

EXPLANATORY MEMORANDUM TO
THE STATE PENSION CREDIT (AMENDMENT) REGULATIONS 2005

2005 No. 3205

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1. This package of Regulations contains amendments to State Pension Credit (Pension Credit) provisions to enable us to treat payments from the Financial Assistance Scheme (FAS) as income and as retirement provision for the purpose of assessed income period (AIP) in the same way as occupational pension income.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1. None.
4. **Legislative Background**
 - 4.1 The Financial Assistance Scheme will offer help to some people who have lost out on their defined benefit occupational pension, because their scheme was under-funded when it wound up and the employer is insolvent or no longer exists. In addition, there will also be assistance for certain surviving husbands, wives and civil partners. The first FAS payments are expected to be made before the end of the calendar year. It is not intended that FAS payments will be subject to yearly uprating.
 - 4.2 The proposed regulations will come into force on 18 December 2005. They will make the changes to existing regulations 10(2) and (5B) (assessed income period) and 16 (retirement pension income). The amendments to regulation 10 will also have the effect of making it more generic.
5. **Extent**
 - 5.1 This instrument applies to Great Britain.

6. **European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. **Policy Background**

- 7.1 Pension Credit is an income related benefit paid to people age 60 and over. It provides financial help for people whose income is below a certain level set by the law and rewards people who have made some provision for their retirement. Only income which is listed in the legislation is taken into account.
- 7.2 For people age 65 and over, an assessed income period (AIP) of up to 5 years may be set. This means they do not have to report any changes to certain types of income during that period. These types of income, which include occupational pension income, are defined as retirement provision in Pension Credit legislation. Where an element of retirement provision increases each year, such as a pension, that increase will be assumed and the Pension Credit award adjusted.
- 7.3 Because FAS payments effectively replace part of what would have been a person's occupational pension entitlement, it is logical to treat the payments as income in the calculation of Pension Credit, Housing Benefit (HB) and Council Tax Benefit (CTB) for pensioners.
- 7.4 **New Regulation 2(2) (a)** amends Regulation 10 (2) (a) to ensure we do not deem an increase in FAS payments each year. The new wording is broadly consistent with the wording of regulation 10(4), which covers payments which are increased periodically.
- 7.5 **New regulation 2 (2) (b)** amends Regulation 10 (5B) to remove the references to particular types of retirement provision.
- 7.6 **New Regulation 2(3)** amends Regulation 16 to add FAS payments to the list of 'retirement pension income' which already includes occupational pension income. The term 'retirement pension income' is used in both the list of income and in the definition of retirement provision for the purposes of the AIP.
- 7.7 No separate amendment is needed to the HB/CTB Regulations because the meaning of income for HB/CTB for pensioners includes "retirement pension income within the meaning of State Pension Credit Act 2002". The proposed amendments will therefore feed through to the HB/CTB Regulations.
- 7.8 The Regulations were considered by the Social Security Advisory Committee at its meeting on 2nd November 2005. The committee

agreed that proposals in respect of these regulations should not be referred to it.

7.9 Local Authorities were not consulted on this occasion as we are not amending any HB/CTB Regulations.

7.10 These minor amendments do not require a wider consultation as they treat FAS payments in the same way as occupational pension in current legislation. A wider consultation took place on the development of FAS.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 There are no significant costs relating to the public sector.

9. Contact

Yasmin Ghazali or Sean Ingle at the Department of Work and Pensions can answer any queries regarding the instrument.

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