
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}“the 2012 Act ” means the Welfare Reform Act 2012;]

[^{F2}“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;]

[^{F3}“adult disability payment” has the meaning given in regulation 2 of the Disability Assistance for Working Age People (Scotland) Regulations 2022;]

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

[^{F4}“approved blood scheme” means a scheme established or approved by the Secretary of State, or trust established with funds provided by the Secretary of State, for the purpose of providing compensation in respect of a person having been infected from contaminated blood products;]

[^{F5}“armed forces independence payment” means armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011;]

[^{F6}“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) ^{F7}

(d) ^{F7}

(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

(f) [^{F8}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);]

[^{F9}“benefit week” means—

- (a) where state pension credit is paid in advance, the period of 7 days beginning on the day on which, in the claimant's case, that benefit is payable;
- (b) where state pension credit is paid in arrears, the period of 7 days ending on the day on which, in the claimant's case, that benefit is payable.]

[^{F10}“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,

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

“care home” [^{F11}in England] has the meaning it has for the purposes of the Care Standards Act 2000 ^{M3} by virtue of section 3 of that Act [^{F12}and in [^{F13}Wales and] Scotland means a care home service];

[^{F14}“care home service” [^{F15}in Wales means a care home service within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 which is provided wholly or mainly to persons aged 18 or over and in Scotland] has the meaning assigned to it by paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010;]

[^{F16}“carer support payment” means carer's assistance given in accordance with the Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023;]

[^{F17}“the Caxton Foundation” means the charitable trust of that name established on 28th March 2011 out of funds provided by the Secretary of State for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions;]

[^{F18}“child abuse payment” means a payment from a scheme established or approved by the Secretary of State for the purpose of providing compensation in respect of historic institutional child abuse in the United Kingdom;]

“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, [^{F19}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;

[^{F20}“contribution-based jobseeker's allowance” means an allowance under the Jobseekers Act 1995 as amended by the provisions of Part 1 of Schedule 14 to the 2012 Act that remove references to an income-based allowance, and a contribution-based allowance under the Jobseekers Act 1995 as that Act has effect apart from those provisions;]

[^{F21}“contributory employment and support allowance” means an allowance under Part 1 of the Welfare Reform Act as amended by the provisions of Schedule 3, and Part 1 of Schedule 14, to the 2012 Act that remove references to an income-related allowance, and a contributory allowance under Part 1 of the Welfare Reform Act as that Part has effect apart from those provisions;]

^{F22}[^{F23}“couple” means—

- (a) two people who are married to, or civil partners of, each other and are members of the same household; or

(b) two people who are not married to, or civil partners of, each other but are living together
[^{F24}as if they were a married couple or civil partners];]

[^{F25}“the Computation of Earnings Regulations” means the Social Security Benefit (Computation of Earnings) Regulations 1996;]

[^{F25}“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;

[^{F26}“the Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008;]

[^{F27}“enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament [^{F28}or the National Assembly for Wales];]

[^{F29}“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;]

[^{F30}“foreign state retirement pension” means any pension which is paid under the law of a country outside the United Kingdom and is in the nature of social security;]

“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;

[^{F31}“the Graduated Retirement Benefit Regulations” means the Social Security (Graduated Retirement Benefit) Regulations 2005;]

[^{F32}“Grenfell Tower payment” means a payment made for the purpose of providing compensation or support in respect of the fire on 14th June 2017 at Grenfell Tower;]

[^{F6}“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;]

[^{F33}“the Health Service Act” means “the National Health Service Act 2006”];]

[^{F33}“the Health Service (Wales) Act” means “the National Health Service (Wales) Act 2006”];]

[^{F34}“the Horizon system” means any version of the computer system used by the Post Office known as Horizon, Horizon Legacy, Horizon Online or HNG-X;]

[^{F35}“income-based jobseeker’s allowance” means an income-based allowance under the Jobseekers Act 1995;]

[^{F36}“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};

[^{F37}“independent hospital”—

- (a) in England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section;
- (b) in Wales, has the meaning assigned to it by section 2 of the Care Standards Act 2000; and
- (c) [^{F38} in Scotland, means an independent health care service as defined in section 10F(1) (a) and (b) of the National Health Service (Scotland) Act 1978;]

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[^{F40} “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;]

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[^{F44}“local welfare provision” means occasional financial or other assistance given by a local authority, the Scottish Ministers or the Welsh Ministers, or a person authorised to exercise any function of, or provide a service to, them, to or in respect of individuals for the purpose of—

- (a) meeting, or helping to meet, an immediate short term need—
 - (i) arising out of an exceptional event, or exceptional circumstances; and
 - (ii) that requires to be met in order to avoid a risk to the well-being of an individual; or
- (b) enabling individuals to establish or maintain a settled home, where those individuals have been or, without the assistance, might otherwise be—
 - (i) in prison, hospital, a residential care establishment or other institution; or
 - (ii) homeless or otherwise living an unsettled way of life;]

[^{F45}“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;]

[^{F46} “the London Emergencies Trust” means the company of that name (number 09928465) incorporated on 23rd December 2015 and the registered charity of that name (number 1172307) established on 28th March 2017;]

“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;

[^{F47} “member of the work-related activity group” means a claimant who has or is treated as having limited capability for work under either—

- (a) Part 5 of the Employment and Support Allowance Regulations 2008 other than by virtue of regulation 30 of those Regulations; or
- (b) Part 4 of the Employment and Support Allowance Regulations 2013 other than by virtue of regulation 26 of those Regulations;]

[^{F30} “MFET Limited” means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products;]

[^{F48} “the National Emergencies Trust” means the registered charity of that name (number 1182809) established on 28th March 2019;]

[^{F49} “parental bereavement leave” means leave under section 80EA of the Employment Rights Act 1996;]

[^{F50} “paternity leave” means a period of absence from work on ^{F51} ... paternity leave by virtue of section 80A or 80B of the Employment Rights Act 1996 ^{F52} ... ;]

[^{F53} “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];

“pension fund holder” means with respect to [^{F54} 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;

[^{F1} “personal independence payment” means personal independence payment under Part 4 of the 2012 Act;]

“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;

[^{F34} “the Post Office” means Post Office Limited (registered number 02154540);]

[^{F34} “Post Office compensation payment” means a payment made by the Post Office or the Secretary of State for the purpose of providing compensation or support which is—

- (a) in connection with the failings of the Horizon system; or
- (b) otherwise payable following the judgment in *Bates and Others v Post Office Ltd* ((No. 3) “Common Issues”);]

“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 ^{M6} or the Prisons (Scotland) Act 1989 ^{M7} ,

other than a person detained in hospital under the provisions of the Mental Health Act 1983 ^{M8} , or in Scotland, under the provisions of the [^{F55} Mental Health (Care and Treatment) (Scotland) Act 2003] or the Criminal Procedure (Scotland) Act 1995 ^{M9} ;

[^{F27} “public authority” includes any person certain of whose functions are functions of a public nature;]

“qualifying person” means a person in respect of whom [^{F56} a Grenfell Tower payment [^{F57} , a child abuse payment [^{F58} , a Windrush payment, a Post Office compensation payment or a

vaccine damage payment]] has been made or] payment has been made from the Fund [F59, the Eileen Trust [F60, MFET Limited][F61, the Skipton Fund][F62, the Caxton Foundation][F63, the Scottish Infected Blood Support Scheme][F64, an approved blood scheme][F65, the London Emergencies Trust, the We Love Manchester Emergency Fund][F66, the National Emergencies Trust][F67, the Victims of Overseas Terrorism Compensation Scheme] or the London Bombings Relief Charitable Fund];

[F68 “Scottish Infected Blood Support Scheme” means the scheme of that name administered by the Common Services Agency (constituted by section 10 of the National Health Service (Scotland) Act 1978);]

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[F70 “shared parental leave” means leave under section 75E or 75G of the Employment Rights Act 1996;]

[F71 “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;]

[F72 “tax credit closure notice” means a notice issued under article 3A (tax credit closure notice) of the Welfare Reform Act 2012 (Commencement No. 32 and Savings and Transitional Provisions) Order 2019;]

[F73 “universal credit” means universal credit under Part 1 of the 2012 Act;]

[F34 “vaccine damage payment” means a payment made under the Vaccine Damage Payments Act 1979;]

[F74 “the Victims of Overseas Terrorism Compensation Scheme” means the scheme of that name established by the Ministry of Justice in 2012 under section 47 of the Crime and Security Act 2010;]

[F75 “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 ^{M10} ;
- (b) as respects Scotland, any water and sewerage charges under Schedule 11 to the Local Government Finance Act 1992 ^{M11} ;

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

[F76 “the We Love Manchester Emergency Fund” means the registered charity of that name (number 1173260) established on 30th May 2017;]

[F77 “the Welfare Reform Act” means the Welfare Reform Act 2007.]

[F18 “Windrush payment” means a payment made under the Windrush Compensation Scheme (Expenditure) Act 2020.]

(3) In these Regulations, unless the context otherwise requires, a member of [F78 a couple] is referred to as a partner and both members are referred to as partners.

