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STATUTORY INSTRUMENTS

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**2002 No. 1792**

**The State Pension Credit Regulations 2002**

**PART II**

*Entitlement and amount*

**[<sup>F1</sup> Persons not in Great Britain**

2.—(1) A person is to be treated as not in Great Britain if, subject to the following provisions of this regulation, he is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.

(2) No person shall be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless he has a right to reside in (as the case may be) the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland other than a right to reside which falls within paragraph (3).

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

- (a) regulation 13 of the Immigration (European Economic Area) Regulations 2006;
  - (b) regulation 14 of those Regulations, but only in a case where the right exists under that regulation because the person is—
    - (i) a jobseeker for the purpose of the definition of “qualified person” in regulation 6(1) of those Regulations, or
    - (ii) a family member (within the meaning of regulation 7 of those Regulations) of such a jobseeker;
  - (c) Article 6 of Council Directive No.2004/38/EC; or
  - (d) Article 39 of the Treaty establishing the European Community (in a case where the person is seeking work in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland).
- (4) A person is not to be treated as not in Great Britain if he is—
- (a) a worker for the purposes of Council Directive No.2004/38/EC;
  - (b) a self-employed person for the purposes of that Directive;
  - (c) a person who retains a status referred to in sub-paragraph (a) or (b) pursuant to Article 7(3) of that Directive;
  - (d) a person who is a family member of a person referred to in sub-paragraph (a), (b) or (c) within the meaning of Article 2 of that Directive;
  - (e) a person who has a right to reside permanently in the United Kingdom by virtue of Article 17 of that Directive;

*Status: Point in time view as at 11/04/2011.*

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

- [<sup>F2</sup>(f) a person who is treated as a worker for the purpose of the definition of “qualified person” in regulation 6(1) of the Immigration (European Economic Area) Regulations 2006 pursuant to—
- (i) regulation 5 of the Accession (Immigration and Worker Registration) Regulations 2004 (application of the 2006 Regulations in relation to a national of the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Slovenia or the Slovak Republic who is an “accession State worker requiring registration”), or
  - (ii) regulation 6 of the Accession (Immigration and Worker Authorisation) Regulations 2006 (right of residence of a Bulgarian or Romanian who is an “accession State national subject to worker authorisation”);]
- (g) a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967;
- (h) [<sup>F3</sup>a person who has exceptional leave to enter or remain in the United Kingdom granted outside the rules made under section 3(2) of the Immigration Act 1971;]
- [<sup>F3</sup>(hh) a person who has humanitarian protection granted under those rules;]
- (i) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999 and who is in the United Kingdom as a result of his deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom; <sup>F4</sup>...
  - (j) a person in Great Britain who left the territory of Montserrat after 1st November 1995 because of the effect on that territory of a volcanic eruption][<sup>F5</sup>; or]
- [<sup>F5</sup>(k) a person who—
- (i) arrived in Great Britain on or after 28th February 2009 but before 18th March 2011;
  - (ii) immediately before arriving there had been resident in Zimbabwe; and
  - (iii) before leaving Zimbabwe, had accepted an offer, made by Her Majesty’s Government, to assist that person to move to and settle in the United Kingdom.]

#### Textual Amendments

- F1** 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))
- F2** Reg. 2(4)(f) substituted (1.1.2007) by [The Social Security \(Bulgaria and Romania\) Amendment Regulations 2006 \(S.I. 2006/3341\)](#), regs. 1, **4(2)**
- F3** 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)**
- F4** 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)**
- F5** Reg. 2(4)(k) and word added (18.3.2009) by [The Social Security \(Habitual Residence\) \(Amendment\) Regulations 2009 \(S.I. 2009/362\)](#), regs. 1(2), **4(3)**

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

- C1** Reg. 2(4)(a)-(e) applied (with modifications) (30.4.2006) by [The Social Security \(Persons from Abroad\) Amendment Regulations 2006 \(S.I. 2006/1026\)](#), regs. 1, **10(h)** (with reg. 11(2))

### [<sup>F6</sup> Persons temporarily absent from Great Britain

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

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

#### Textual Amendments

- F6** Reg. 3 substituted (6.10.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2008 \(S.I. 2008/2424\)](#), regs. 1, **3(2)**

### [<sup>F7</sup> Persons temporarily absent from Great Britain on 6th October 2008

3A. Where a claimant—

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

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

#### Textual Amendments

- F7** Reg. 3A inserted (6.10.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2008 \(S.I. 2008/2424\)](#), regs. 1, **3(3)**

### Persons receiving treatment outside Great Britain

4.—[<sup>F8</sup>(1) For the purposes of the Act, a person who is receiving treatment at a hospital or other institution outside Great Britain shall be treated as being in Great Britain if the treatment is being provided—

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

[<sup>F9</sup>(2) Paragraph (1) applies only where—

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

Status: Point in time view as at 11/04/2011.

