

STATUTORY INSTRUMENTS

2002 No. 3197

The State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) (No. 2) Regulations 2002

PROSPECTIVE

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) (No. 2) Regulations 2002 and shall come into force—

- (a) for the purposes of this regulation and regulations 5, 6 and 7(4), on 7th April 2003;
- (b) for all other purposes, on 6th October 2003.

(2) In these Regulations, “the principal Regulations” means the State Pension Credit Regulations 2002(1) and references in these Regulations to a regulation or a Schedule are, unless the context otherwise requires, to a regulation of, or a Schedule to, those Regulations.

Commencement Information

I1 Reg. 1 in force at 7.4.2003, see [reg. 1\(1\)\(a\)](#)

Amendment of the principal Regulations

2. The principal Regulations shall be amended in accordance with the Schedule to these Regulations.

Commencement Information

I2 Reg. 2 in force at 6.10.2003, see [reg. 1\(1\)\(b\)](#)

Further amendments to the principal Regulations relating to earnings

3.—(1) In regulation 17A (earnings of an employed earner)—

- (a) in paragraph (2), for “(3) and (4)”, there shall be substituted “(3), (4) and (4A)”;
- (b) after paragraph (3)(d), there shall be added the following—

“;

(e) any payment of compensation made pursuant to an award by an employment tribunal in respect of unfair dismissal or unlawful discrimination”;

- (c) after paragraph (4), there shall be inserted the following paragraph—

Status: This version of this Instrument contains provisions that are prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) (No. 2) Regulations 2002. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

“(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.”.

(2) In regulation 17B (earnings of self-employed earners)—

(a) before paragraph (2)(a), there shall be inserted the following sub-paragraph—

“(za) “board and lodging accommodation” has the same meaning as in paragraph 8(2) of Schedule IV;”;

(b) at the end of regulation 12(2)(e) of the Social Security Benefit (Computation of Earnings) Regulations 1996(2) as given effect by paragraph (4)(b), there shall be added the words “being an award made by one of the Sports Councils named in section 23(2) of the National Lottery etc. Act 1993(3) out of sums allocated to it for distribution under that section”.

Commencement Information

I3 Reg. 3 in force at 6.10.2003, see [reg. 1\(1\)\(b\)](#)

Amendment of amounts in the principal Regulations

4.—(1) In regulation 6 (amount of the guarantee credit)—

(a) in paragraph (1)—

(i) in sub-paragraph (a), for the sum “£154” there shall be substituted the sum “£155.80”;

(ii) in sub-paragraph (b), for the sum “£100” there shall be substituted the sum “£102.10”;

(b) in paragraph (5)—

(i) in sub-paragraph (a), for the sum “£43.45” there shall be substituted the sum “£42.95”;

(ii) in sub-paragraph (b), for the sum “£86.90” there shall be substituted the sum “£85.90”;

(c) in paragraph (8), for the sum “£25.35” there shall be substituted the sum “£25.10”.

(2) In regulation 7(2) (savings credit), for the sum “£77” there shall be substituted the sum “£77.45” and for the sum “£123” there shall be substituted the sum “£123.80”.

(3) In paragraph 1 of Schedule III (polygamous marriages)—

(a) in sub-paragraph (5)—

(i) in the substituted regulation 6(1)(a), for the sum “£154” there shall be substituted the sum “£155.80”;

(ii) in the substituted regulation 6(1)(b), for the sum “£54” there shall be substituted the sum “£53.70”;

(b) in sub-paragraph (7), in the substituted regulation 7(2), for the sum “£123” there shall be substituted the sum “£123.80”.

(2) S.I. 1996/2745

(3) 1993 c. 39.

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Commencement Information

I4 Reg. 4 in force at 6.10.2003, see [reg. 1\(1\)\(b\)](#)

Amendment of the Social Security (Claims and Payments) Regulations 1987

5.—(1) The Social Security (Claims and Payments) Regulations 1987(4) shall be amended in accordance with the following paragraphs of this regulation.

(2) In regulation 34A(5) (deduction of mortgage interest which shall be made from benefit and paid to qualifying lenders)—

- (a) for the words “or (1A)” there shall be substituted the words “or, subject to paragraph (1A), section 15A(1A)”;
- (b) after paragraph (1), there shall be inserted the following paragraph—

“(1A) Paragraph (1) shall only apply in relation to a relevant beneficiary who is entitled to state pension credit where he is entitled to a guarantee credit.”