[F79 (3A) References in these Regulations to a claimant participating as a service user are to—

- (a) a person who is being consulted by or on behalf of—
 - (i) a body which has a statutory duty to provide services in the field of health, social care or social housing; or

- (ii) a body which conducts research or undertakes monitoring for the purpose of planning or improving such services,
in their capacity as a user, potential user, carer of a user or person otherwise affected by the provision of those services; or
- [a person who is being consulted by or on behalf of—
- ^{F80}(ab) (i) the Secretary of State in relation to any of the Secretary of State’s functions in the field of social security or child support or under section 2 of the Employment and Training Act 1973; or
- (ii) a body which conducts research or undertakes monitoring for the purpose of planning or improving such functions,
in their capacity as a person affected or potentially affected by the exercise of those functions or the carer of such a person;]
- (b) the carer of a person consulted under [^{F81}sub-paragraphs (a) or (ab)].]
- (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 (8.4.2013) by [The Personal Independence Payment \(Supplementary Provisions and Consequential Amendments\) Regulations 2013 \(S.I. 2013/388\)](#), reg. 2, **Sch. para. 27(2)**
- F2** 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)**
- F3** Words in reg. 1(2) inserted (21.3.2022) by [The Social Security \(Disability Assistance for Working Age People\) \(Consequential Amendments\) Order 2022 \(S.I. 2022/177\)](#), arts. 1(2), **8(2)**
- F4** Words in reg. 1(2) inserted (23.10.2017) by [The Social Security \(Infected Blood and Thalidomide\) Regulations 2017 \(S.I. 2017/870\)](#), regs. 1, **5(2)(a)**
- F5** Words in reg. 1(2) inserted (8.4.2013) by [The Armed Forces and Reserve Forces Compensation Scheme \(Consequential Provisions: Subordinate Legislation\) Order 2013 \(S.I. 2013/591\)](#), art. 2(2), **Sch. para. 23(2)**
- F6** 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)**
- F7** Words in reg. 1(2) omitted (29.10.2013) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2013 \(S.I. 2013/2536\)](#), regs. 1(1), **10(2)(a)**
- F8** 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)**
- F9** Words in reg. 1(2) substituted (6.4.2010) by [The Social Security \(Miscellaneous Amendments\) \(No. 6\) Regulations 2009 \(S.I. 2009/3229\)](#), regs. 1, **3(2)**
- F10** 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)**

- F11** Words in reg. 1(2) inserted (2.4.2018) by The Social Security and Child Support (Regulation and Inspection of Social Care (Wales) Act 2016) (Consequential Provision) Regulations 2018 (S.I. 2018/228), regs. 1, **8(2)(a)(i)**
- F12** 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)**
- F13** Words in reg. 1(2) inserted (2.4.2018) by The Social Security and Child Support (Regulation and Inspection of Social Care (Wales) Act 2016) (Consequential Provision) Regulations 2018 (S.I. 2018/228), regs. 1, **8(2)(a)(ii)**
- F14** Words in reg. 1(2) substituted (28.10.2011) by The Public Services Reform (Scotland) Act 2010 (Consequential Modifications of Enactments) Order 2011 (S.I. 2011/2581), art. 1(2)(b), **Sch. 2 para. 35(a)**
- F15** Words in reg. 1(2) inserted (2.4.2018) by The Social Security and Child Support (Regulation and Inspection of Social Care (Wales) Act 2016) (Consequential Provision) Regulations 2018 (S.I. 2018/228), regs. 1, **8(2)(b)**
- F16** Words in reg. 1(2) inserted (19.11.2023) by The Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023 (Consequential Amendments) Order 2023 (S.I. 2023/1218), arts. 1(2), **14(2)**
- F17** Words in reg. 1(2) inserted (31.10.2011) by The Social Security (Miscellaneous Amendments) (No. 3) Regulations 2011 (S.I. 2011/2425), regs. 1(2), **15(2)(a)**
- F18** Words in reg. 1(2) inserted (1.1.2022) by The Social Security (Income and Capital Disregards) (Amendment) Regulations 2021 (S.I. 2021/1405), regs. 1, **4(2)(a)**
- F19** 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)
- F20** Words in reg. 1(2) inserted (29.4.2013) by The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2013 (S.I. 2013/630), regs. 1(2), **33(2)(a)**
- F21** Words in reg. 1(2) substituted (29.4.2013) by The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2013 (S.I. 2013/630), regs. 1(2), **33(2)(d)**
- F22** Words in reg. 1(2) substituted (S) (16.12.2014) by The Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014 (S.I. 2014/3229), art. 1(2), **Sch. 6 para. 23**
- F23** Words in reg. 1(2) substituted (E.W.) (13.3.2014) by The Marriage (Same Sex Couples) Act 2013 (Consequential Provisions) Order 2014 (S.I. 2014/107), art. 1(2), **Sch. 1 para. 32**
- F24** Words in reg. 1(2) substituted (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), reg. 1(2), **Sch. 3 para. 61**
- F25** 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)**
- F26** 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)**
- F27** 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)**
- F28** Words in reg. 1(2) inserted (29.10.2013) by The Social Security (Miscellaneous Amendments) (No. 3) Regulations 2013 (S.I. 2013/2536), regs. 1(1), **10(2)(b)**
- F29** 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)**
- F30** Words in reg. 1(2) inserted (6.4.2010) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2010 (S.I. 2010/641), regs. 1(1), **6(2)**
- F31** 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)**

- F32** Words in reg. 1(2) substituted (9.7.2023) by The Social Security (Income and Capital Disregards) (Amendment) Regulations 2023 (S.I. 2023/640), regs. 1(1), **4(2)(a)**
- F33** 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)**
- F34** Words in reg. 1(2) inserted (9.7.2023) by The Social Security (Income and Capital Disregards) (Amendment) Regulations 2023 (S.I. 2023/640), regs. 1(1), **4(2)(b)**
- F35** Words in reg. 1(2) inserted (29.4.2013) by The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2013 (S.I. 2013/630), regs. 1(2), **33(2)(b)**
- F36** 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)**
- F37** Words in reg. 1(2) substituted (1.10.2010) by The Health and Social Care Act 2008 (Miscellaneous Consequential Amendments) Order 2010 (S.I. 2010/1881), arts. 1(1), **12**
- F38** Words in reg. 1(2) substituted (28.10.2011) by The Public Services Reform (Scotland) Act 2010 (Consequential Modifications of Enactments) Order 2011 (S.I. 2011/2581), art. 1(2)(b), **Sch. 2 para. 35(b)**
- F39** 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)**
- F40** 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)**
- F41** 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)**
- F42** 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)**
- F43** 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)**
- F44** Words in reg. 1(2) inserted (2.4.2013) by The Social Security (Miscellaneous Amendments) Regulations 2013 (S.I. 2013/443), regs. 1, **6(2)**
- F45** 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)**
- F46** Words in reg. 1(2) inserted (19.6.2017) by The Social Security (Emergency Funds) (Amendment) Regulations 2017 (S.I. 2017/689), regs. 1, **4(2)(a)**
- F47** Words in reg. 1(2) inserted (3.4.2017) by The Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017 (S.I. 2017/204), reg. 1, **Sch. 1 para. 5(2)** (with Sch. 2 paras. 1-7)
- F48** Words in reg. 1(2) inserted (15.7.2020) by The Social Security (Income and Capital) (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/618), regs. 1, **4(2)(a)**
- F49** Words in reg. 1(2) inserted (6.4.2020) by The Parental Bereavement Leave and Pay (Consequential Amendments to Subordinate Legislation) Regulations 2020 (S.I. 2020/354), regs. 1, **10(2)**
- F50** Words in reg. 1(2) substituted (1.4.2012) by The Social Security (Miscellaneous Amendments) Regulations 2012 (S.I. 2012/757), regs. 1(4), **5(2)**
- F51** Word in reg. 1(2) omitted (5.4.2015) by virtue of The Shared Parental Leave and Statutory Shared Parental Pay (Consequential Amendments to Subordinate Legislation) Order 2014 (S.I. 2014/3255), arts. 1(3), **10(2)(a)(i)** (with art. 35(1))
- F52** Words in reg. 1(2) omitted (5.4.2015) by virtue of The Shared Parental Leave and Statutory Shared Parental Pay (Consequential Amendments to Subordinate Legislation) Order 2014 (S.I. 2014/3255), arts. 1(3), **10(2)(a)(ii)** (with art. 35(1))
- F53** 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)**
- F54** 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)**
- F55** 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)**
- F56** Words in reg. 1(2) inserted (15.7.2020) by The Social Security (Income and Capital) (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/618), regs. 1, **4(2)(b)(i)**
- F57** Words in reg. 1(2) inserted (1.1.2022) by The Social Security (Income and Capital Disregards) (Amendment) Regulations 2021 (S.I. 2021/1405), regs. 1, **4(2)(b)**
- F58** Words in reg. 1(2) substituted (9.7.2023) by The Social Security (Income and Capital Disregards) (Amendment) Regulations 2023 (S.I. 2023/640), regs. 1(1), **4(2)(c)**
- F59** 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)**
- F60** Words in reg. 1(2) inserted (6.4.2010) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2010 (S.I. 2010/641), regs. 1(1), **6(3)(a)**
- F61** 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)**
- F62** Words in reg. 1(2) inserted (31.10.2011) by The Social Security (Miscellaneous Amendments) (No. 3) Regulations 2011 (S.I. 2011/2425), regs. 1(2), **15(2)(b)**
- F63** Words in reg. 1(2) inserted (3.4.2017) by The Social Security (Scottish Infected Blood Support Scheme) Regulations 2017 (S.I. 2017/329), regs. 1, **5(2)(a)**
- F64** Words in reg. 1(2) inserted (23.10.2017) by The Social Security (Infected Blood and Thalidomide) Regulations 2017 (S.I. 2017/870), regs. 1, **5(2)(b)**
- F65** Words in reg. 1(2) inserted (19.6.2017) by The Social Security (Emergency Funds) (Amendment) Regulations 2017 (S.I. 2017/689), regs. 1, **4(2)(b)**
- F66** Words in reg. 1(2) inserted (15.7.2020) by The Social Security (Income and Capital) (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/618), regs. 1, **4(2)(b)(ii)**
- F67** Words in reg. 1(2) inserted (27.10.2023) by The Social Security (Habitual Residence and Past Presence, and Capital Disregards) (Amendment) Regulations 2023 (S.I. 2023/1144), regs. 1(1), **5(2)(a)**
- F68** Words in reg. 1(2) inserted (3.4.2017) by The Social Security (Scottish Infected Blood Support Scheme) Regulations 2017 (S.I. 2017/329), regs. 1, **5(2)(b)**
- F69** Words in reg. 1(2) omitted (28.4.2014) by virtue of The Social Security (Miscellaneous Amendments) Regulations 2014 (S.I. 2014/591), regs. 1, **7(2)(a)**
- F70** Words in reg. 1(2) inserted (31.12.2014) by The Shared Parental Leave and Statutory Shared Parental Pay (Consequential Amendments to Subordinate Legislation) Order 2014 (S.I. 2014/3255), arts. 1(2), **10(2)(b)**
- F71** 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)**
- F72** Words in reg. 1 inserted (8.6.2024) by The Social Security (State Pension Age Claimants: Closure of Tax Credits) (Amendment) Regulations 2024 (S.I. 2024/611), regs. 1(1), **4(2)**
- F73** Words in reg. 1(2) inserted (29.4.2013) by The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2013 (S.I. 2013/630), regs. 1(2), **33(2)(c)**
- F74** Words in reg. 1(2) inserted (27.10.2023) by The Social Security (Habitual Residence and Past Presence, and Capital Disregards) (Amendment) Regulations 2023 (S.I. 2023/1144), regs. 1(1), **5(2)(b)**
- F75** 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)**
- F76** Words in reg. 1(2) inserted (19.6.2017) by The Social Security (Emergency Funds) (Amendment) Regulations 2017 (S.I. 2017/689), regs. 1, **4(2)(c)**
- F77** 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)**
- F78** 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)
- F79** Reg. 1(3A) inserted (28.4.2014) by The Social Security (Miscellaneous Amendments) Regulations 2014 (S.I. 2014/591), regs. 1, **7(2)(b)**

F80 Reg. 1(3A)(ab) inserted (23.2.2015) by [The Social Security \(Miscellaneous Amendments\) Regulations 2015 \(S.I. 2015/67\)](#), regs. 1, **2(1)(2)(a)**

F81 Words in reg. 1(3A)(b) substituted (23.2.2015) by [The Social Security \(Miscellaneous Amendments\) Regulations 2015 \(S.I. 2015/67\)](#), regs. 1, **2(1)(2)(b)**

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 1952 c. 52.