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

**Textual Amendments**

- F8** Reg. 4(1) substituted (17.11.2008) by [The Social Security \(Miscellaneous Amendments\) \(No.6\) Regulations 2008 \(S.I. 2008/2767\)](#), regs. 1(2), **5(3)**
- F9** Reg. 4(2) added (6.10.2003) by [The State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) Regulations 2002 \(S.I. 2002/3019\)](#), regs. 1(2)(b), **23(b)**

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

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

- (a) he is living away from the claimant and—
  - (i) he does not intend to resume living with the claimant; or
  - (ii) his absence is likely to exceed 52 weeks except where there are exceptional circumstances (for example the person is in hospital or otherwise has no control over the length of his absence), and the absence is unlikely to be substantially more than 52 weeks;
- (b) he or the claimant is permanently in a care home <sup>F10</sup>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 <sup>F11</sup>Mental Health (Care and Treatment) (Scotland) Act 2003], or the Criminal Procedure (Scotland) Act 1995; or
  - (ii) detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court; or
  - (iii) on temporary release in accordance with the provisions of the Prison Act 1952 <sup>M1</sup> or the Prison (Scotland) Act 1989<sup>M2</sup>;
- (d) the claimant is abroad and does not satisfy <sup>F12</sup>... regulation 3 (persons temporary absent from Great Britain).

<sup>F13</sup>(e) .....

<sup>F14</sup>(f) he is absent from Great Britain for more than 13 weeks;]

<sup>F15</sup>(g) .....

<sup>F16</sup>(h) he is a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999]

<sup>F17</sup>(1A) Paragraph (1)(d) and (f) shall not apply where a person is treated as being in Great Britain in accordance with regulation 4.]

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

<sup>F18</sup>(3) .....

**Textual Amendments**

- F10** 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**
- F11** 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)**
- F12** 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)**
- F13** 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)**
- F14** Reg. 5(1)(f) substituted (6.10.2008) by The Social Security (Miscellaneous Amendments) (No.4) Regulations 2008 (S.I. 2008/2424), regs. 1, **3(4)(a)**
- F15** 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)**
- F16** 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**
- F17** Reg. 5(1A) inserted (2.10.2006) by The Social Security (Miscellaneous Amendments) (No. 4) Regulations 2006 (S.I. 2006/2378), regs. 1(3), **14(2)(b)**
- F18** 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

- M1** 1952 c. 52.  
**M2** 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) [<sup>F19</sup>£209.70 ]per week in the case of a claimant who has a partner;
  - (b) [<sup>F20</sup>£137.35 ]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, [<sup>F21</sup>£55.30 ]per week if paragraph 1(1)(a), (b) or (c) of Part I of Schedule I is satisfied; or
  - (b) [<sup>F22</sup>£110.60 ]per week if paragraph 1(1)(b) of Part I of Schedule I is satisfied otherwise than by virtue of paragraph 1(2)(b) of that Part and no one is entitled to and in receipt of an allowance under section 70 of the 1992 Act in respect of caring for either partner.
- (6) Except in a case to which paragraph (3) applies, an amount additional to that prescribed in paragraph (1) shall be applicable—
- (a) if paragraph 4 of Part II of Schedule I is satisfied (amount applicable for carers);

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(b) in accordance with Part III of Schedule I (amount applicable for former claimants of income support or income-based jobseeker's allowance); or

(c) except where paragraph (7) applies, in accordance with Schedule II (housing costs).

(7) This paragraph applies in the case of a person who has been detained in custody for more than 52 weeks pending trial or sentence following conviction by a court.

(8) The amount applicable if paragraph 4 of Part II of Schedule I is satisfied is [<sup>F23</sup>£31.00] 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 <sup>M3</sup> or, as the case may be, detained pending sentence upon conviction.

