
STATUTORY INSTRUMENTS

2008 No. 3157

**The Social Security (Miscellaneous
Amendments) (No. 7) Regulations 2008**

Amendment of the State Pension Credit Regulations 2002

4.—(1) The State Pension Credit Regulations 2002 are amended as follows.

(2) In regulation 1(2) (interpretation), in the definition of “attendance allowance”, for paragraph (f) substitute—

“(f) any payment based on a need for attendance which is paid as part of a war disablement pension, or any other such payment granted in respect of disablement which falls within regulation 15(5)(ac);”.

(3) In regulation 15(5) (income for the purposes of the Act)—

(a) for sub-paragraph (a) substitute—

“(a) a payment made—

(i) under article 30 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006⁽¹⁾, in any case where article 30(1) (b) applies; or

(ii) under article 12(8) of that Order, in any case where sub-paragraph (b) of that article applies;”;

(b) in sub-paragraph (ab), for “but only where the condition referred to in article 23(2)(c) is met” substitute “, in any case where article 23(2)(c) applies”;

(c) after sub-paragraph (ab) insert—

“(ac) any retired pay, pension or allowance granted in respect of disablement or any pension or allowance granted to a widow, widower or surviving civil partner in respect of a death due to service or war injury under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003⁽²⁾, where such payment does not fall within paragraph (a) of the definition of “war disablement pension” in section 17(1) of the State Pension Credit Act 2002 or, in respect of any retired pay or pension granted in respect of disablement, where such payment does not fall within paragraph (b) of that definition;”.

(4) In regulation 17B(4)(b) (earnings of self-employed earners), in the substituted paragraph (2)

(a) in sub-paragraph (d)(iv) omit “or”;

(b) in sub-paragraph (d)(v), for “1977;” substitute “1977 or established by an order made under section 18(2)(c) of the Health Service Act; or”;

(c) after sub-paragraph (d)(v) insert—

(1) [S.I. 2006/606](#).

(2) [2003 c. 1](#). Subsection (2) was inserted into section 639 by section 19(4) of the Finance Act [2005 \(c. 7\)](#).

- “(vi) a Local Health Board established under section 16BA of the National Health Service Act 1977 or established by an order made under section 11 of the Health Service (Wales) Act;”.
- (5) In Schedule 4 (amounts to be disregarded in the calculation of income other than earnings)—
- (a) after paragraph 1(b) insert—
- “(ba) unless paragraph 1(a) or (b) applies, any payment described in regulation 15(5)(ac) (except insofar as such a payment falls to be disregarded under paragraph 2 or 3);”;
- (b) in paragraph 1(c) omit “the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865 or the Pensions and Yeomanry Pay Act 1884, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and”;
- (c) in paragraph 1(cc), after “payment” insert “and, if the amount of that payment has been abated to less than £10 by a payment under the Armed Forces Pension Scheme 1975 or the Armed Forces Pension Scheme 2005, so much of the pension payable under either of those schemes as would not, in aggregate with the amount of the guaranteed income payment disregarded, exceed £10”;
- (d) in paragraph 3, for “article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983” substitute “article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006”;
- (e) for paragraph 4 substitute—
- “4. Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.”;
- (f) for paragraph 6(1)(b) substitute—
- “(b) equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.”;
- (g) in paragraph 12—
- (i) for “pension under Part IV of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983” substitute “pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006”;
- (ii) omit “spouse or civil”;
- (h) omit paragraph 17.
- (6) In Schedule 5 (income from capital)—
- (a) renumber the existing provision contained in paragraph 14 as sub-paragraph (1) and after the renumbered sub-paragraph (1) insert—
- “(2) In sub-paragraph (1), “war disablement pension” and “war widow’s or widower’s pension” include any payment described in regulation 15(5)(ac).”;
- (b) in paragraph 17, after “18 to 20” insert “or 20B”;
- (c) in paragraph 20—
- (i) in sub-paragraph (1)(d), for “National Assembly for Wales” substitute “Welsh Ministers”;

- (ii) in sub-paragraph (2)(i), for “a war widow’s or widower’s pension” substitute “any other such amount described in regulation 15(5)(ac)”;
- (d) in paragraph 20A(2) omit sub-paragraphs (c) and (d);
- (e) after paragraph 20A(2)(e) insert—
 - “(f) paragraph 9(2) of Schedule 6 to the Housing Benefit Regulations 2006(3);
 - (g) paragraph 22 of Schedule 6 to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(4);
 - (h) paragraph 9(2) of Schedule 5 to the Council Tax Benefit Regulations 2006(5); or
 - (i) paragraph 22 of Schedule 4 to the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(6);”;
- (f) after paragraph 20A insert—

“**20B.** Any arrears of supplementary pension which is disregarded under paragraph 4 of Schedule 4 (amounts to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 5 or 6 of that Schedule.”.
- (7) In Schedule 6 (sums disregarded from claimant’s earnings), in paragraph 4(1)(a)(v), for “article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983” substitute “article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006”.

(3) S.I. 2006/213.
(4) S.I. 2006/214.
(5) S.I. 2006/215.
(6) S.I. 2006/216.