M7 1989 c. 45.

M8 1983 c. 20.

M9 1995 c. 46.

M10 1991 c. 56.

M11 1992 c. 14.

[^{F82}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

F82 [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

[^{F83} 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) [^{F84}or (3A)].

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

- (a) regulation 13 of the ^{F85}Immigration (European Economic Area) Regulations 2016];
- (b) regulation 14 of those Regulations, but only in a case where the right exists under that regulation because the person is—
 - (i) a jobseeker for the purpose of the definition of “qualified person” in regulation 6(1) of those Regulations, or
 - (ii) a family member (within the meaning of regulation 7 of those Regulations) of such a jobseeker; ^{F86}or]
- (bb) ^{F87}regulation 16 of those Regulations, but only in a case where the right exists under that regulation because the person satisfies the criteria in paragraph (5) of that regulation;]

^{F88}(c)

^{F88}(d)

^{F88}(e)

^{F89}(3A) A right to reside falls within this paragraph if it exists by virtue of a person having been granted limited leave to enter, or remain in, the United Kingdom under the Immigration Act 1971 by virtue of—

- (a) Appendix EU to the immigration rules made under section 3(2) of that Act; ^{F90}...
- (b) being a person with a Zambrano right to reside as defined in Annex 1 of Appendix EU to the immigration rules made under section 3(2) of that Act ^{F91}; or
- (c) having arrived in the United Kingdom with an entry clearance that was granted under Appendix EU (Family Permit) to the immigration rules made under section 3(2) of that Act].]

^{F92}(3B) Paragraph (3A)(a) does not apply to a person who—

- (a) has a right to reside granted by virtue of being a family member of a relevant person of Northern Ireland; and
- (b) would have a right to reside under the Immigration (European Economic Area) Regulations 2016 if the relevant person of Northern Ireland were an EEA national, provided that the right to reside does not fall within paragraph (3).]

(4) A person is not to be treated as not in Great Britain if he is—

^{F93}(zza) a person granted leave in accordance with the immigration rules made under section 3(2) of the Immigration Act 1971, where such leave is granted by virtue of—

- (i) the Afghan Relocations and Assistance Policy; or
- (ii) the previous scheme for locally-employed staff in Afghanistan (sometimes referred to as the ex-gratia scheme);

(zzb) a person in Great Britain not coming within sub-paragraph (zza) or ^{F94}(h)] who left Afghanistan in connection with the collapse of the Afghan government that took place on 15th August 2021;]

^{F95}(zzc) a person in Great Britain who was residing in Ukraine immediately before 1st January 2022, left Ukraine in connection with the Russian invasion which took place on 24th February 2022 and—

- (i) has been granted leave in accordance with immigration rules made under section 3(2) of the Immigration Act 1971; ^{F96}...

- (ii) has a right of abode in the United Kingdom within the meaning given in section 2 of that Act; [^{F97}or]
 - [does not require leave to enter or remain in the United Kingdom in accordance with ^{F98}(iii) section 3ZA of that Act;]
- [^{F99}(zzd) a person who was residing in Sudan before 15th April 2023, left Sudan in connection with the violence which rapidly escalated on 15th April 2023 in Khartoum and across Sudan and—
 - (i) has been granted leave in accordance with immigration rules made under section 3(2) of the Immigration Act 1971;
 - (ii) has a right of abode in the United Kingdom within the meaning given in section 2 of that Act; or
 - (iii) does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act;]
- [^{F100}(zze) a person who was residing in Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights or Lebanon immediately before 7th October 2023, who left Israel, the West Bank, the Gaza Strip, East Jerusalem, the Golan Heights or Lebanon in connection with the Hamas terrorist attack in Israel on 7th October 2023 or the violence which rapidly escalated in the region following the attack and—
 - (i) has been granted leave in accordance with immigration rules made under section 3(2) of the Immigration Act 1971;
 - (ii) has a right of abode in the United Kingdom within the meaning given in section 2 of that Act; or
 - (iii) does not require leave to enter or remain in the United Kingdom in accordance with section 3ZA of that Act;]
- [^{F101}(za) a qualified person for the purposes of regulation 6 of the [^{F102}Immigration (European Economic Area) Regulations 2016] as a worker or a self-employed person;
 - (zb) a family member of a person referred to in sub-paragraph (za) ^{F103}...;
 - (zc) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of those Regulations;]
- [^{F104}(zd) a family member of a relevant person of Northern Ireland, with a right to reside which falls within paragraph (3A)(a), provided that the relevant person of Northern Ireland falls within sub-paragraph (za), or would do so but for the fact that they are not an EEA national;]
- [^{F105}(ze) a frontier worker within the meaning of regulation 3 of the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020;
 - (zf) a family member of a person referred to in sub-paragraph (ze), who has been granted limited leave to enter, or remain in, the United Kingdom by virtue of Appendix EU to the immigration rules made under section 3(2) of the Immigration Act 1971;]
- ^{F101}(a)
- ^{F101}(b)
- ^{F101}(c)
- ^{F101}(d)
- ^{F101}(e)
- ^{F101}(f)

- (g) a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967;
- [^{F106}(h) a person who has been granted leave or who is deemed to have been granted leave outside the rules made under section 3(2) of the Immigration Act 1971 ^{F107} ...]
- [^{F108}(hh) a person who has humanitarian protection granted under those rules; [^{F109}or]]
 - (i) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999 and who is in the United Kingdom as a result of his deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom;]^{F110} ...
- ^{F111}(j)
- ^{F111}(k)
- [^{F112}(5) In this regulation—
 - “*EEA national*” has the meaning given in regulation 2(1) of the Immigration (European Economic Area) Regulations 2016;
 - “*family member*” has the meaning given in regulation 7(1)(a), (b) or (c) of the Immigration (European Economic Area) Regulations 2016 except that regulation 7(4) of those Regulations does not apply for the purposes of paragraphs (3B) and (4)(zd);
 - “*relevant person of Northern Ireland*” has the meaning given in Annex 1 of Appendix EU to the immigration rules made under section 3(2) of the Immigration Act 1971.]
- [^{F113}(6) In this regulation references to the Immigration (European Economic Area) Regulations 2016 are to be read with Schedule 4 to the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020(Consequential, Saving, Transitional and Transitory Provisions) Regulations 2020.]

Textual Amendments

- F83** 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))
- F84** Words in reg. 2(2) inserted (7.5.2019) by [The Social Security \(Income-related Benefits\) \(Updating and Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/872\)](#), regs. 1, **4(2)(a)**
- F85** Words in reg. 2(3)(a) substituted (7.5.2019) by [The Social Security \(Income-related Benefits\) \(Updating and Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/872\)](#), regs. 1, **4(2)(b)**
- F86** Word in reg. 2(3)(b)(ii) inserted (31.12.2020) by [The Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(Consequential, Saving, Transitional and Transitory Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1309\)](#), regs. 1(2), **59(2)(a)(i)**
- F87** Reg. 2(3)(bb) substituted (7.5.2019) by [The Social Security \(Income-related Benefits\) \(Updating and Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/872\)](#), regs. 1, **4(2)(c)**
- F88** Reg. 2(3)(c)-(e) omitted (31.12.2020) by virtue of [The Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(Consequential, Saving, Transitional and Transitory Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1309\)](#), regs. 1(2), **59(2)(a)(ii)**
- F89** Reg. 2(3A) inserted (7.5.2019) by [The Social Security \(Income-related Benefits\) \(Updating and Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/872\)](#), regs. 1, **4(2)(d)**
- F90** Word in reg. 2(3A)(a) omitted (31.12.2020 immediately after IP completion day) by virtue of [The Immigration \(Citizens' Rights etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1372\)](#), regs. 1(2)(a)(3)(d), **13(2)(a)**