#### Textual Amendments

- F19** Sum in Reg. 6(1)(a) substituted (coming into force in accordance with art. 1(2)(m) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2011 \(S.I. 2011/821\)](#), arts. 1(2)(m), **27(2)(a)**
- F20** Sum in Reg. 6(1)(b) substituted (coming into force in accordance with art. 1(2)(m) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2011 \(S.I. 2011/821\)](#), arts. 1(2)(m), **27(2)(b)**
- F21** Sum in Reg. 6(5)(a) substituted (coming into force in accordance with art. 1(2)(m) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2011 \(S.I. 2011/821\)](#), arts. 1(2)(m), **27(2)(c)**
- F22** Sum in Reg. 6(5)(b) substituted (coming into force in accordance with art. 1(2)(m) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2011 \(S.I. 2011/821\)](#), arts. 1(2)(m), **27(2)(d)**
- F23** Sum in Reg. 6(8) substituted (coming into force in accordance with art. 1(2)(m) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2011 \(S.I. 2011/821\)](#), arts. 1(2)(m), **27(2)(e)**

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

- C2** Reg. 6(1)(a) sum confirmed (7.4.2003) by [The Social Security Benefits Up-rating Order 2003 \(S.I. 2003/526\)](#), arts. 1(2)(c), **25(2)(a)**
- C3** Reg. 6(1)(b) sum confirmed (7.4.2003) by [The Social Security Benefits Up-rating Order 2003 \(S.I. 2003/526\)](#), arts. 1(2)(c), **25(2)(b)**
- C4** Reg. 6(3)(a) modified (7.4.2003) by [The Social Security Benefits Up-rating Order 2003 \(S.I. 2003/526\)](#), arts. 1(2)(c), 25(6), **Sch. 16**
- C5** Reg. 6(3)(a) sum maintained (12.4.2004) by [The Social Security Benefits Up-rating Order 2004 \(S.I. 2004/552\)](#), arts. 1(2)(c), 26(6), **Sch. 20**
- C6** Reg. 6(3)(a)(b) sums maintained (11.4.2005) by [The Social Security Benefits Up-rating Order 2005 \(S.I. 2005/522\)](#), arts. 1(2)(c), 26(6), **Sch. 20**
- C7** Reg. 6(3)(a) modified (10.4.2006) by [The Social Security Benefits Up-rating Order 2006 \(S.I. 2006/645\)](#), arts. 1(2)(d), 26(6), **Sch. 20**
- C8** Reg. 6(3)(a) modified (for specified purposes and with effect in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(l), 26(6), **Sch. 20**
- C9** Reg. 6(3)(a) modified (with effect in accordance with art. 1(2)(k) (3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), arts. 1(2)(k), 26(6), **Sch. 17**
- C10** Reg. 6(3)(a) modified (coming into force in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2010 \(S.I. 2010/793\)](#), arts. 1(2)(l), 26(6), **Sch. 17**
- C11** Reg. 6(3)(a) sum specified (coming into force in accordance with art. 1(2)(m) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2011 \(S.I. 2011/821\)](#), arts. 1(2)(m), 27(6), **Sch. 17**

- C12** Reg. 6(3)(b) modified (7.4.2003) by The Social Security Benefits Up-rating Order 2003 (S.I. 2003/526), arts. 1(2)(c), 25(6), **Sch. 16**
- C13** Reg. 6(3)(b) sum maintained (12.4.2004) by The Social Security Benefits Up-rating Order 2004 (S.I. 2004/552), arts. 1(2)(c), 26(6), **Sch. 20**
- C14** Reg. 6(3)(b) modified (10.4.2006) by The Social Security Benefits Up-rating Order 2006 (S.I. 2006/645), arts. 1(2)(d), 26(6), **Sch. 20**
- C15** Reg. 6(3)(b) modified (for specified purposes and with effect in accordance with art. 1(2)(l) of the amending S.I.) by The Social Security Benefits Up-rating Order 2008 (S.I. 2008/632), arts. 1(2)(l), 26(6), **Sch. 20**
- C16** Reg. 6(3)(b) modified (with effect in accordance with art. 1(2)(k) (3)(a) 6 of the amending S.I.) by The Social Security Benefits Up-rating Order 2009 (S.I. 2009/497), arts. 1(2)(k), 26(6), **Sch. 17**
- C17** Reg. 6(3)(b) modified (coming into force in accordance with art. 1(2)(l) of the amending S.I.) by The Social Security Benefits Up-rating Order 2010 (S.I. 2010/793), arts. 1(2)(l), 26(6), **Sch. 17**
- C18** Reg. 6(3)(b) sum specified (coming into force in accordance with art. 1(2)(m) of the amending S.I.) by The Social Security Benefits Up-rating Order 2011 (S.I. 2011/821), arts. 1(2)(m), 27(6), **Sch. 17**
- C19** Reg. 6(5)(a) sum confirmed (7.4.2003) by The Social Security Benefits Up-rating Order 2003 (S.I. 2003/526), arts. 1(2)(c), **25(2)(c)**
- C20** Reg. 6(5)(b) sum confirmed (7.4.2003) by The Social Security Benefits Up-rating Order 2003 (S.I. 2003/526), arts. 1(2)(c), **25(2)(d)**
- C21** Reg. 6(8) sum confirmed (7.4.2003) by The Social Security Benefits Up-rating Order 2003 (S.I. 2003/526), arts. 1(2)(c), **25(2)(e)**

