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## STATUTORY INSTRUMENTS

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# 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<sup>M1</sup>;

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

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

[<sup>F2</sup>“the Armed Forces and Reserve Forces Compensation Scheme” means the scheme established under section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004;]

“attendance allowance” means—

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

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

[<sup>F3</sup>“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,

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

“care home” has the meaning it has for the purposes of the Care Standards Act 2000 <sup>M3</sup> by virtue of section 3 of that Act [<sup>F4</sup> and in Scotland means a care home service];

[<sup>F5</sup>“care home service” has the meaning assigned to it by section 2(3) of the Regulation of Care (Scotland) Act 2001;]

“the Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations 1987<sup>M4</sup>;

“close relative” means a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, [<sup>F6</sup> 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;

[<sup>F7</sup>“couple” means—

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

and for the purposes of paragraph (d), two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex;]

[<sup>F8</sup>“the Computation of Earnings Regulations” means the Social Security Benefit (Computation of Earnings) Regulations 1996;]

[<sup>F8</sup>“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;

[<sup>F9</sup>“equity release scheme” means a loan—

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

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

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

[<sup>F10</sup>“the Graduated Retirement Benefit Regulations” means the Social Security (Graduated Retirement Benefit) Regulations 2005;]

[<sup>F2</sup>“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;]

“the Income Support Regulations” means the Income Support (General) Regulations 1987<sup>M5</sup>;

[<sup>F11</sup> “independent hospital” in England and Wales has the meaning assigned to it by section 2 of the Care Standards Act 2000, and in Scotland means an independent healthcare service as defined in section 2(5)(a) and (b) of the Regulation of Care (Scotland) Act 2001; ”]

[<sup>F11</sup>“the Independent Living Fund” means the charitable trust established out of funds provided by the Secretary of State for the purpose of providing financial assistance to those persons incapacitated by or otherwise suffering from very severe disablement who are in need of such assistance to enable them to live independently;

[<sup>F12</sup>“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;]

“the Independent Living Funds” means the Independent Living Fund, [<sup>F13</sup>the Independent Living (Extension) Fund, the Independent Living (1993) Fund and the Independent Living Fund (2006)];

“the Independent Living (Extension) Fund” means the Trust of that name established by a deed dated 25th February 1993 and made between the Secretary of State for Social Security of the one part and Robin Glover Wendt and John Fletcher Shepherd of the other part;

“the Independent Living (1993) Fund” means the Trust of that name established by a deed dated 25th February 1993 and made between the Secretary of State for Social Security of the one part and Robin Glover Wendt and John Fletcher Shepherd of the other part;

“the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996<sup>M6</sup>;

[<sup>F14</sup>“the London Bombings Relief Charitable Fund” means the company limited by guarantee (number 5505072) and registered charity of that name established on 11th July 2005 for the purpose of (amongst other things) relieving sickness, disability or financial need of victims (including families or dependants of victims) of the terrorist attacks carried out in London on 7th July 2005;]

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

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

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

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

[<sup>F15</sup>“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 [<sup>F16</sup>an occupational pension scheme,] a personal pension scheme or retirement annuity contract, the trustees, managers or scheme administrators, as the case may be, of the scheme or contract concerned;

“policy of life insurance” means any instrument by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or

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any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life;

“prisoner” means a person who—

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

other than a person detained in hospital under the provisions of the Mental Health Act 1983<sup>M9</sup>, or in Scotland, under the provisions of the [<sup>F17</sup>Mental Health (Care and Treatment) (Scotland) Act 2003] or the Criminal Procedure (Scotland) Act 1995<sup>M10</sup>;

“qualifying person” means a person in respect of whom payment has been made from the Fund<sup>F18</sup>, the Eileen Trust<sup>F19</sup>, the Skipton Fund or the London Bombings Relief Charitable Fund];

[<sup>F20</sup>“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;]

[<sup>F21</sup>“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<sup>M11</sup>;
- (b) as respects Scotland, any water and sewerage charges under Schedule 11 to the Local Government Finance Act 1992<sup>M12</sup>;

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

(3) In these Regulations, unless the context otherwise requires, a member of [<sup>F22</sup>a couple] is referred to as a partner and both members are referred to as partners.

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

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

#### Textual Amendments

- F1** Words in reg. 1(2) inserted (6.10.2003) by [The State Pension Credit \(Transitional and Miscellaneous Provisions\) Amendment Regulations 2003 \(S.I. 2003/2274\)](#), regs. 1, **2(2)**
- F2** Words in reg. 1(2) inserted (4.4.2005) by [The Social Security \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/574\)](#), regs. 1(1), **2(1)**
- F3** Words in reg. 1(2) inserted (3.10.2005) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2005 \(S.I. 2005/2465\)](#), regs. 1(2), **6(2)**
- F4** 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)**

- F5** Words in reg. 1(2) inserted (6.10.2003) by The State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) (No. 2) Regulations 2002 (S.I. 2002/3197), reg. 1(1)(b), **Sch. para. 1(a)**
- F6** 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)
- F7** Words in reg. 1(2) inserted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877), art. 1, **Sch. 3 para. 35(2)(a)(ii)** (with art. 3)
- F8** 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)**
- F9** 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)**
- F10** 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)**
- F11** Words in reg. 1(2) inserted (24.10.2005) by The Social Security (Care Homes and Independent Hospitals) Regulations 2005 (S.I. 2005/2687), reg. 1, **Sch. 5 para. 1**
- F12** 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)**
- F13** Words in reg. 1(2) substituted (1.10.2007) by The Independent Living Fund (2006) Order 2007 (S.I. 2007/2538), arts. 1, **6(3)**
- F14** 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)**
- F15** 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)**
- F16** 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)**
- F17** 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)**
- F18** 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)**
- F19** 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)**
- F20** 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)**
- F21** 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)**
- F22** Words in reg. 1(3) substituted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877), art. 1, **Sch. 3 para. 35(2)(b)** (with art. 3)

### Marginal Citations

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

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**M9** 1983 c. 20.

**M10** 1995 c. 46.

**M11** 1991 c. 56.

**M12** 1992 c. 14.

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