- F91** Reg. 2(3A)(c) and word inserted (31.12.2020 immediately after IP completion day) by The Immigration (Citizens' Rights etc.) (EU Exit) Regulations 2020 (S.I. 2020/1372), regs. 1(2)(a)(3)(d), **13(2)(b)**
- F92** Reg. 2(3B) inserted (24.8.2020) by The Social Security (Income-Related Benefits) (Persons of Northern Ireland - Family Members) (Amendment) Regulations 2020 (S.I. 2020/683), regs. 1, **4(2)(a)**
- F93** Reg. 2(4)(zza)(zzb) inserted (16.9.2021) by The Social Security (Habitual Residence and Past Presence) (Amendment) Regulations 2021 (S.I. 2021/1034), regs. 1(1), **2(2)(4)**
- F94** Word in reg. 2(4)(zzb) substituted (22.3.2022) by The Social Security (Habitual Residence and Past Presence) (Amendment) Regulations 2022 (S.I. 2022/344), regs. 1(1), **2(2)(5)(c)**
- F95** Reg. 2(4)(zxc) inserted (22.3.2022) by The Social Security (Habitual Residence and Past Presence) (Amendment) Regulations 2022 (S.I. 2022/344), regs. 1(1), **2(3)(5)(c)**
- F96** Word in reg. 2(4)(zxc)(i) omitted (18.10.2022) by virtue of The Social Security (Habitual Residence and Past Presence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/990), regs. 1(1), **2(1)(a)(2)(c)**
- F97** Word in reg. 2(4)(zxc)(ii) inserted (18.10.2022) by The Social Security (Habitual Residence and Past Presence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/990), regs. 1(1), **2(1)(b)(2)(c)**
- F98** Reg. 2(4)(zxc)(iii) inserted (18.10.2022) by The Social Security (Habitual Residence and Past Presence) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/990), regs. 1(1), **2(1)(c)(2)(c)**
- F99** Reg. 2(4)(zxd) inserted (15.5.2023) by The Social Security (Habitual Residence and Past Presence) (Amendment) Regulations 2023 (S.I. 2023/532), regs. 1(1), **2(1)(2)(c)**
- F100** Reg. 2(4)(zxe) inserted (27.10.2023) by The Social Security (Habitual Residence and Past Presence, and Capital Disregards) (Amendment) Regulations 2023 (S.I. 2023/1144), regs. 1(1), **2(1)(2)(c)**
- F101** Reg. 2(4)(za)-(zc) substituted for reg. 2(4)(a)-(f) (31.5.2014) by The Social Security (Habitual Residence) (Amendment) Regulations 2014 (S.I. 2014/902), regs. 1, **4**
- F102** Words in reg. 2(4)(za) substituted (7.5.2019) by The Social Security (Income-related Benefits) (Updating and Amendment) (EU Exit) Regulations 2019 (S.I. 2019/872), regs. 1, **4(2)(e)**
- F103** Words in reg. 2(4)(zb) omitted (24.8.2020) by virtue of The Social Security (Income-Related Benefits) (Persons of Northern Ireland - Family Members) (Amendment) Regulations 2020 (S.I. 2020/683), regs. 1, **4(2)(b)**
- F104** Reg. 2(4)(zd) inserted (24.8.2020) by The Social Security (Income-Related Benefits) (Persons of Northern Ireland - Family Members) (Amendment) Regulations 2020 (S.I. 2020/683), regs. 1, **4(2)(c)**
- F105** Reg. 2(4)(ze)(zf) inserted (31.12.2020) by The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309), regs. 1(2), **59(2)(b)**
- F106** Reg. 2(4)(h) substituted (29.10.2013) by The Social Security (Miscellaneous Amendments) (No. 3) Regulations 2013 (S.I. 2013/2536), regs. 1(1), **10(3)(a)**
- F107** Words in reg. 2(4)(h) omitted (22.3.2022) by virtue of The Social Security (Habitual Residence and Past Presence) (Amendment) Regulations 2022 (S.I. 2022/344), regs. 1(1), **2(4)(5)(c)**
- F108** 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)**
- F109** Word in reg. 2(4)(hh) added (29.10.2013) by The Social Security (Miscellaneous Amendments) (No. 3) Regulations 2013 (S.I. 2013/2536), regs. 1(1), **10(3)(b)**
- F110** 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)**
- F111** Reg. 2(4)(j)(k) omitted (29.10.2013) by virtue of The Social Security (Miscellaneous Amendments) (No. 3) Regulations 2013 (S.I. 2013/2536), regs. 1(1), **10(3)(c)**
- F112** Reg. 2(5) inserted (24.8.2020) by The Social Security (Income-Related Benefits) (Persons of Northern Ireland - Family Members) (Amendment) Regulations 2020 (S.I. 2020/683), regs. 1, **4(2)(d)**
- F113** Reg. 2(6) inserted (31.12.2020) by The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309), regs. 1(2), **59(2)(c)**

Modifications etc. (not altering text)

- C1** Reg. 2 applied (with modifications) (31.12.2020) by [The Citizens' Rights \(Application Deadline and Temporary Protection\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1209\)](#), regs. 1(1), **3(3)**, 4(4), 11(e)
- C2** 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))

[^{F114} Persons temporarily absent from Great Britain

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

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

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

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

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

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

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

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

(4) In this regulation and in regulation 5—

“medically approved” means certified by a registered medical practitioner;

“qualified practitioner” means a person qualified to provide medical treatment, physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment.]

Textual Amendments

- F114** Reg. 3 substituted (28.7.2016) by [The Housing Benefit and State Pension Credit \(Temporary Absence\) \(Amendment\) Regulations 2016 \(S.I. 2016/624\)](#), regs. 1, **4(2)** (with reg. 5(3))

Persons temporarily absent from Great Britain on 6th October 2008

^{F115}3A.

Textual Amendments

F115 Reg. 3A omitted (28.7.2016) by virtue of [The Housing Benefit and State Pension Credit \(Temporary Absence\) \(Amendment\) Regulations 2016 \(S.I. 2016/624\)](#), regs. 1, **4(3)** (with reg. 5(3))

Persons receiving treatment outside Great Britain

^{F116}4.

Textual Amendments

F116 Reg. 4 omitted (28.7.2016) by virtue of [The Housing Benefit and State Pension Credit \(Temporary Absence\) \(Amendment\) Regulations 2016 \(S.I. 2016/624\)](#), regs. 1, **4(4)** (with reg. 5(3))

[^{F117}Meaning of “qualifying young person”

4A.—(1) A person who has reached the age of 16 but not the age of 20 is a qualifying young person for the purposes of these Regulations—

- (a) up to, but not including, the 1st September following the person's 16th birthday; and
- (b) up to, but not including, the 1st September following the person's 19th birthday, if the person is enrolled on, or accepted for, approved training or a course of education—
 - (i) which is not a course of advanced education within the meaning of regulation 12(3) of the Universal Credit Regulations 2013;
 - (ii) which is provided at a school or college or provided elsewhere but approved by the Secretary of State for the purposes of regulation 5 of the Universal Credit Regulations 2013; and
 - (iii) where the average time spent during term time in receiving tuition, engaging in practical work or supervised study or taking examinations exceeds 12 hours per week.

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

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

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

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

Textual Amendments

F117 Reg. 4A inserted (28.7.2016) by [The Housing Benefit and State Pension Credit \(Temporary Absence\) \(Amendment\) Regulations 2016 \(S.I. 2016/624\)](#), regs. 1, **4(5)** (with reg. 5(3))

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

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

- (a) he is living away from the claimant and—
 - (i) he does not intend to resume living with the claimant; or
 - (ii) his absence is likely to exceed 52 weeks except where there are exceptional circumstances (for example the person is in hospital or otherwise has no control over the length of his absence), and the absence is unlikely to be substantially more than 52 weeks;
- (b) he or the claimant is permanently in a care home ^{F118}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 ^{F119}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 ^{F120}the Prison Act 1952 ^{M12} or] the Prison (Scotland) Act 1989^{M13};
- (d) the claimant is abroad and does not satisfy ^{F121}... regulation 3 (persons ^{F122}temporarily absent from Great Britain).

^{F123}(e)

^{F124}(f) except in circumstances where paragraph (1A) applies, he is absent from Great Britain;]

^{F125}(g)

^{F126}(h) he is a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999]

^{F127}(1A) A person is to be treated as being a member of the same household as the claimant while he is absent from Great Britain but for no longer than—

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

^{F127}(1B) This paragraph applies where the absence is not expected to exceed 8 weeks and is in connection with the death of—

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

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

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

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

(2) Subject to [F128 paragraphs (1) and (5)], partners shall be treated as members of the same household notwithstanding that they are temporarily living apart.

[F129(3) Paragraph (5) applies where a claimant (“C”), who has attained the qualifying age, would otherwise not be entitled to either state pension credit or universal credit, because—

- (a) but for that paragraph, C would be a member of the same household as a partner who has not attained the qualifying age and therefore a member of a mixed-age couple excluded from state pension credit by virtue of section 4(1A), and
- (b) C is neither entitled to universal credit jointly with that partner, nor entitled to universal credit as a single person, in one of the cases set out in paragraph (4).

(4) The cases are where C is not entitled to universal credit because C has attained the qualifying age and—

- (a) any of the following paragraphs of regulation 3 of the Universal Credit Regulations 2013 (couples) applies, and in the case of paragraph (ii) below, one of the following circumstances applies—
 - (i) paragraph (3) (treatment of certain couples – universal credit may only be claimed as a single person);
 - (ii) paragraph (4) (treatment of polygamous marriages), so that C is not entitled to universal credit because C may only claim universal credit either as one of two parties to a polygamous marriage to be treated as a couple where the other party has also attained the qualifying age, or as a remaining party to such a marriage to be treated as single;
 - (iii) paragraph (6) (absence from the household – universal credit may only be claimed as a single person); or
- (b) C lost joint entitlement to universal credit as part of a mixed-age couple due to one of the following changes of circumstances taking effect from a date (namely the first day of the universal credit assessment period in which the change occurred) that is earlier than when, but for paragraph (5), the same change would take effect for the purposes of state pension credit, those changes being where—
 - (i) C and their partner are no longer a couple; or
 - (ii) C is party to a marriage that is no longer polygamous and C's remaining spouse has attained the qualifying age.

(5) Where this paragraph applies—

- (a) C and their partner, who are to be treated as a non-polygamous couple in accordance with sub-paragraph (a)(ii) of paragraph (4), or who are no longer parties to a polygamous

marriage in accordance with sub-paragraph (b)(ii), are to be treated as members of the same household as each other but not of that of any party (or parties) with whom they are not part of a couple in accordance with those provisions; or

- (b) C, who is to be treated as single in accordance with sub-paragraph (a)(i) to (iii) of paragraph (4), or is single in accordance with sub-paragraph (b)(i), is to be treated as though C is not a member of the same household as any party (or parties) with whom C is not part of a couple in accordance with those provisions,

where paragraph (4)(a) applies, with effect from the date on which the relevant paragraph of regulation 3 of the Universal Credit Regulations 2013 first applies to C, or, where paragraph (4)(b) applies, with effect from the date referred to in paragraph (4)(b) on which C lost entitlement to universal credit.

- (6) In this regulation—
 - (a) in relation to universal credit entitlement, “assessment period” has the meaning prescribed by regulation 21 of the Universal Credit Regulations 2013;
 - (b) “mixed-age”, in respect of a couple or a marriage, means where one member has attained the qualifying age and the other has not;
 - (c) the definition in sub-paragraph (b) includes a polygamous marriage where at least one party to the marriage has attained the qualifying age and at least one has not; and
 - (d) “polygamous marriage” means a marriage during which a party to it is married to more than one person and which took place under the laws of a country that permits polygamy.]

