
STATUTORY INSTRUMENTS

2006 No. 2378

**The Social Security (Miscellaneous
Amendments) (No. 4) Regulations 2006**

Amendment of the State Pension Credit Regulations 2002

- 14.**—(1) The State Pension Credit Regulations 2002(1) are amended as follows.
- (2) In regulation 5 (persons treated as being or not being members of the same household)—
- (a) in paragraph (1), omit sub-paragraph (e)(2);
- (b) after paragraph (1) insert—
- “(1A) Paragraph (1)(d) and (f) shall not apply where a person is treated as being in Great Britain in accordance with regulation 4.”.
- (3) In regulation 10 (assessed income period), omit paragraph (8).
- (4) In regulation 18 (notional income)—
- (a) for paragraph (1) substitute—
- “(1) A claimant who has attained the qualifying age shall be treated as possessing the amount of any retirement pension income—
- (a) to which section 16(1)(a) to (e) applies,
- (b) for which no claim has been made, and
- (c) to which the claimant might expect to be entitled if a claim for it were made,
- but only from the date on which that income could be expected to be acquired if a claim for it were made.
- (1A) Paragraph (1) is subject to paragraphs (1B) and (1C).
- (1B) Where a claimant—
- (a) has deferred entitlement to retirement pension income to which section 16(1)(a) to (c) applies for at least 12 months, and
- (b) would have been entitled to make an election under Schedule 5 or 5A(3) to the 1992 Act or under Schedule 1 to the Graduated Retirement Benefit Regulations,
- he shall be treated for the purposes of paragraph (1) as possessing the amount of retirement pension income to which he might expect to be entitled if he were to elect to receive a lump sum.
- (1C) Where a claimant receives an allowance under—
- (a) section 68(4) of the 1992 Act (severe disablement allowance), or
- (b) section 70(5) of that Act (carer’s allowance),

(1) [S.I. 2002/1792](#).

(2) Sub-paragraph (e) was inserted by [S.I. 2002/3019](#).

(3) Schedule 5A was inserted by Schedule 11 to the Pensions Act 2004 (c.35).

(4) Section 68 was repealed by section 65 and Part 4 of Schedule 13 to the Welfare Reform and Pensions Act 1999 (c.30), but subject to the savings provided for in [S.I. 2000/2958 \(C.89\)](#).

(5) Section 70 was amended by [S.I. 1994/2556](#)

the amount of that allowance is to be deducted from the amount of retirement pension income which he is treated as possessing for the purposes of paragraph (1) (or, where applicable, paragraph (1) read with paragraph (1B)).

(1D) A claimant who has attained the qualifying age shall be treated as possessing income from an occupational pension scheme which he elected to defer, but only from the date on which it could be expected to be acquired if a claim for it were made.”;

(b) after paragraph (8) add—

“(9) For the purposes of paragraph (6), a person is not to be regarded as depriving himself of income where—

(a) his rights to benefits under a registered pension scheme are extinguished and in consequence of this he receives a payment from the scheme, and

(b) that payment is a trivial commutation lump sum within the meaning given by paragraph 7 of Schedule 29 to the Finance Act 2004(6).

(10) In paragraph (9), ”registered pension scheme” has the meaning given in section 150(2) of the Finance Act 2004.”.

(5) In Schedule 2 (housing costs)—

(a) in paragraph 13(1)(a) (other housing costs), omit “and, in Scotland, payments by way of feu duty”;

(b) in paragraph 14 (persons residing with the claimant)—

(i) in sub-paragraph (2)(a)(7), for “(1)(c)” substitute “(1)(b)”, and

(ii) after sub-paragraph (7)(d)(8), insert—

“(dd) in respect of whom a deduction in the calculation of a rent rebate or allowance falls to be made under regulation 55 (non-dependant deductions) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006; or”.

(6) In paragraph 16(2) of Schedule 5 (capital disregarded for the purpose of calculating income)(9)—

(a) for sub-paragraph (a) substitute—

“(a) by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998, or the Court of Protection, or on behalf of a person where the payment can only be disposed of by order or direction of any such court;”;

(b) in sub-paragraph (b), omit “Rule 131 of the Act of Sederunt (Rules of the Court, consolidation and amendment) 1965(10), or under”.

(6) 2004 c.12.

(7) Paragraph 14(2) was amended by S.I. 2002/3197.

(8) Paragraph 14(7) was amended by S.I. 2002/3197, 2003/1195, 2004/2327 and 2005/3360.

(9) Paragraph 16 was amended by S.I. 2002/3019.

(10) S.I. 1965/321.