### Marginal Citations

**M3** 1993 c. 47.

### Savings Credit

- 7.—(1) The percentage prescribed for the purposes of determining—
- the maximum savings credit is 60 per cent.;
  - “amount A” in section 3(4) is 60 per cent.;
  - “amount B” in section 3(4) is 40 per cent.
- (2) The amount prescribed for the savings credit threshold is [<sup>F24</sup>£103.15 ]for a claimant who has no partner and [<sup>F24</sup>£164.55 ]for a claimant who has a partner.
- (3) The maximum savings credit shall be taken to be Nil in the case of—
- prisoners; and
  - members of religious orders who are fully maintained by their order.
- [<sup>F25</sup>(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

- F24** Sums in Reg. 7(2) substituted (coming into force in accordance with art. 1(2)(m) of the amending S.I.) by The Social Security Benefits Up-rating Order 2011 (S.I. 2011/821), arts. 1(2)(m), **27(3)(b)**
- F25** 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)**

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

- C22** Reg. 7(1)(a)(b)(c) sums confirmed (7.4.2003) by [The Social Security Benefits Up-rating Order 2003 \(S.I. 2003/526\)](#), arts. 1(2)(c), **25(3)(a)**
- C23** Reg. 7(1)(a)(b)(c) sums maintained (12.4.2004) by [The Social Security Benefits Up-rating Order 2004 \(S.I. 2004/552\)](#), arts. 1(2)(c), **26(3)(a)**
- C24** Reg. 7(1)(a)(b)(c) sums maintained (11.4.2005) by [The Social Security Benefits Up-rating Order 2005 \(S.I. 2005/522\)](#), arts. 1(2)(c), **26(3)(a)**
- C25** Reg. 7(1)(a) sum confirmed (10.4.2006) by [The Social Security Benefits Up-rating Order 2006 \(S.I. 2006/645\)](#), arts. 1(2)(d), **26(3)(a)**
- C26** Reg. 7(1)(a) sum confirmed (for specified purposes and with effect in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(l), **26(3)(a)**
- C27** Reg. 7(1)(a) sum confirmed (for specified purposes and with effect in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(l), **26(3)(a)**
- C28** Reg. 7(1)(a)-(c) sum confirmed (with effect in accordance with art. 1(2)(k) (3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), arts. 1(2)(k), **26(3)(a)**
- C29** Reg. 7(1)(a) sum confirmed (coming into force in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2010 \(S.I. 2010/793\)](#), arts. 1(2)(l), **26(3)(a)**
- C30** Reg. 7(1)(a) sum confirmed (coming into force in accordance with art. 1(2)(m) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2011 \(S.I. 2011/821\)](#), arts. 1(2)(m), **27(3)(a)**
- C31** Reg. 7(1)(b) sum confirmed (10.4.2006) by [The Social Security Benefits Up-rating Order 2006 \(S.I. 2006/645\)](#), arts. 1(2)(d), **26(3)(a)**
- C32** Reg. 7(1)(b) sum confirmed (for specified purposes and with effect in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(l), **26(3)(a)**
- C33** Reg. 7(1)(b) sum confirmed (for specified purposes and with effect in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(l), **26(3)(a)**
- C34** Reg. 7(1)(b) sum confirmed (coming into force in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2010 \(S.I. 2010/793\)](#), arts. 1(2)(l), **26(3)(a)**
- C35** Reg. 7(1)(b) sum confirmed (coming into force in accordance with art. 1(2)(m) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2011 \(S.I. 2011/821\)](#), arts. 1(2)(m), **27(3)(a)**
- C36** Reg. 7(1)(c) sum confirmed (10.4.2006) by [The Social Security Benefits Up-rating Order 2006 \(S.I. 2006/645\)](#), arts. 1(2)(d), **26(3)(a)**
- C37** Reg. 7(1)(c) sum confirmed (for specified purposes and with effect in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2007 \(S.I. 2007/688\)](#), arts. 1(2)(l), **26(3)(a)**
- C38** Reg. 7(1)(c) sum confirmed (for specified purposes and with effect in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(l), **26(3)(a)**
- C39** Reg. 7(1)(c) sum confirmed (coming into force in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2010 \(S.I. 2010/793\)](#), arts. 1(2)(l), **26(3)(a)**
- C40** Reg. 7(1)(c) sum confirmed (coming into force in accordance with art. 1(2)(m) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2011 \(S.I. 2011/821\)](#), arts. 1(2)(m), **27(3)(a)**
- C41** Reg. 7(3) modified (7.4.2003) by [The Social Security Benefits Up-rating Order 2003 \(S.I. 2003/526\)](#), arts. 1(2)(c), 25(6), **Sch. 16**
- C42** Reg. 7(3) sum maintained (12.4.2004) by [The Social Security Benefits Up-rating Order 2004 \(S.I. 2004/552\)](#), arts. 1(2)(c), 26(6), **Sch. 20**
- C43** Reg. 7(3) sum maintained (11.4.2005) by [The Social Security Benefits Up-rating Order 2005 \(S.I. 2005/522\)](#), arts. 1(2)(c), 26(6), **Sch. 20**