^{F130}(3)

Textual Amendments

- F118** 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**
- F119** 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)**
- F120** Words in reg. 5(1)(c)(iii) omitted (temp.) (8.4.2020) by virtue of [The Social Security \(Coronavirus\) \(Prisoners\) Regulations 2020 \(S.I. 2020/409\)](#), regs. 1, **3(1)(b)** (with reg. 6(2)); (as amended (12.5.2021) by S.I. 2021/476, reg. 4(6))
- F121** 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)**
- F122** Word in reg. 5(1)(d) substituted (28.7.2016) by [The Housing Benefit and State Pension Credit \(Temporary Absence\) \(Amendment\) Regulations 2016 \(S.I. 2016/624\)](#), regs. 1, **4(6)(a)** (with reg. 5(3))
- F123** 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)**
- F124** Reg. 5(1)(f) substituted (28.7.2016) by [The Housing Benefit and State Pension Credit \(Temporary Absence\) \(Amendment\) Regulations 2016 \(S.I. 2016/624\)](#), regs. 1, **4(6)(b)** (with reg. 5(3))
- F125** 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)**
- F126** 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**
- F127** Reg. 5(1A)-(1C) substituted for reg. 5(1A) (28.7.2016) by [The Housing Benefit and State Pension Credit \(Temporary Absence\) \(Amendment\) Regulations 2016 \(S.I. 2016/624\)](#), regs. 1, **4(6)(c)** (with reg. 5(3))
- F128** Words in reg. 5(2) substituted (25.11.2020) by [The Universal Credit \(Persons who have attained state pension credit qualifying age\) \(Amendment\) Regulations 2020 \(S.I. 2020/655\)](#), regs. 1(2), **2(2)(a)**

F129 Reg. 5(3)-(6) inserted (25.11.2020) by The Universal Credit (Persons who have attained state pension credit qualifying age) (Amendment) Regulations 2020 (S.I. 2020/655), regs. 1(2), **2(2)(b)**

F130 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

M12 1952 c. 52.

M13 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) [^{F131}£332.95] per week in the case of a claimant who has a partner;
- (b) [^{F132}£218.15] per week in the case of a claimant who has no partner.

(2) Paragraph (3) applies in the case of—

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

(3) In a case to which this paragraph applies—

- (a) section 2(3) has effect with the substitution for the reference to the standard minimum guarantee in section 2(3)(a) of a reference to a nil amount; and
- (b) except in the case of a person who is a remand prisoner, nil is the prescribed additional amount for the purposes of section 2(3)(b).

(4) Except in a case to which paragraph (3) applies, an amount additional to that prescribed in paragraph (1) shall be applicable under paragraph (5) if the claimant is treated as being a severely disabled person in accordance with paragraph 1 of Part I of Schedule I.

(5) The additional amount applicable is—

- (a) except where paragraph (b) applies, [^{F133}£81.50] per week if paragraph 1(1)(a), (b) or (c) of Part I of Schedule I is satisfied; or
- (b) [^{F134}£163.00] 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 [^{F135}or carer support payment][^{F136}, or has an award of universal credit which includes the carer element under regulation 29 of the Universal Credit Regulations 2013,] in respect of caring for either partner.

(6) Except in a case to which paragraph (3) applies, an amount additional to that prescribed in paragraph (1) shall be applicable—

- (a) if paragraph 4 of Part II of Schedule I is satisfied (amount applicable for carers);
- (b) in accordance with Part III of Schedule I (amount applicable for former claimants of income support or income-based jobseeker's allowance); ^{F137}...
- (c) except where paragraph (7) applies, in accordance with Schedule II (housing costs) [^{F138}, ^{F139} ...]

^{F140}(d) except where paragraph (11) applies, or entitlement ceases by virtue of paragraph (14), in accordance with Schedule IIA (additional amount applicable for claimants responsible for a child or qualifying young person)][^{F141}or

- (e) in accordance with Schedule IIB (transitional protection on closure of tax credits).]

(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 [^{F142}£45.60] 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^{M14} or, as the case may be, detained pending sentence upon conviction.

[^{F143}(11) This paragraph applies in the case of a person who is awarded, or who is treated as having an award of, a tax credit under the Tax Credits Act.

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

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

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

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

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

(15) The circumstances specified in this paragraph are—

- (a) the person was awarded a tax credit for the previous tax year which was not terminated by Her Majesty’s Revenue and Customs under section 16 of the Tax Credits Act;
- (b) a final notice has been given to the person under section 17 of the Tax Credits Act in respect of that tax year; and
- (c) either—

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

Textual Amendments

- F131** Sum in reg. 6(1)(a) substituted (coming into force in accordance with art. 1(3)(k) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2024 \(S.I. 2024/242\)](#), arts. 1(3)(k), **29(2)(a)**
- F132** Sum in reg. 6(1)(b) substituted (coming into force in accordance with art. 1(3)(k) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2024 \(S.I. 2024/242\)](#), arts. 1(3)(k), **29(2)(b)**
- F133** Sum in reg. 6(5)(a) substituted (coming into force in accordance with art. 1(3)(k) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2024 \(S.I. 2024/242\)](#), arts. 1(3)(k), **29(2)(c)**
- F134** Sum in reg. 6(5)(b) substituted (coming into force in accordance with art. 1(3)(k) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2024 \(S.I. 2024/242\)](#), arts. 1(3)(k), **29(2)(d)**
- F135** Words in reg. 6(5)(b) inserted (19.11.2023) by [The Carer's Assistance \(Carer Support Payment\) \(Scotland\) Regulations 2023 \(Consequential Amendments\) Order 2023 \(S.I. 2023/1218\)](#), arts. 1(2), **14(3)**
- F136** Words in reg. 6(5)(b) inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Universal Credit and Miscellaneous Amendments Regulations 2015 \(S.I. 2015/1754\)](#), regs. 1(1), **16(2)**
- F137** Word in reg. 6(6)(b) omitted (1.2.2019) by virtue of [The State Pension Credit \(Additional Amount for Child or Qualifying Young Person\) \(Amendment\) Regulations 2018 \(S.I. 2018/676\)](#), regs. 1, **2(2)(a)**
- F138** Word in reg. 6(6)(c) substituted (1.2.2019) by [The State Pension Credit \(Additional Amount for Child or Qualifying Young Person\) \(Amendment\) Regulations 2018 \(S.I. 2018/676\)](#), regs. 1, **2(2)(b)**
- F139** Word in reg. 6(c) omitted (8.6.2024) by virtue of [The Social Security \(State Pension Age Claimants: Closure of Tax Credits\) \(Amendment\) Regulations 2024 \(S.I. 2024/611\)](#), regs. 1(1), **4(3)**
- F140** Reg. 6(6)(d) added (1.2.2019) by [The State Pension Credit \(Additional Amount for Child or Qualifying Young Person\) \(Amendment\) Regulations 2018 \(S.I. 2018/676\)](#), regs. 1, **2(2)(c)**
- F141** Reg. 6(e) and word inserted (8.6.2024) by [The Social Security \(State Pension Age Claimants: Closure of Tax Credits\) \(Amendment\) Regulations 2024 \(S.I. 2024/611\)](#), regs. 1(1), **4(3)**

F142 Sum in reg. 6(8) substituted (coming into force in accordance with art. 1(3)(k) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2024 \(S.I. 2024/242\)](#), arts. 1(3)(k), **29(2)(e)**

F143 Reg. 6(11)-(17) inserted (1.2.2019) by [The State Pension Credit \(Additional Amount for Child or Qualifying Young Person\) \(Amendment\) Regulations 2018 \(S.I. 2018/676\)](#), regs. 1, **2(3)**

Marginal Citations

M14 1993 c. 47.

Savings Credit

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

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

(2) The amount prescribed for the savings credit threshold is [^{F144}£189.80] for a claimant who has no partner and [^{F144}£301.22] for a claimant who has a partner.

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

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

[^{F145}(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

F144 Sums in reg. 7(2) substituted (coming into force in accordance with art. 1(3)(k) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2024 \(S.I. 2024/242\)](#), arts. 1(3)(k), **29(3)**

F145 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)**

[^{F146}Limitation of savings credit for certain mixed-age couples

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

- (a) has been awarded a savings credit with effect from a day before 6th April 2016 and was entitled to a savings credit immediately before 6th April 2016, and
- (b) remained entitled to a savings credit at all times since the beginning of 6th April 2016.]

Textual Amendments

F146 [Reg. 7A](#) inserted (6.4.2016) by [The State Pension Credit \(Amendment\) Regulations 2015 \(S.I. 2015/1529\)](#), regs. 1, **2(2)**

Special groups

8. Schedule III shall have effect in the case of members of polygamous marriages and [^{F147}persons serving a sentence of imprisonment detained in hospital].

Textual Amendments

F147 Words in reg. 8 substituted (25.3.2010) by [The Social Security \(Persons Serving a Sentence of Imprisonment Detained in Hospital\) Regulations 2010 \(S.I. 2010/442\)](#), regs. 1, **4(2)**

Qualifying income for the purposes of savings credit

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

- (a) working tax credit;
- (b) incapacity benefit;
- (c) a contribution-based jobseeker's allowance^{F148} ...;
- (d) severe disablement allowance;
- (e) maternity allowance;
- (f) payments referred to in regulation 15(5)(d) (maintenance payments).

[^{F149}(g) contributory employment and support allowance.]

Textual Amendments

F148 Words in reg. 9(c) omitted (29.4.2013) by virtue of [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **33(3)**

F149 Reg. 9(g) added (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **4(3)**

Assessed income period

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

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

[^{F150}(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.]

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

[^{F151}(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.

[^{F152}(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^{F153} ...; 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—

- [^{F154}(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 [^{F155}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.

^{F156}(8)

Textual Amendments

- F150** 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)**
- F151** 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)**
- F152** 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)**
- F153** 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)**
- F154** 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)**
- F155** 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)**
- F156** 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.—^{F157}(1) Where an element of a person's retirement provision ceases to be payable by one source but—

- (a) responsibility for that element is assumed by another source, income from both those sources shall be treated as income from the same source; or
- (b) in consequence of that element ceasing, income of a different description becomes payable from a different source, that income shall be treated as income of the same description from the same source as the element which ceased to be payable.

^{F158}(2) For the purposes of section 7(6) (meaning of retirement provision) of the Act, a foreign state retirement pension is to be treated as a benefit under the 1992 Act.]