(3) After regulation 34A, there shall be inserted the following regulation—

“Deductions of mortgage interest which may be made from benefits and paid to qualifying lenders in other cases

34B.—(1) In relation to cases to which section 15A(1A) of the Social Security Administration Act 1992(6) applies (other than those referred to in regulation 34A(1A))—

- (a) in the circumstances specified in paragraph 2A(1) of Schedule 9A: and
- (b) in either of the further circumstances specified in paragraph 2A(2) of that Schedule,

such part of any relevant benefits to which a relevant beneficiary is entitled as may be specified in that Schedule may be paid by the Secretary of State directly to the qualifying lender and shall be applied by that lender towards the discharge of the liability in respect of that interest(7).

(2) The provisions of Schedule 9A(8) shall have effect in relation to mortgage interest payments made under this regulation.”

(4) In paragraph 3(5)(a) of Schedule 9(9) (deductions from benefit and direct payments to third parties), after “regulation 34A” there shall be inserted “or 34B”.

(5) In Schedule 9A (deductions of mortgage interest from benefit and made to qualifying lenders)—

- (a) in the heading, for “Regulation 34A” there shall be substituted “Regulations 34A and 34B”;
- (b) at the end of the heading to paragraph 2(10), there shall be added the words “for the purposes of regulation 34A”;
- (c) after paragraph 2, there shall be inserted the following paragraph—

(4) S.I. 1987/1968.

(5) Regulation 34A is inserted by S.I. 1992/1026 and amended by S.I. 2002/3019.

(6) Section 15A(1A) is inserted by the State Pension Credit Act 2002 (c. 16), Schedule 2, paragraph 9(2).

(7) See section 15A for the definition of “relevant beneficiary”, “qualifying lender” and “mortgage interest”.

(8) Schedule 9A is inserted by S.I. 1992/1026.

(9) Paragraph 3(5) is inserted by S.I. 1992/1026.

(10) Paragraph 2 is substituted by S.I. 1995/1613 and amended by S.I. 1996/1460.

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“Specified circumstances for the purposes of regulation 34B

2A.—(1) The circumstances referred to in regulation 34B are that—

- (a) the relevant beneficiary is entitled to a savings credit as construed in accordance with sections 1 and 3 of the 2002 Act and not to a guarantee credit; and
- (b) sub-paragraphs (a) and (b) of paragraph 2 apply.

(2) The further circumstances referred to in that regulation are that—

- (a) the relevant beneficiary has requested the Secretary of State in writing to make such payments to the qualifying lender; or
- (b) the Secretary of State has determined that it would be in the relevant beneficiary’s interests, or in the interests of his family, to make such payments to the qualifying lender.

(3) In making the determination referred to in sub-paragraph (2)(b), the Secretary of State shall have regard to whether or not the relevant beneficiary is in arrears with his payments to the qualifying lender.

(4) For the purposes of sub-paragraph (2)(b), “a family” comprises the relevant beneficiary, his partner, any additional partner to whom section 12(1)(c) of the 2002 Act applies and any person who has not attained the age of 19, is treated as a child for the purposes of section 142 of the Contributions and Benefits Act and lives with the relevant beneficiary or the relevant beneficiary’s partner.”

(d) in paragraph 3(11)—

- (i) in sub-paragraph (1A), after the words “qualifying lender” there shall be inserted the words “or, in accordance with regulation 34B, may be paid directly to the qualifying lender”;
- (ii) in sub-paragraph (10), after the words “state pension credit”, in the first place where those words occur, there shall be inserted the words “but not in a case to which sub-paragraph (11) applies,”;
- (iii) after sub-paragraph (10), there shall be added the following sub-paragraph—

“(11) This sub-paragraph applies where the last day on which either the claimant or his partner were entitled to income support or to an income-based jobseeker’s allowance was no more than twelve weeks before—

- (a) except where paragraph (b) applies, the first day of entitlement to state pension credit; or
- (b) where the claim for state pension credit was treated as made on a day earlier than the day on which it was actually made (“the actual date”), the day which would have been the first day of entitlement to state pension credit had the claim been treated as made on the actual date.”;

(e) in paragraphs 6 and 7, after “regulation 34A” there shall be inserted “or 34B”;

(f) in paragraph 9(4), for the words “Regulation 34A shall not” there shall be substituted the words “Neither regulation 34A nor 34B shall”;

(g) in paragraph 11—

- (i) in sub-paragraph (1), after “regulation 34A” there shall be inserted “or 34B”;

(11) Sub-paragraphs (1A) and (10) are inserted by S.I. 2002/3019.

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- (ii) in sub-paragraph (2)(a)(i), after the words “Jobseeker’s Allowance Regulations” there shall be inserted the words “or paragraph 9 of Schedule II to the State Pension Credit Regulations”.