- C44** Reg. 7(3) modified (10.4.2006) by [The Social Security Benefits Up-rating Order 2006 \(S.I. 2006/645\)](#), arts. 1(2)(d), 26(6), **Sch. 20**
- C45** Reg. 7(3) modified (for specified purposes and with effect in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2008 \(S.I. 2008/632\)](#), arts. 1(2)(l), 26(6), **Sch. 20**
- C46** Reg. 7(3) modified (with effect in accordance with art. 1(2)(k) (3)(a) 6 of the amending S.I.) by [The Social Security Benefits Up-rating Order 2009 \(S.I. 2009/497\)](#), arts. 1(2)(k), 26(6), **Sch. 17**
- C47** Reg. 7(3) modified (coming into force in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2010 \(S.I. 2010/793\)](#), arts. 1(2)(l), 26(6), **Sch. 17**
- C48** Reg. 7(3) sum specified (coming into force in accordance with art. 1(2)(m) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2011 \(S.I. 2011/821\)](#), arts. 1(2)(m), 27(6), **Sch. 17**

### Special groups

8. Schedule III shall have effect in the case of members of polygamous marriages and [<sup>F26</sup>persons serving a sentence of imprisonment detained in hospital].

#### Textual Amendments

- F26** 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 within the meaning of section 1(4) of the Jobseekers Act 1995<sup>M4</sup>;
- (d) severe disablement allowance;
- (e) maternity allowance;
- (f) payments referred to in regulation 15(5)(d) (maintenance payments).
- [<sup>F27</sup>(g) contributory employment and support allowance.]

#### Textual Amendments

- F27** [Reg. 9\(g\)](#) added (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **4(3)**

#### Marginal Citations

- M4** 1995 c. 18.

### Assessed income period

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

- (a) in the case of partners, one partner is under the age of 60; or

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

- (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.
- [<sup>F28</sup>(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—
- [<sup>F29</sup>(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.
- [<sup>F30</sup>(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<sup>F31</sup> ...; 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—
  - [<sup>F32</sup>(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 [<sup>F33</sup>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.
- [<sup>F34</sup>(8) .....

**Textual Amendments**

**F28** 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)**

**F29** 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)**

**F30** 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)**

**F31** 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)**

**F32** 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)**

**F33** 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)**

**F34** 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.—[<sup>F35</sup>(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.
- [<sup>F36</sup>(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.]

Status: Point in time view as at 11/04/2011.

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

**Textual Amendments**

- F35** 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)**
- F36** 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 at such time as—
- (a) the claimant no longer satisfies a condition of entitlement to state pension credit;
  - (b) payments of an element of the claimant’s retirement provision which is due to be paid to him stops temporarily or the amount paid is less than the amount due and in consequence his award of state pension credit is superseded under section 10 of the Social Security Act 1998<sup>M5</sup>;
  - (c) a claimant who has no partner is provided with accommodation in a care home <sup>F37</sup> or an independent hospital] other than on a temporary basis.

**Textual Amendments**

- F37** 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**

**Marginal Citations**

- M5** 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.

<sup>F38</sup>**Part-weeks**

**13A.—**(1) The guarantee credit shall be payable for a period of less than a week (“a part-week”) at the rate specified in paragraph (3) if—

- (a) the claimant was entitled to income support<sup>F39</sup>, 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.

<sup>F40</sup>(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<sup>F41</sup>... 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,

<sup>F42</sup> ...

#### Textual Amendments

- F38** 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)**
- F39** 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)**
- F40** 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)**
- F41** 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)**
- F42** 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 within the meaning of section 1(4) of the Jobseekers Act 1995.
- [ contributory employment and support allowance.]

<sup>F43</sup>(e)

[<sup>F44</sup>(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

- F38** 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)**
- F43** 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)**
- F44** 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)**

**Status:**

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