Textual Amendments

- F157** Reg. 11(1): reg. 11 renumbered as reg. 11(1) (13.4.2010) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2010 \(S.I. 2010/641\)](#), regs. 1(4)(c), **6(4)**
- F158** Reg. 11(2) added (13.4.2010) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2010 \(S.I. 2010/641\)](#), regs. 1(4)(c), **6(4)**

End of assessed income period

12. An assessed income period shall end ^{F159}...—

- (a) ^{F160}at such time as] the claimant no longer satisfies a condition of entitlement to state pension credit;
- (b) ^{F161}at such time as] payments of an element of the claimant's retirement provision which is due to be paid to him stops temporarily or the amount paid is less than the amount due and in consequence his award of state pension credit is superseded under section 10 of the Social Security Act 1998^{M15};
- (c) ^{F162}at such time as] a claimant who has no partner is provided with accommodation in a care home ^{F163}or an independent hospital] other than on a temporary basis^{F164};

[^{F164}(d) if, apart from this sub-paragraph, it would have ended on a date falling within the period specified in column 1 of the table in Schedule IIIA, on the corresponding date shown against that period in column 2 of that table]

Textual Amendments

- F159** Words in reg. 12 omitted (6.4.2016) by virtue of [The State Pension Credit \(Amendment\) Regulations 2015 \(S.I. 2015/1529\)](#), regs. 1, **2(3)(a)**
- F160** Words in reg. 12(a) inserted (6.4.2016) by [The State Pension Credit \(Amendment\) Regulations 2015 \(S.I. 2015/1529\)](#), regs. 1, **2(3)(b)**
- F161** Words in reg. 12(b) inserted (6.4.2016) by [The State Pension Credit \(Amendment\) Regulations 2015 \(S.I. 2015/1529\)](#), regs. 1, **2(3)(b)**
- F162** Words in reg. 12(c) inserted (6.4.2016) by [The State Pension Credit \(Amendment\) Regulations 2015 \(S.I. 2015/1529\)](#), regs. 1, **2(3)(b)**
- F163** 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**
- F164** Reg. 12(d) added (6.4.2016) by [The State Pension Credit \(Amendment\) Regulations 2015 \(S.I. 2015/1529\)](#), regs. 1, **2(3)(c)**

Marginal Citations

- M15** 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.

[^{F165}**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 [^{F166}universal credit,] income support^{F167}, 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.

^{F168}(2)

(3) The amount of the guarantee credit payable in respect of the part-week shall be determined—

- (a) by dividing by 7 the weekly amount of the guarantee credit which^{F169} ... 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,

^{F170} ...

Textual Amendments

- F165** 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)**

- F166** Words in reg. 13A(1)(a) inserted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **33(4)**
- F167** 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)**
- F168** Reg. 13A(2) omitted (6.4.2010) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 6\) Regulations 2009 \(S.I. 2009/3229\)](#), regs. 1, **3(3)(a)**
- F169** Words in reg. 13A(3)(a) omitted (6.4.2010) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 6\) Regulations 2009 \(S.I. 2009/3229\)](#), regs. 1, **3(3)(b)**
- F170** Words in reg. 13A(3) omitted (6.4.2010) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 6\) Regulations 2009 \(S.I. 2009/3229\)](#), regs. 1, **3(3)(c)**

Date on which benefits are treated as paid

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

- (a) severe disablement allowance;
- (b) short-term and long-term incapacity benefit;
- (c) maternity allowance;
- (d) contribution-based jobseeker's allowance^{F171}

[contributory employment and support allowance.]
^{F172}(e)

[^{F173}(2) All benefits except those mentioned in paragraph (1) shall be treated as paid—

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

Textual Amendments

- F165** 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)**
- F171** Words in reg. 13B(1)(d) omitted (29.4.2013) by virtue of [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **33(5)**
- F172** 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)**
- F173** Reg. 13B(2) substituted (6.4.2010) by [The Social Security \(Miscellaneous Amendments\) \(No. 6\) Regulations 2009 \(S.I. 2009/3229\)](#), regs. 1, **3(4)**

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—

- [^{F174}(za) universal credit;
 - (a) disability living allowance;
- [^{F175}(aa) personal independence payment;]
 - (ab) [^{F176}armed forces independence payment;]
 - (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^{M16};
 - (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;
- [^{F177}(l) housing benefit;
- ^{F178}(m)
- (n) [^{F179}bereavement support payment under section 30 of the Pensions Act 2014;]
- (o) statutory sick pay;
- (p) statutory maternity pay;
- (q) [^{F180}ordinary statutory paternity pay payable under Part 12ZA of the 1992 Act;]
- ^{F181}(qa)
- [^{F182}(qb) statutory shared parental pay payable under Part 12ZC of the 1992 Act;]
- [^{F183}(qc) statutory parental bereavement pay payable under Part 12ZD of the 1992 Act;]
- (r) statutory adoption pay payable under Part 12ZB of the 1992 Act;
- [^{F184}(ra) carer’s allowance supplement payable under section 81 of the Social Security (Scotland) Act 2018;]
- [^{F185}(rb) early years assistance given in accordance with section 32 of the Social Security (Scotland) Act 2018;]
- [^{F186}(rc) funeral expense assistance given in accordance with section 34 of the Social Security (Scotland) Act 2018.]

[^{F187}(rd) any Scottish child payment assistance given in accordance with section 79 of the Social Security (Scotland) Act 2018.]

[^{F188}(re) any assistance given in accordance with the Carer's Assistance (Young Carer Grants) (Scotland) Regulations 2019;]

[^{F189}(rf) short-term assistance given in accordance with regulations made under section 36 of the Social Security (Scotland) Act 2018;]

[^{F190}(rg) winter heating assistance given in accordance with regulations made under section 30 of the Social Security (Scotland) Act 2018;]

[^{F191}(rh) disability assistance given in accordance with regulations made under section 31 of the Social Security (Scotland) Act 2018;]

(s) any benefit similar to those mentioned in the preceding provisions of this paragraph payable under legislation having effect in Northern Ireland.]

[^{F192}(2) For the purposes of section 15(1)(f) (foreign social security benefits) of the Act, income includes—

(a) all foreign social security benefits which are similar to the social security benefits prescribed under paragraph (1), and

(b) any foreign state retirement pension.]

(3) Where the payment of any social security benefit prescribed under paragraph (1)[^{F193}, or retirement pension income to which section 16(1)(za) to (e) applies,] is subject to any deduction (other than an adjustment specified in paragraph (4)) the amount to be taken into account under paragraph (1)[^{F194}, or section 16(1)(za) to (e),] 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^{M17};

[^{F195}(b) regulation 2 of the Social Security (Hospital In-Patients) Regulations 2005;]

(c) section 30DD or section 30E of the 1992 Act^{M18} (reductions in incapacity benefit in respect of pensions and councillor's allowances).

[^{F196}(d) section 3 of the Welfare Reform Act (deductions from contributory allowance).]

[^{F197}(e) section 14 of the Pensions Act 2014 (pension sharing: reduction in the sharer's section 4 pension);

(f) section 45B or 55B of the Social Security Contributions and Benefits Act 1992 (reduction of additional pension in Category A retirement pension and shared additional pension: pension sharing).]

[^{F198}(g) regulation 16(2) of the Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023.]

(5) For the purposes of section 15(1)(j) (income to include income of prescribed descriptions), income of the following descriptions is prescribed—

[^{F199}(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;]

[^{F200}(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^{F201}, in any case where article 23(2)(c) applies;]

- [^{F202}(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;]
- [^{F203}(b) a pension paid by a government to victims of National Socialist persecution;]
 - (c) payments under a scheme made under the Pneumoconiosis etc. (Worker’s Compensation) Act 1979^{M19};
 - (d) payments made towards the maintenance of the claimant by his spouse[^{F204}, civil partner, former spouse or former civil partner] or towards the maintenance of the claimant’s partner by his spouse[^{F204}, 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^{F205} ...;
- [^{F206}(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;]
- [^{F207}(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;]
- [^{F208}(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.]
- [^{F209}(j) any payment made at regular intervals under an equity release scheme.]
- [^{F210}(k) PPF periodic payments.]
- [^{F211}(6) For the purposes of section 15(2) (deemed income from capital) and subject to regulation 17(8) (capital to be disregarded), a claimant’s capital shall be deemed to yield a weekly income of—
 - (a) £1 for each £500 in excess of £10,000; and
 - (b) £1 for any excess which is not a complete £500.]
- ^{F212}(7)
- ^{F212}(8)

Textual Amendments

- F174** Reg. 15(1)(za) inserted (25.11.2020) by The Universal Credit (Persons who have attained state pension credit qualifying age) (Amendment) Regulations 2020 (S.I. 2020/655), regs. 1(2), **2(3)**
- F175** Reg. 15(1)(aa) inserted (8.4.2013) by The Personal Independence Payment (Supplementary Provisions and Consequential Amendments) Regulations 2013 (S.I. 2013/388), reg. 2, **Sch. para. 27(3)**
- F176** Reg. 15(1)(ab) inserted (8.4.2013) by The Armed Forces and Reserve Forces Compensation Scheme (Consequential Provisions: Subordinate Legislation) Order 2013 (S.I. 2013/591), art. 2(2), **Sch. para. 23(3)**
- F177** 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)**
- F178** Reg. 15(1)(m) revoked (1.4.2013) by The Council Tax Benefit Abolition (Consequential Provision) Regulations 2013 (S.I. 2013/458), reg. 1, **Sch. 1**
- F179** Reg. 15(1)(n) substituted (coming into force in accordance with art. 1-3 of the amending S.I.) by The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2017 (S.I. 2017/422), arts. 1(2), **21(2)**
- F180** Reg. 15(1)(q)(qa) substituted for reg. 15(1)(q) (1.4.2012) by The Social Security (Miscellaneous Amendments) Regulations 2012 (S.I. 2012/757), regs. 1(4), **5(3)**
- F181** Reg. 15(1)(qa) omitted (5.4.2015) by virtue of The Shared Parental Leave and Statutory Shared Parental Pay (Consequential Amendments to Subordinate Legislation) Order 2014 (S.I. 2014/3255), arts. 1(3), **10(3)(a)** (with art. 35(1))
- F182** Reg. 15(1)(qb) inserted (31.12.2014) by The Shared Parental Leave and Statutory Shared Parental Pay (Consequential Amendments to Subordinate Legislation) Order 2014 (S.I. 2014/3255), arts. 1(2), **10(3)(b)**
- F183** Reg. 15(1)(qc) inserted (6.4.2020) by The Parental Bereavement Leave and Pay (Consequential Amendments to Subordinate Legislation) Regulations 2020 (S.I. 2020/354), regs. 1, **10(3)**
- F184** Reg. 15(1)(ra) inserted (3.9.2018) by The Social Security (Scotland) Act 2018 (Consequential Modifications) Order 2018 (S.I. 2018/872), arts. 1(2), **4(2)**
- F185** Reg. 15(1)(rb) inserted (coming into force in accordance with art. 1(2) of the amending S.I.) by The Social Security (Scotland) Act 2018 (Best Start Grants) (Consequential Modifications and Saving) Order 2018 (S.I. 2018/1138), **art. 7(2)**
- F186** Reg. 15(1)(rc) inserted (16.9.2019 immediately after S.S.I. 2019/292 comes into force) by The Social Security (Scotland) Act 2018 (Funeral Expense Assistance and Early Years Assistance) (Consequential Modifications and Savings) Order 2019 (S.I. 2019/1060), arts. 1(2)(b), **11(2)**
- F187** Reg. 15(1)(rd) inserted (coming into force in accordance with art. 1(2) of the amending S.I.) by The Social Security (Scotland) Act 2018 (Information-Sharing and Scottish Child Payment) (Consequential Provision and Modifications) Order 2020 (S.I. 2020/482), **art. 5(2)**
- F188** Reg. 15(1)(re) inserted (9.11.2020) by The Social Security (Scotland) Act 2018 (Young Carer Grants, Short-Term Assistance and Winter Heating Assistance) (Consequential Provision and Modifications) Order 2020 (S.I. 2020/989), arts. 1(2), **4(2)**
- F189** Reg. 15(1)(rf) inserted (9.11.2020) by The Social Security (Scotland) Act 2018 (Young Carer Grants, Short-Term Assistance and Winter Heating Assistance) (Consequential Provision and Modifications) Order 2020 (S.I. 2020/989), arts. 1(2), **11(2)**
- F190** Reg. 15(1)(rg) inserted (9.11.2020) by The Social Security (Scotland) Act 2018 (Young Carer Grants, Short-Term Assistance and Winter Heating Assistance) (Consequential Provision and Modifications) Order 2020 (S.I. 2020/989), arts. 1(2), **17(2)**
- F191** Reg. 15(1)(rh) inserted (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance) (Consequential Provision and Modifications) Order 2021 (S.I. 2021/886), arts. 1(2), **13(2)**
- F192** Reg. 15(2) substituted (13.4.2010) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2010 (S.I. 2010/641), regs. 1(4)(c), **6(5)**