Commencement Information

I5 Reg. 5 in force at 7.4.2003, see [reg. 1\(1\)\(a\)](#)

Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations 1999

6. In regulation 7 of the Social Security and Child Support (Decisions and Appeals) Regulations 1999⁽¹²⁾ (date from which a decision superseded under section 10 takes effect)—

- (a) after paragraph (17A) there shall be inserted the following paragraphs—

“(17B) Subject to paragraph (23), where a claimant who is in receipt of state pension credit or his partner is aged 65 or over, the claimant’s appropriate minimum guarantee includes an amount determined in accordance with Schedule II to the State Pension Credit Regulations and there is a change of circumstances referred to in paragraph (17C), a decision made under section 10 shall take effect—

- (a) on the first anniversary of the date on which the claimant’s housing costs were first met under that Schedule; or
(b) where the change occurred after the first anniversary of the date referred to in sub-paragraph (a), on the next anniversary of that date following the date of the change.

(17C) Paragraph (17B) applies in a case where a non-dependant commences residing with the claimant or there is an increase in a non-dependant’s income.”.

- (b) for paragraph (23), there shall be substituted the following paragraph—

“(23) Where, in any case to which paragraph (14), (17A), (17B) or (18) applies, a claimant has been continuously in receipt of, or treated as having been continuously in receipt of income support, a jobseeker’s allowance or state pension credit, or one of those benefits followed by the other, and he or his partner continues to receive any of those benefits, the anniversary to which those paragraphs refer shall be—

- (a) in the case of income support or jobseeker’s allowance, the anniversary of the earliest date on which benefit in respect of those mortgage interest costs became payable;
(b) in the case of state pension credit, the relevant anniversary date determined in accordance with paragraph 7 of Schedule II to the State Pension Credit Regulations.”.

Commencement Information

I6 Reg. 6 in force at 7.4.2003, see [reg. 1\(1\)\(a\)](#)

⁽¹²⁾ S.I. 1999/991; the relevant amending instrument is S.I. 2002/3019.

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Amendments to other Regulations

7.—(1) In regulation 8 of the Social Security (Child Maintenance Bonus) Regulations 1996(13) (retirement)—

- (a) in paragraph (2), for the words “income support”, in both places where they occur, there shall be substituted the words “state pension credit”;
- (b) after paragraph (2) there shall be inserted the following paragraph—

“(2A) In paragraph (2), “state pension credit” means the benefit of that name payable under the State Pension Credit Act 2002.”.

(2) In regulation 17 of the Social Security (Back to Work Bonus) (No. 2) Regulations 1996(14) (persons attaining pensionable age)—

- (a) in paragraphs (4) and (6), for the words “income support”, in all places where they occur, there shall be substituted the words “state pension credit”;
- (b) at the end, there shall be added the following paragraph—

“(8) In this regulation, “state pension credit” means the benefit of that name payable under the State Pension Credit Act 2002.”.

(3) In regulation 1(2) of the Community Charges (Deductions from Income Support) (Scotland) Regulation 1989(15) (interpretation), for the definition of “personal allowance for a couple where both members are aged not less than 18” there shall be substituted the following definition—

““personal allowance for a couple where both members are aged not less than 18” means—

- (a) in the case of a person who is entitled to either income support or state pension credit, the amount for the time being specified in paragraph 1(3)(c) of column (2) of Schedule 2 to the Income Support (General) Regulations 1987(16); or
- (b) in the case of a person who is entitled to an income-based jobseeker’s allowance, the amount for the time being specified in paragraph 1(3)(e) of column (2) of Schedule 1 to the Jobseeker’s Allowance Regulations 1996(17);”.

(4) In regulation 36 of the State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations 2002(18) (persons entitled to income support immediately before the appointed day)—

- (a) in paragraph (15)—
 - (i) at the beginning there shall be inserted the words “Except where paragraph (16) applies,”;
 - (ii) after the words “transferee who”, there shall be inserted the words “or whose partner”;
- (b) at the end, there shall be added the following paragraphs—

“(16) Paragraphs (17) to (19) apply only in relation to a transferee whose applicable amount immediately before the appointed day was determined in accordance with paragraph 13(2) of Schedule 7 to the Income Support (General) Regulations 1987 (“the Income Support Regulations”) (persons in residential accommodation who become patients);

(17) Where a transferee is a patient on the appointed day and continues to be a patient after that day, section 2(3) has effect for so long as the transferee continues to be a patient

(13) S.I. 1996/3195 to which there are amendments which are not relevant to these Regulations.

(14) S.I. 1996/2570 to which there are amendments which are not relevant to these Regulations.

(15) S.I. 1989/507; the relevant amending Instruments are S.I. 1990/113, 1996/2344 and 2002/3019.

(16) S.I. 1987/1967.

(17) S.I. 1996/207.

(18) S.I. 2002/3019.

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with the substitution for the reference to the standard minimum guarantee in paragraph (a) of the amount which is for the time being specified as the applicable amount in column (2) of paragraph 13(2) of Schedule 7 to the Income Support Regulations less the amount applicable under regulation 17(1)(f) or (g) of those Regulations.

