) substituted (1.10.2007) by The Social Security (Miscellaneous Amendments) (No. 5) Regulations 2007 (S.I. 2007/2618), regs. 1(1), **10(3)(a)**
- F114** Reg. 18(1B) inserted (2.10.2006) by The Social Security (Miscellaneous Amendments) (No. 4) Regulations 2006 (S.I. 2006/2378), regs. 1(3), **14(4)(a)**
- F115** Reg. 18(1C)(1CA)(1CB) substituted for reg. 18(1C) (1.10.2007) by The Social Security (Miscellaneous Amendments) (No. 5) Regulations 2007 (S.I. 2007/2618), regs. 1(1), **10(3)(b)**
- F116** Reg. 18(1D) inserted (2.10.2006) by The Social Security (Miscellaneous Amendments) (No. 4) Regulations 2006 (S.I. 2006/2378), regs. 1(3), **14(4)(a)**
- F117** Words in reg. 18(6) inserted (6.4.2006) by The Social Security (Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit) (Miscellaneous Provisions) Regulations 2005 (S.I. 2005/2677), regs. 1(1), **13(3)(a)**
- F118** Words in reg. 18(6) substituted (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by The Social Security (Miscellaneous Amendments) (No. 4) Regulations 2009 (S.I. 2009/2655), regs. 1(2)(c), **5(4)(a)**
- F119** Reg. 18(7)(8) added (6.4.2006) by The Social Security (Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit) (Miscellaneous Provisions) Regulations 2005 (S.I. 2005/2677), regs. 1(1), **13(3)(b)**
- F120** Reg. 18(7A) added (for specified purposes and with effect in accordance with reg. 1(2) of the amending S.I.) by The Social Security (Miscellaneous Amendments) (No. 4) Regulations 2009 (S.I. 2009/2655), regs. 1(2)(c), **5(4)(b)**
- F121** Reg. 18(9)(10) inserted (2.10.2006) by The Social Security (Miscellaneous Amendments) (No. 4) Regulations 2006 (S.I. 2006/2378), regs. 1(3), **14(4)(b)**

Marginal Citations

- M30** 1993 c. 48; see section 181(1) of that Act.

[^{F122} Calculation of capital in the United Kingdom

19. Capital which a claimant possesses in the United Kingdom shall be calculated at its current market or surrender value less—

- (a) where there would be expenses attributable to sale, 10 per cent; and
- (b) the amount of any encumbrance secured on it.]

Textual Amendments

- F122** Reg. 19 substituted (1.10.2007) by The Social Security (Miscellaneous Amendments) (No. 5) Regulations 2007 (S.I. 2007/2618), regs. 1(1), **10(4)**

Status: Point in time view as at 02/10/2009.

Changes to legislation: There are currently no known outstanding effects for the The State Pension Credit Regulations 2002. (See end of Document for details)

Calculation of capital outside the United Kingdom

20. Capital which a claimant possesses in a country outside the United Kingdom shall be calculated—

- (a) in a case where there is no prohibition in that country against the transfer to the United Kingdom of an amount equal to its current market or surrender value in that country, at that value;
- (b) in a case where there is such a prohibition, at the price which it would realise if sold in the United Kingdom to a willing buyer,

less, where there would be expenses attributable to sale, 10 per cent., and the amount of any encumbrance secured on it.

Notional capital

21.—^{F123}(1) A claimant shall be treated as possessing capital of which he has deprived himself for the purpose of securing entitlement to state pension credit or increasing the amount of that benefit except to the extent that the capital which he is treated as possessing is reduced in accordance with regulation 22 (diminishing notional capital rule).]

^{F124}(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.]

^{F125}(3) Where a claimant stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, he shall be treated as if he were such sole owner or partner and in such a case—

- (a) the value of his holding in that company shall, notwithstanding regulation 19 (calculation of capital), be disregarded; and
- (b) he shall, subject to paragraph (4), be treated as possessing an amount of capital equal to the value or, as the case may be, his share of the value of the capital of that company and the foregoing provisions of this Chapter shall apply for the purposes of calculating that amount as if it were actual capital which he does possess.

(4) For so long as a claimant undertakes activities in the course of the business of the company, the amount which he is treated as possessing under paragraph (3) shall be disregarded.

(5) Where under this regulation a person is treated as possessing capital, the amount of that capital shall be calculated in accordance with the provisions of this Part as if it were actual capital which he does possess.]