- F193** Words in reg. 15(3) inserted (16.11.2017) by The Social Security (Miscellaneous Amendments No. 4) Regulations 2017 (S.I. 2017/1015), regs. 1(2), **10(2)(a)(i)**
- F194** Words in reg. 15(3) inserted (16.11.2017) by The Social Security (Miscellaneous Amendments No. 4) Regulations 2017 (S.I. 2017/1015), regs. 1(2), **10(2)(a)(ii)**
- F195** 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)**
- F196** 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)**
- F197** Reg. 15(4)(e)(f) added (16.11.2017) by The Social Security (Miscellaneous Amendments No. 4) Regulations 2017 (S.I. 2017/1015), regs. 1(2), **10(2)(b)**
- F198** Reg. 15(4)(g) inserted (19.11.2023) by The Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023 (Consequential Amendments) Order 2023 (S.I. 2023/1218), arts. 1(2), **14(4)**
- F199** 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)**
- F200** 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)**
- F201** 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)**
- F202** 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)**
- F203** Reg. 15(5)(b) substituted (20.3.2017) by The Social Security (Income-Related Benefits) Amendment Regulations 2017 (S.I. 2017/174), regs. 1, **4(2)**
- F204** 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)
- F205** 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)**
- F206** 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)**
- F207** 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)**
- F208** 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)**
- F209** 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)**
- F210** 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)**
- F211** Reg. 15(6) substituted (2.11.2009) by The Social Security (Deemed Income from Capital) Regulations 2009 (S.I. 2009/1676), regs. 1, **3(2)**
- F212** Reg. 15(7)(8) omitted (2.11.2009) by virtue of The Social Security (Deemed Income from Capital) Regulations 2009 (S.I. 2009/1676), regs. 1, **3(3)**

Marginal Citations

- M16** See in particular paragraph 7(2)(b) of Schedule 8.
- M17** S.I. 1979/597.
- M18** Sections 30DD and 30E were inserted by section 3(1) of the Social Security (Incapacity for Work) Act 1994 (c. 18).
- M19** 1979 c. 41; amended by section 24 of the Social Security Act 1985 (c. 53).

Retirement pension income

16. There shall be added to the descriptions of income listed in section 16(1) (retirement pension income) the following [^{F213}paragraphs]—

“(k) any sum payable by way of pension out of money provided under the Civil List Act 1837^{M20}, the Civil List Act 1937^{M21}, the Civil List Act 1952^{M22}, the Civil List Act 1972^{M23} or the [^{F214}Civil List Act 1975]^{M24} [^{F215};

(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.]

[^{F216}(m) any payment made at regular intervals under an equity release scheme.]

[^{F217}(n) any payment made under the Financial Assistance Scheme Regulations 2005.”]

Textual Amendments

- F213** 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)**
- F214** 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)**
- F215** 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)**
- F216** 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)**
- F217** 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

- M20** 1837 c. 2.
M21 1937 c. 32.
M22 1952 c. 37.
M23 1972 c. 7.
M24 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
 - (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 ^{M25}, 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—
- [^{F218}(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;]
 - [^{F219}(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).
- [^{F220}(9) The sums specified in Schedule VI shall be disregarded in calculating—
- (a) the claimant's earnings; and
 - (b) [^{F221}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) ^{F222}Subject to regulation ^{F223}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^{M26};

^{F224}(c)

^{F225}(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

- F218** 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)**
- F219** 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)**
- F220** 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)**
- F221** 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)**
- F222** 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)**
- F223** 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**
- F224** 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**
- F225** 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

- M25** 1998 c. 14.
- M26** 1992 c. 7.

^{F226}**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 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

F226 Reg. 17ZA inserted (5.4.2004) by [The State Pension Credit \(Miscellaneous Amendments\) Regulations 2004 \(S.I. 2004/647\)](#), regs. 1, **3(4)**

[^{F227}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 [^{F228}(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;
- [^{F229}(i) ^{F230}... statutory paternity pay payable under Part 12ZA of the 1992 Act;]
- ^{F231}(ia)
[statutory shared parental pay payable under Part 12ZC of the 1992 Act;]
- ^{F232}(ib)
[statutory parental bereavement pay payable under Part 12ZD of the 1992 Act;]
- ^{F233}(ic)
 - (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^{F234};
 - (e) any payment of compensation made pursuant to an award by an employment tribunal in respect of unfair dismissal or unlawful discrimination]
 - [any payment in respect of expenses arising out of the ^{F236}claimant participating as a service ^{F235}(f) user].]
- (4) Paragraph (3)(a) shall not apply in respect of any non-cash voucher referred to in paragraph (2)(g).
[
^{F237}(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

- F227** 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)**
- F228** 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)**
- F229** Reg. 17A(2)(i)(ia) substituted for reg. 17A(2)(i) (1.4.2012) by [The Social Security \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/757\)](#), regs. 1(4), **5(4)**
- F230** Word in reg. 17A(2)(i) omitted (5.4.2015) by virtue of [The Shared Parental Leave and Statutory Shared Parental Pay \(Consequential Amendments to Subordinate Legislation\) Order 2014 \(S.I. 2014/3255\)](#), arts. 1(3), **10(4)(a)** (with art. 35(1))

- F231** Reg. 17A(2)(ia) omitted (5.4.2015) by virtue of The Shared Parental Leave and Statutory Shared Parental Pay (Consequential Amendments to Subordinate Legislation) Order 2014 (S.I. 2014/3255), arts. 1(3), **10(4)(b)** (with art. 35(1))
- F232** Reg. 17A(2)(ib) inserted (31.12.2014) by The Shared Parental Leave and Statutory Shared Parental Pay (Consequential Amendments to Subordinate Legislation) Order 2014 (S.I. 2014/3255), arts. 1(2), **10(4)(c)**
- F233** Reg. 17A(2)(ic) inserted (6.4.2020) by The Parental Bereavement Leave and Pay (Consequential Amendments to Subordinate Legislation) Regulations 2020 (S.I. 2020/354), regs. 1, **10(4)**
- F234** 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)**
- F235** 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)**
- F236** Words in reg. 17A(3)(f) substituted (28.4.2014) by The Social Security (Miscellaneous Amendments) Regulations 2014 (S.I. 2014/591), regs. 1, **7(3)**
- F237** 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 ^{F239}regulation 1(2);]
^{F238}(za)

- (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) ^{F240}the following paragraph shall be added after paragraph (1)—

(“ 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;

^{F241}(b) any payment made by a local authority to a claimant with whom a person is accommodated by virtue of arrangements made under—

- (i) ^{F242}section 22C(2) of the Children Act 1989 (ways in which looked after children are to be accommodated and maintained),]

^{F243}(ia) section 81(2) of the Social Services and Well-being (Wales) Act 2014 (ways in which looked after children are to be accommodated and maintained),]

- (ii) [^{F244}section 26 or 26A of the Children (Scotland) Act 1995 (manner of provision of accommodation to child looked after by local authority and duty to provide continuing care), or]
- (iii) regulations 33 or 51 of the Looked After Children (Scotland) Regulations 2009 (fostering and kinship care allowances and fostering allowances);]
- (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; ^{F245} ...
- [^{F247}an integrated care board] established under section 14D of the National Health ^{F246}(iva) Service Act 2006;
- (ivb) [^{F248}NHS England]; ^{F249} ...]
- ^{F250}(v)
- [a Local Health Board established under section 16BA of the National Health Service ^{F251}(vi) Act 1977 or established by an order made under section 11 of the Health Service (Wales) Act;]^{F252} ...
- [the person concerned where the payment is for the provision of accommodation in ^{F253}(vii) respect of the meeting of that person’s needs under section 18 or 19 of the Care Act 2014 (duty and power to meet needs for care and support);]^{F254}or]
- [the person concerned where the payment is for the provision of accommodation to ^{F254}(viii) meet that person’s needs for care and support under section 35 or 36 of the Social Services and Well-being (Wales) Act 2014 (duty and power to meet care and support needs of an adult);]
- [any payment or part of a payment made by a local authority in accordance with section 26A ^{F255}(da) of the Children (Scotland) Act 1995 (duty to provide continuing care) to a person (“A”) which A passes on to the claimant where A—
 - (i) was formerly in the claimant’s care;
 - (ii) is aged 16 or over; and
 - (iii) continues to live with the claimant;]
- [any payment made to a claimant under section 73(1)(b) of the Children and Young People ^{F256}(db) (Scotland) Act 2014 (kinship care assistance).]
- (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

