
EXPLANATORY NOTE

(This note is not part of the Regulations)

The Regulations contained in this Instrument are made either by virtue of, or in consequence of, provisions introduced by the State Pension Credit Act 2002 (c. 16) (“the 2002 Act”). This Instrument is made before the expiry of the period of 6 months beginning with the coming into force of those provisions; the regulations in it are therefore exempt in accordance with section 173(5) of the Social Security Administration Act 1992 from the requirement in section 172(2) of that Act to refer proposals to make Regulations to the Social Security Advisory Committee and are made without reference to that Committee.

These Regulations amend the Housing Benefit (General) Regulations 1987 (“the Housing Benefit Regulations”) and the Council Tax Benefit (General) Regulations 1992 (“the Council Tax Benefit Regulations”). They contain new provisions for those who have attained the qualifying age for state pension credit. In the case of a woman, that age is pensionable age and in the case of a man it is the age which is pensionable age in the case of a woman born on the same day as the man (section 1(6) of the State Pension Credit Act 2002).

Part 1 of the Regulations provides for their citation, commencement and interpretation.

Part 2 contains modifications to the Housing Benefit Regulations. Regulation 3 of that Part adds new expressions to the interpretation provisions in the Housing Benefit Regulations.

Regulation 6 contains new provisions for determining the applicable amount for a person who has attained the qualifying age for state pension credit. Rates for those aged 65 or over are higher than for those aged under 65.

Regulation 8 replaces the existing provisions on income and capital with new regulations 21 to 44 of the Housing Benefit Regulations. They provide in particular that—

- those entitled to a guarantee credit in state pension credit are to be treated as having neither income nor capital;
- the calculation of the income of a claimant whose entitlement to state pension credit consists only of the savings credit will be based upon the assessment made by the Secretary of State for the purposes of determining the award of state pension credit. This figure is to be subject to a number of adjustments which the determining authority must make in accordance with the provisions of regulation 23;
- those who have attained the qualifying age for state pension credit but have no entitlement to that benefit will have their income and capital calculated in accordance with the rules set out in regulations 25 to 44 of the Housing Benefit Regulations.

Regulation 25 of the Housing Benefit Regulations provides a definition of “income” for the purposes of those claimants who have attained the qualifying age for state pension credit. Regulations 26 to 29 contain provisions relating to the calculation of a person’s income; regulations 30 and 31 provide for the calculation of earnings from employed earner’s employment and regulations 32 to 35 provide for the calculation of the earnings of self-employed earners. Regulations 38 to 44 provide for the calculation of a person’s capital and include provisions as to notional capital (regulation 42) and diminishing notional capital (regulation 43). Regulation 44 provides for capital jointly held.

Regulation 9 of these Regulations provides that the provisions of Part VII of the Housing Benefit Regulations (students) (regulations 46 to 60) will not apply to those who have attained the qualifying age for state pension credit.

Status: This is the original version (as it was originally made).

Regulation 10 provides for continuing payments of housing benefit where the claimant has attained the qualifying age for state pension credit, or if he claimed jobseeker's allowance after attaining that age, has attained the age of 65. It also applies where the claimant's partner has actually claimed state pension credit.

Part 3 (regulations 12 to 20) contains matching provisions relating to council tax benefit.

Part 4 (regulation 21) introduces three new Schedules common to both housing benefit and council tax benefit. These Schedules make provision for disregarding prescribed sums in calculating the income and capital of the claimant.

Part 5 contains miscellaneous consequential provisions and savings. Regulation 22 specifies the date a change of circumstances is to take effect where the change relates to a non-dependant. Regulation 23 amends regulations relating to housing benefit and council tax benefit relating to claims in their application to persons who have attained the qualifying age for state pension credit.

Regulation 24 specifies changes of circumstances which a claimant must report. It also introduces new provisions specifying the date a change of circumstances takes effect where state pension credit is payable. Regulation 25 specifies the information which a local authority which has determined a claim for housing benefit must give to a claimant who has attained the qualifying age for state pension credit.

Regulation 26 provides for state pension credit to be added to the list of benefits from which housing benefit and council tax benefit may be recovered. Regulation 27 contains minor amendments.

Regulation 28 amends the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 which is consequential upon regulation 24 (date a change of circumstances takes effect).

Regulations 29 and 30 contain transitional provisions relating to claims for housing benefit and council tax benefit by persons who have attained or whose partner has attained the qualifying age for state pension credit.

Regulation 31 makes provision for existing beneficiaries who, on 6th October 2003, are patients.

These Regulations do not impose a charge on business.