(18) Where a transferee—

- (a) ceases to be a patient on or after the appointed day but again becomes a patient no more than 28 days after the last day on which he was previously a patient; and
- (b) was in residential accommodation (as defined for the purposes of the Income Support Regulations) immediately before again becoming a patient,

section 2(3) has effect when the transferee again becomes a patient with the substitution for the reference to the standard minimum guarantee in paragraph (a) of the amount which is for the time being specified as the applicable amount in column (2) of paragraph 13(2) of Schedule 7 to the Income Support Regulations less the amount applicable under regulation 17(1)(f) or (g) of those Regulations.

(19) Where a transferee—

- (a) ceases to be a patient on or after the appointed day but again becomes a patient no more than 28 days after the last day on which he was previously a patient;
- (b) was not in accommodation referred to in paragraph (18)(b) immediately before again becoming a patient; and
- (c) has been a patient for a total period of more than six weeks,

section 2(3) shall have effect when the transferee again becomes a patient with the substitution for the reference to the standard minimum guarantee in paragraph (a) of a reference to an amount determined by taking the amount for the time being specified in regulation 6(1)(a) of the State Pension Credit Regulations and reducing it by an amount equal to 20 per cent of the weekly rate of the basic pension for the time being specified in section 44(4) of the Social Security Contributions and Benefits Act 1992.”

Commencement Information

- I7** Reg. 7(1)-(3) in force at 6.10.2003, see [reg. 1\(1\)\(b\)](#)
- I8** Reg. 7(4) in force at 7.4.2003, see [reg. 1\(1\)\(a\)](#)

Signed for the purposes of regulation 3 of the Regulations.

18th December 2002

Nick Ainger
Jim Fitzpatrick
Two of the Lords Commissioners of Her
Majesty’s Treasury

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Signed by authority of the Secretary of State for Work and Pensions both for the purpose of concurring in the making of regulation 3 of the Regulations and for the purposes of the remainder of the Regulations.

19th December 2002

Ian McCartney
Minister of State,
Department for Work and Pensions

Status:

This version of this Instrument contains provisions that are prospective.

Changes to legislation:

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Changes and effects yet to be applied to :

- Sch. para. 1 coming into force by [S.I. 2002/3197 reg. 1\(1\)\(b\)](#)
- Sch. para. 2 coming into force by [S.I. 2002/3197 reg. 1\(1\)\(b\)](#)
- Sch. para. 3 coming into force by [S.I. 2002/3197 reg. 1\(1\)\(b\)](#)
- Sch. para. 4 coming into force by [S.I. 2002/3197 reg. 1\(1\)\(b\)](#)
- Sch. para. 5 coming into force by [S.I. 2002/3197 reg. 1\(1\)\(b\)](#)
- Sch. para. 6 coming into force by [S.I. 2002/3197 reg. 1\(1\)\(b\)](#)
- Sch. para. 7 coming into force by [S.I. 2002/3197 reg. 1\(1\)\(b\)](#)
- Sch. para. 8 coming into force by [S.I. 2002/3197 reg. 1\(1\)\(b\)](#)
- Sch. para. 9 coming into force by [S.I. 2002/3197 reg. 1\(1\)\(b\)](#)
- Sch. para. 10 coming into force by [S.I. 2002/3197 reg. 1\(1\)\(b\)](#)
- Sch. para. 11 coming into force by [S.I. 2002/3197 reg. 1\(1\)\(b\)](#)
- Sch. para. 12 coming into force by [S.I. 2002/3197 reg. 1\(1\)\(b\)](#)
- Sch. para. 13 coming into force by [S.I. 2002/3197 reg. 1\(1\)\(b\)](#)
- Sch. para. 10(b) revoked by [S.I. 2005/3360 reg. 9\(2\)Sch.](#)
- reg. 1 coming into force by [S.I. 2002/3197 reg. 1\(1\)\(a\)](#)
- reg. 2 coming into force by [S.I. 2002/3197 reg. 1\(1\)\(b\)](#)
- reg. 3 coming into force by [S.I. 2002/3197 reg. 1\(1\)\(b\)](#)
- reg. 4 coming into force by [S.I. 2002/3197 reg. 1\(1\)\(b\)](#)
- reg. 5 coming into force by [S.I. 2002/3197 reg. 1\(1\)\(a\)](#)
- reg. 6 coming into force by [S.I. 2002/3197 reg. 1\(1\)\(a\)](#)
- reg. 7(1)-(3) coming into force by [S.I. 2002/3197 reg. 1\(1\)\(b\)](#)
- reg. 7(4) coming into force by [S.I. 2002/3197 reg. 1\(1\)\(a\)](#)