- F227** 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)**
- F238** 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)**
- F239** 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)**
- F240** Words in reg. 17B(4)(b) substituted (1.11.2010) by The Social Security (Miscellaneous Amendments) (No. 5) Regulations 2010 (S.I. 2010/2429), regs. 1(2), **6(a)**
- F241** Words in reg. 17B(4)(b) substituted (1.11.2010) by The Social Security (Miscellaneous Amendments) (No. 5) Regulations 2010 (S.I. 2010/2429), regs. 1(2), **6(b)**
- F242** Words in reg. 17B(4)(b) substituted (3.11.2017) by The Social Services and Well-being (Wales) Act 2014 and the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Order 2017 (S.I. 2017/901), arts. 1, **24**
- F243** Words in reg. 17B(4)(b) inserted (3.11.2017) by The Social Services and Well-being (Wales) Act 2014 and the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Order 2017 (S.I. 2017/901), arts. 1, **9(2)(a)**
- F244** Words in reg. 17B(4)(b) inserted (5.8.2016) by The Children and Young People (Scotland) Act 2014 (Consequential Modifications) Order 2016 (S.I. 2016/732), arts. 1(1), **4(2)(a)**
- F245** 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)**
- F246** Words in reg. 17B(4)(b) inserted (1.4.2013) by The National Treatment Agency (Abolition) and the Health and Social Care Act 2012 (Consequential, Transitional and Saving Provisions) Order 2013 (S.I. 2013/235), art. 1(2), **Sch. 2 para. 54(3)(a)**
- F247** Words in Reg. 17B(4)(b) substituted (1.7.2022) by The Health and Care Act 2022 (Consequential and Related Amendments and Transitional Provisions) Regulations 2022 (S.I. 2022/634), reg. 1(2), Sch. para. 1(1)(3) (with Sch. para. 1(2))
- F248** Words in Instrument substituted (6.11.2023) by The Health and Care Act 2022 (Further Consequential Amendments) (No. 2) Regulations 2023 (S.I. 2023/1071), reg. 1(1), **Sch. para. 1**
- F249** Word in reg. 17B(4)(b) omitted (1.4.2015) by virtue of The Care Act 2014 (Consequential Amendments) (Secondary Legislation) Order 2015 (S.I. 2015/643), art. 1(2), **Sch. para. 19(2)(a)** (with art. 4)
- F250** Words in reg. 17B(4)(b) omitted (1.4.2013) by virtue of The National Treatment Agency (Abolition) and the Health and Social Care Act 2012 (Consequential, Transitional and Saving Provisions) Order 2013 (S.I. 2013/235), art. 1(2), **Sch. 2 para. 54(3)(b)**
- F251** 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)**

- F252** Word in reg. 17B(4)(b) omitted (3.11.2017) by virtue of The Social Services and Well-being (Wales) Act 2014 and the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Order 2017 (S.I. 2017/901), arts. 1, **9(2)(b)**
- F253** Words in reg. 17B(4)(b) inserted (1.4.2015) by The Care Act 2014 (Consequential Amendments) (Secondary Legislation) Order 2015 (S.I. 2015/643), art. 1(2), **Sch. para. 19(2)(b)** (with art. 4)
- F254** Words in reg. 17B(4)(b) inserted (3.11.2017) by The Social Services and Well-being (Wales) Act 2014 and the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Order 2017 (S.I. 2017/901), arts. 1, **9(2)(c)**
- F255** Words in reg. 17B(4)(b) inserted (5.8.2016) by The Children and Young People (Scotland) Act 2014 (Consequential Modifications) Order 2016 (S.I. 2016/732), arts. 1(1), **4(2)(b)**
- F256** Words in reg. 17B(4)(b) inserted (7.11.2017) by The Social Security and Child Support (Care Payments and Tenant Incentive Scheme) (Amendment) Regulations 2017 (S.I. 2017/995), regs. 1, **4(2)**

Notional income

18.—^{F257}(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)^{F258}(za)] 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.]

^{F259}(1A) Paragraph (1) is subject to paragraphs (1B) ^{F260}(1CA)]^{F261}, (1CB) and (5A)].]

^{F262}(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.]

^{F263}(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 ^{F264}or regulation 16(2) of the Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023] if the retirement pension income had been claimed, he shall be treated as possessing that income minus the benefit or allowance in payment.

(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.]

^{F265}(1D) ^{F266}Subject to paragraph (5A),] 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) ^{F267}Subject to paragraph (5A),] where a person, ^{F268}who has attained the qualifying age], 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 [^{F269}rate of the annuity which may have been purchased with the fund and is to be determined by the Secretary of State, taking account of information provided by the pension fund holder in accordance with regulation 7(5) of the Social Security (Claims and Payments) Regulations 1987].

(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^{M27}.

[^{F270}(5A) Where a person—

- (a) makes a claim for state pension credit on or after the issue of a tax credit closure notice and before the expiry of one month beginning with the deadline day specified in that notice; and
- (b) has not, at the time the notice is issued, made an application for retirement pension income to which they might expect to be entitled,

paragraphs (1), (1D) and (2) are not to apply for a period beginning with the first day on which the person is entitled to an award of state pension credit as a consequence of that claim and ending after 52 weeks or, if sooner, on the day the person ceases to be entitled to state pension credit.]

(6) [^{F271}Subject to [^{F272}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.

[^{F273}(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.]

[^{F274}(7ZA) Paragraph (6) shall not apply in respect of the amount of an increase of pension where a person, having made a choice in favour of that increase of pension under section 8(2) of the Pensions Act 2014, alters that choice in favour of a lump sum, in accordance with Regulations made under section 8(7) of that Act.

(7ZB) Paragraph (6) shall not apply in respect of the amount of an increase of pension where a person, having made a choice in favour of that increase of pension in accordance with Regulations made under section 10 of the Pensions Act 2014 which include provision corresponding or similar to section 8(2) of that Act, alters that choice in favour of a lump sum, in accordance with Regulations made under section 10 of that Act which include provision corresponding or similar to Regulations made under section 8(7).]

[^{F275}(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 [^{F276}claimant participating as a service user].]

[^{F273}(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.]

[^{F277}(8A) In paragraph (7ZA), “lump sum” means a lump sum under section 8 of the Pensions Act 2014.

(8B) In paragraph (7ZB), “lump sum” means a lump sum under Regulations made under section 10 of the Pensions Act 2014.]

[^{F278}(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

- F257** 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)**
- F258** Word in reg. 18(1)(a) substituted (coming into force in accordance with art. 1(2)(b) of the amending S.I.) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2015 \(S.I. 2015/1985\)](#), arts. 1(2)(b), **24(2)(a)**
- F259** 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)**
- F260** 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)**
- F261** Words in reg. 18(1A) substituted (8.6.2024) by [The Social Security \(State Pension Age Claimants: Closure of Tax Credits\) \(Amendment\) Regulations 2024 \(S.I. 2024/611\)](#), regs. 1(1), **4(4)(a)**
- F262** 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)**
- F263** 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)**
- F264** Words in reg. 18(1CA) inserted (19.11.2023) by [The Carer’s Assistance \(Carer Support Payment\) \(Scotland\) Regulations 2023 \(Consequential Amendments\) Order 2023 \(S.I. 2023/1218\)](#), arts. 1(2), **14(5)**
- F265** 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)**
- F266** Words in reg. 18(1D) inserted (8.6.2024) by [The Social Security \(State Pension Age Claimants: Closure of Tax Credits\) \(Amendment\) Regulations 2024 \(S.I. 2024/611\)](#), regs. 1(1), **4(4)(b)**
- F267** Words in reg. 18(2) inserted (8.6.2024) by [The Social Security \(State Pension Age Claimants: Closure of Tax Credits\) \(Amendment\) Regulations 2024 \(S.I. 2024/611\)](#), regs. 1(1), **4(4)(b)**

- F268** Words in reg. 18(2) substituted (6.4.2010) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2010 (S.I. 2010/641), regs. 1(1), **6(6)**
- F269** Words in reg. 18(3) substituted (16.11.2017) by The Social Security (Miscellaneous Amendments No. 4) Regulations 2017 (S.I. 2017/1015), regs. 1(2), **10(3)**
- F270** Reg. 18(5A) inserted (8.6.2024) by The Social Security (State Pension Age Claimants: Closure of Tax Credits) (Amendment) Regulations 2024 (S.I. 2024/611), regs. 1(1), **4(4)(c)**
- F271** 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)**
- F272** 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)**
- F273** 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)**
- F274** Reg. 18(7ZA)(7ZB) inserted (coming into force in accordance with art. 1(2)(b) of the amending S.I.) by The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2015 (S.I. 2015/1985), arts. 1(2)(b), **24(2)(b)**
- F275** 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)**
- F276** Words in reg. 18(7A) substituted (28.4.2014) by The Social Security (Miscellaneous Amendments) Regulations 2014 (S.I. 2014/591), regs. 1, **7(4)**
- F277** Reg. 18(8A)(8B) inserted (coming into force in accordance with art. 1(2)(b) of the amending S.I.) by The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2015 (S.I. 2015/1985), arts. 1(2)(b), **24(2)(c)**
- F278** 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

M27 1993 c. 48; see section 181(1) of that Act.

[^{F279} 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

F279 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)**

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.—^[F280](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).]

^[F281](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.]

^[F282](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

F280 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**

F281 Reg. 21(2) substituted (5.4.2004) by [The State Pension Credit \(Miscellaneous Amendments\) Regulations 2004 \(S.I. 2004/647\)](#), regs. 1, **3(5)**

F282 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 [F283]21(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 [F283]21(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 [F283]21(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 ^{M28} (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” [F284] means a period of 7 consecutive days beginning on a Monday and ending on a Sunday].
- (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 [F283]21(1); or
 - (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 [F283]21(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 [F283 21(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

F283 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**

F284 Words in reg. 22(3)(c) substituted (1.4.2013) by [The Council Tax Benefit Abolition \(Consequential Provision\) Regulations 2013 \(S.I. 2013/458\)](#), reg. 1, **Sch. 2 para. 6**

Marginal Citations

M28 [S.I.1987/1971](#).

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 [F285 paragraphs (2) or (3)], 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 ^{M29};

(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.

[^{F286}(3) Paragraph (1) shall not apply in respect of any payment of income arising out of the [^{F287}claimant participating as a service user].]

Textual Amendments

- F285** Words in reg. 24(1) substituted (31.10.2011) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2011 \(S.I. 2011/2425\)](#), regs. 1(2), **15(4)(a)**
- F286** Reg. 24(3) inserted (31.10.2011) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2011 \(S.I. 2011/2425\)](#), regs. 1(2), **15(4)(b)**
- F287** Words in reg. 24(3) substituted (28.4.2014) by [The Social Security \(Miscellaneous Amendments\) Regulations 2014 \(S.I. 2014/591\)](#), regs. 1, **7(5)**

Marginal Citations

- M29** 1980 c. 46.

[^{F288}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

- F288** 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 ^{M30} 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.
- (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 ^{M31} (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

M30 [S.I. 2001/4022](#); the relevant amending Instrument is [S.I. 2002/486](#).

M31 [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

Changes to legislation:

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