Textual Amendments

F123 Reg. 21(1) substituted (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. 6**

F124 Reg. 21(2) substituted (5.4.2004) by [The State Pension Credit \(Miscellaneous Amendments\) Regulations 2004 \(S.I. 2004/647\)](#), regs. 1, **3(5)**

F125 Reg. 21(3)-(5) 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(j)**

Diminishing notional capital rule

22.—(1) Where a claimant is treated as possessing capital under regulation 21(1) (notional capital), the amount which he is treated as possessing—

- (a) in the case of a week that is subsequent to—
 - (i) the relevant week in respect of which the conditions set out in paragraph (2) are satisfied, or
 - (ii) a week which follows that relevant week and which satisfies those conditions, shall be reduced by an amount determined under paragraph (2);
- (b) in the case of a week in respect of which sub-paragraph (1)(a) does not apply but where—
 - (i) that week is a week subsequent to the relevant week, and
 - (ii) that relevant week is a week in which the condition in paragraph (3) is satisfied, shall be reduced by the amount determined under paragraph (3).

(2) This paragraph applies to a benefit week where the claimant satisfies the conditions that—

- (a) he is in receipt of state pension credit; and
- (b) but for regulation [F¹²⁶21(1)], he would have received an additional amount of state pension credit in that benefit week;

and in such a case, the amount of the reduction for the purposes of paragraph (1)(a) shall be equal to that additional amount.

(3) Subject to paragraph (4), for the purposes of paragraph (1)(b) the condition is that the claimant would have been entitled to state pension credit in the relevant week, but for regulation [F¹²⁶21(1)], and in such a case the amount of the reduction shall be equal to the aggregate of—

- (a) the amount of state pension credit to which the claimant would have been entitled in the relevant week but for regulation [F¹²⁶21(1)];
- (b) the amount of housing benefit (if any) equal to the difference between his maximum housing benefit and the amount (if any) of housing benefit which he is awarded in respect of the benefit week, within the meaning of regulation 2(1) of the Housing Benefit (General) Regulations 1987 ^{M31} (interpretation), which includes the last day of the relevant week;
- (c) the amount of council tax benefit (if any) equal to the difference between his maximum council tax benefit and the amount (if any) of council tax benefit which he is awarded in respect of the benefit week which includes the last day of the relevant week, and for this purpose “benefit week” has the same meaning as in regulation 2(1) of the Council Tax Benefit (General) Regulations 1992 ^{M32}(interpretation).

(4) The amount determined under paragraph (3) shall be re-determined under that paragraph if the claimant makes a further claim for state pension credit and the conditions in paragraph (5) are satisfied, and in such a case—

- (a) sub-paragraphs (a) to (c) of paragraph (3) shall apply as if for the words “relevant week” there were substituted the words “relevant subsequent week”; and
- (b) subject to paragraph (6), the amount as re-determined shall have effect from the first week following the relevant subsequent week in question.

(5) The conditions are that—

- (a) a further claim is made 26 or more weeks after—
 - (i) the date on which the claimant made a claim for state pension credit in respect of which he was first treated as possessing the capital in question under regulation [F¹²⁶21(1)]; or

Status: Point in time view as at 02/10/2009.

Changes to legislation: There are currently no known outstanding effects for the State Pension Credit Regulations 2002. (See end of Document for details)

- (ii) in a case where there has been at least one re-determination in accordance with paragraph (4), the date on which he last made a claim for state pension credit which resulted in the weekly amount being re-determined; or
 - (iii) the date on which he last ceased to be in receipt of state pension credit, whichever last occurred; and
 - (b) the claimant would have been entitled to state pension credit but for regulation [F12621(1)].
- (6) The amount as re-determined pursuant to paragraph (4) shall not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount shall continue to have effect.
- (7) For the purpose of this regulation—
- (a) “relevant week” means the benefit week in which the capital in question of which the claimant has deprived himself within the meaning of regulation [F12621(1)]—
 - (i) was first taken into account for the purpose of determining his entitlement to state pension credit; or
 - (ii) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to state pension credit on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, state pension credit;
 and where more than one benefit week is identified by reference to heads (i) and (ii) of this sub-paragraph the later or latest such benefit week;
 - (b) “relevant subsequent week” means the benefit week which includes the day on which the further claim or, if more than one further claim had been made, the last such claim was made.

