

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (PAYMENTS ON ACCOUNT, OVERPAYMENTS AND
RECOVERY) AMENDMENT REGULATIONS 2005

2005 No. 3476

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 These Regulations amend regulation 8 of the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988. They provide for the prevention of duplicate payments when a person in receipt of state pension credit receives a payment made under the Financial Assistance Scheme Regulations 2005.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 Section 286 of the Pensions Act 2004 (c.35) requires the Secretary of State to make regulations providing for a scheme to make payments to certain members of certain pension schemes.

4.2 Under this power the Secretary of State made the Financial Assistance Scheme Regulations 2005 (S.I. 2005/1986) which came into force on 1 September 2005. Under these Regulations, payments may be made to certain persons for periods beginning no earlier than 14 May 2004. Some of these persons may be in receipt of State Pension Credit.

4.3 The State Pension Credit (Amendment) Regulations 2005 come into force on 18 December 2005. These amend regulation 16 of the State Pension Credit Regulations 2002 (S.I. 2002/2792). From that date, payments under the Financial Assistance Scheme Regulations 2005 may reduce entitlement to State Pension Credit.

4.4 Where the Secretary of State makes a payment under the Financial Assistance Scheme Regulations 2005 for a past period, an overpayment of State Pension Credit may be caused, enabling the Secretary of State to recover the amount of State Pension Credit that would not have been paid, if the payment under the Financial Assistance Scheme been paid on the day that it was paid for.

4.5 Where arrears of a prescribed payment are due to be made that will otherwise create an overpayment of previously paid State Pension Credit, the Secretary of State may abate the prescribed payment due by the amount of benefit previously paid. This

amendment adds payments made under the Financial Assistance Scheme Regulations to the list of prescribed payments which can be abated to avoid overpayments arising.

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 It is the view of the Secretary of State that it makes little sense to make to him a payment, possibly of a significant sum, then, at some time in the future, ask the claimant to, in effect, repay that sum. The intention is to make provision allowing the Secretary of State to reduce the payment to take account of the State Pension Credit that would have been affected. In this way, the payment is reduced or may even be reduced to nothing but the claimant is not put into debt. This policy also has the advantage of avoiding the cost of recovery of the debt.

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 is no impact on the public sector.

9. Contact

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