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STATUTORY INSTRUMENTS

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**2002 No. 1792**

**The State Pension Credit Regulations 2002**

**PART II**

*Entitlement and amount*

**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>F1</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>F2</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>F3</sup>... regulation 3 (persons temporary absent from Great Britain).
  - <sup>F4</sup>(e) .....
  - [<sup>F5</sup>(f) he is absent from Great Britain—
    - (i) for more than 8 weeks where he is accompanying a young person solely in connection with arrangements made for the treatment of that person for a disease or bodily or mental disablement, and those arrangements relate to treatment outside Great Britain by, or under the supervision of, a person appropriately qualified to carry out the treatment, during the period whilst he is temporarily absent from Great Britain; or
    - (ii) for more than 4 weeks in all other cases.]
  - <sup>F6</sup>(g) .....
  - [<sup>F7</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>F8</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>F9</sup>(3) in paragraph (1)(f) “young person” and “appropriately qualified” shall have the meaning given to them in regulation 3(4).]

#### Textual Amendments

- F1** 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**
- F2** 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)**
- F3** 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)**
- F4** 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)**
- F5** Reg. 5(1)(f) substituted (6.10.2003) by [The State Pension Credit \(Transitional and Miscellaneous Provisions\) Amendment Regulations 2003 \(S.I. 2003/2274\)](#), regs. 1, **2(5)(c)**
- F6** 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)**
- F7** 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**
- F8** 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)**
- F9** Reg. 5(3) inserted (6.10.2003) by [The State Pension Credit \(Transitional and Miscellaneous Provisions\) Amendment Regulations 2003 \(S.I. 2003/2274\)](#), regs. 1, **2(5)(d)**

#### Marginal Citations

- M1** 1952 c. 52.
- M2** 1989 c. 45.

**Status:**

Point in time view as at 02/10/2006. This version of this provision has been superseded.

**Changes to legislation:**

There are currently no known outstanding effects for the The State Pension Credit Regulations 2002, Section 5.