Textual Amendments

F126 Word in reg. 22 substituted (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. 7](#)

Marginal Citations

M31 [S.I.1987/1971](#).
M32 [S.I. 1992/1814](#).

Capital jointly held

23. Where a claimant and one or more persons are beneficially entitled in possession to any capital asset they shall be treated as if each of them were entitled in possession to the whole beneficial interest therein in an equal share and the foregoing provisions of this Part shall apply for the purposes of calculating the amount of capital which the claimant is treated as possessing as if it were actual capital which the claimant does possess.

Income paid to third parties

24.—(1) Any payment of income, other than a payment specified in paragraph (2), to a third party in respect of the claimant shall be treated as possessed by the claimant.

(2) Paragraph (1) shall not apply in respect of a payment of income made under an occupational pension scheme or in respect of a pension or other periodical payment made under a personal pension scheme where—

- (a) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, to Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person's estate under section 41 of the Solicitors (Scotland) Act 1980 ^{M33};
- (b) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
- (c) the person referred to in sub-paragraph (a) and his partner does not possess, or is not treated as possessing, any other income apart from that payment.

Marginal Citations

M33 1980 c. 46.

[^{F127}Rounding of fractions

24A. Where any calculation under this Part 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

F127 Reg. 24A 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(k)**

PART IV

Loss of benefit

Loss of benefit

25.—(1) The Social Security (Loss of Benefit) Regulations 2001 ^{M34} shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2 (disqualification period), in—

- (i) paragraph (1) (a)(iii) and paragraph (3) (c) after the words “jobseeker’s allowance”, insert “, state pension credit ”; and
 - (ii) paragraph (1) (b)(iii) for the words “or jobseeker’s allowance”, substitute “ jobseeker’s allowance or state pension credit ”.
- (3) After regulation 3, insert—

“ Reduction in state pension credit

3A.—(1) Subject to the following provisions of this regulation, state pension credit shall be payable in the case of an offender for any week comprised in the disqualification period or in the case of an offender's family member for any week comprised in the relevant period, as if the rate of benefit were reduced—

- (a) where the offender or the offender's family member is pregnant or seriously ill, by 20 per cent. of the relevant sum; or
- (b) where sub-paragraph (a) does not apply, by 40 per cent. of the relevant sum.

Status: Point in time view as at 02/10/2009.

Changes to legislation: There are currently no known outstanding effects for the
The State Pension Credit Regulations 2002. (See end of Document for details)

- (2) In paragraph (1), the “relevant sum” is the amount applicable—
- (a) except where sub-paragraph (b) applies, in respect of a single claimant aged not less than 25 under paragraph 1(1) of Schedule 2 to the Income Support Regulations; or
 - (b) if the claimant’s family member is the offender and the offender has not attained the age of 25, the amount applicable in respect of a person of the offender’s age under paragraph 1(1) of Part I of that Schedule,

on the first day of the disqualification period or, as the case may be, on the first day of the relevant period.

(3) Payment of state pension credit shall not be reduced under this regulation to less than 10 pence per week.

(4) A reduction under paragraph (1) shall, if it is not a multiple of 5 pence, be rounded to the nearest such multiple or, if it is a multiple of 2.5 pence but not of 5 pence, to the next lower multiple of 5 pence.

(5) Where the rate of state pension credit payable to an offender or an offender’s family member changes, the rules set out above for a reduction in the credit payable shall be applied to the new rate and any adjustment to the reduction shall take effect from the first day of the first benefit week to start after the date of change.

(6) In paragraph (5), “benefit week” has the same meaning as in regulation 1(2) of the State Pension Credit Regulations 2002.

(7) A person of a prescribed description for the purposes of the definition of “family” in section 137(1) of the Benefits Act as it applies for the purpose of this regulation is—

- (a) a person who is an additional spouse for the purposes of section 12(1) of the State Pension Credit Act 2002 ^{M35} (additional spouse in the case of polygamous marriages);
- (b) a person aged 16 or over who is treated as a child for the purposes of section 142 of the Benefits Act.”

Marginal Citations

M34 [S.I. 2001/4022](#); the relevant amending Instrument is [S.I. 2002/486](#).

M35 [2002 c. 16](#).

Signed by authority of the Secretary of State for Work and Pensions.

Ian McCartney
Minister of State,
Department for Work and Pensions

Status:

Point in time view as at 02/10/2009.

Changes to legislation:

There are currently no known outstanding effects for the The State Pension Credit Regulations 2002.