EXPLANATORY MEMORANDUM TO

THE STATE PENSION CREDIT (AMENDMENT) REGULATIONS 2015

2015 No. 1529

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. Purpose of the instrument

2.1 This instrument makes provision for the restriction of the Savings Credit element of Pension Credit for mixed age couples (where one member reaches State Pension age before 6 April 2016 and the other on or after that date), so that there will be no new awards of Savings Credit from 6 April 2016 but there will be some protection for those already receiving it. It also makes provision for the early removal of the Assessed Income Period for some Pension Credit customers from 6 April 2016.

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

3.1 None.

4. Legislative Context

4.1 This instrument is required in order to implement the Pension Credit-related provisions of the Pensions Act 2014[1], which will come into force on 6 April 2016. The relevant sections of the Act state that the detail of these changes will be set out in regulations. This instrument will amend the State Pension Credit Regulations 2002 (S.I. 2002/1792)[2] accordingly.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain. The Department for Social Development in Northern Ireland will in due course be producing its own legislation for Northern Ireland.

6. European Convention on Human Rights

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

7. Policy background

- What is being done and why

7.1 This instrument is necessary in order to implement two significant changes to Pension Credit, as prescribed in the Pensions Act 2014.

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[1] http://www.legislation.gov.uk/ukpga/2014/19/contents/enacted/data.htm
[2] http://www.legislation.gov.uk/uksi/2002/1792/contents/made

7.2 The **first** change is the **limitation of the Savings Credit element for certain mixed-age couples from 6 April 2016**. The Savings Credit provides additional support for those aged 65 and over who have made some additional provision for their retirement. The current basic State Pension is set below the level of the standard minimum guarantee in Pension Credit, creating the problem that anyone who has made additional provision for their retirement will see that amount deducted, pound for pound, from their Pension Credit. The Savings Credit resolves this problem by ensuring that these people receive an income above the level of the standard minimum guarantee. However, the level of the full new State Pension will be set above that level, effectively removing the problem that the Savings Credit was designed to address.

7.3 Therefore, under section 23 of and Schedule 12, Part 3 to the Pensions Act 2014, there will be no access to the Savings Credit for those reaching State Pension age on or after the 6 April 2016 unless they are a member of a couple where the other member reached State Pension age before 6 April 2016 (referred to as a mixed-age couple).

7.4 Pension Credit is a household benefit (in that the circumstances, income and capital of both members of a couple are taken into account for Pension Credit purposes) and therefore the intention is that households that include someone who reaches State Pension age under the new State Pension should not have access to Savings Credit. For mixed age couples, the intention is that there will be no new awards of Savings Credit from 6 April 2016 but there will be some protection for those already receiving it.

7.5 Paragraph 90 of Schedule 12 to the Pensions Act 2014 inserts a new power into the State Pension Credit Act 2002 at section 3ZA to make regulations to limit entitlement to Savings Credit for certain mixed-age couples.

7.6 The proposed regulations specify the conditions that must be satisfied for a mixed-age couple to be entitled to Savings Credit; one member must:-

- have attained State Pension age before 6 April 2016; and
- be entitled to Savings Credit immediately before 6 April 2016; and
- be entitled to Savings Credit at all times since 6 April 2016.

7.7 The **second** change is the **bringing forward of the dates on which certain Assessed Income Periods will end**. The Assessed Income Period (AIP), a feature of Pension Credit from its introduction in 2003, removed the requirement for many recipients aged 65 and over to notify the DWP of changes to their retirement provision (i.e. savings and non-State Pensions) during a set period. The maximum length of an AIP is 5 years in the case of recipients under the age of 75 when their AIP is set, but is an indefinite period for those aged 75 or over. Changes which would increase the award can still be notified during an AIP and lead to a change in the award; changes that would reduce the award are assessed if they are notified, but the award itself is not changed until the end of the AIP.

7.8 The assumption, when AIPs were introduced, was that pensioners are more likely to have relatively stable income and capital. However, this assumption has not proved to be correct. Recent analysis[3] shows that pensioners' financial circumstances change more significantly than was anticipated; and fixing retirement provision for such a long period has allowed some recipients to keep their benefit despite obtaining higher amounts of capital or new income streams – if an AIP were not in place in these cases, the award would either be reduced or removed entirely. A decision was therefore taken (as part of the 2013 Spending Round) to abolish AIPs.

7.9 The Pensions Act 2014 limits the application of AIP legislation to decisions that take effect before 6 April 2016. This means that, from 6 April 2016, no new AIPs will be set. Once this change takes effect, any change in retirement provision must be reported when it occurs, triggering an immediate review and change of the Pension Credit award where appropriate.

7.10 AIPs set before 6 April 2016 will remain valid beyond that date, until such time as they end - through natural expiry, being phased out early (see para. 7.9), or under existing rules on reporting changes of circumstances.

7.11 The Pensions Act states that regulations may be made, in particular, for the purpose of phasing out, on or after 6 April 2016, any remaining AIP that is 5 years or shorter in length. Regulation 12 of the State Pension Credit Regulations 2002 is amended to insert a provision (new sub-paragraph (d)) to provide for this. It will bring to an end all of these AIPs within 3 years (which is the necessary time frame to achieve the Annually Managed Expenditure (AME) savings agreed at Spending Round 2013). From April 2016:-

- existing AIPs due to end on a date between April 2016 and March 2019 will run their course until they end (in whatever circumstances under the current rules); and
- existing AIPs that would otherwise be due to end after March 2019 will be brought forward to end on a specified date between July 2016 and March 2019.

7.12 By April 2019, the only AIPs still in existence should be those that were set indefinitely prior to 6 April 2016 (and where the recipients' circumstances have remained unchanged).

7.13 The schedule of those AIPs which will be ended early is set out in a table which will be added to the State Pension Credit Regulations 2002 in "**Schedule IIIA**". Column 1 of the table sets out the dates when these AIPs were originally due to be terminated, and Column 2 provides the new dates on which they will now end. This table contains gaps between some of the months, which will allow Operations to distribute and manage the prescribed volumes, including customer contact and explanation of benefit revision.

7.14 As the fixed-term AIPs come to an end, Periodic Case Reviews will be conducted on those cases in future. These are generally conducted on a 3-yearly basis, but are not set out in existing legislation and can therefore be applied more flexibly – taking account of various risk factors where appropriate.

[3] http://www.parliament.uk/documents/impact-assessments/IA13-25C.pdf

7.15 The removal of the AIP is expected to generate savings of approximately £80 million per year by 2020/21 (steady-state).

- Consolidation

7.16 Informal consolidated text of instruments is available to the public free of charge via 'The Law Relating to Social Security' (Blue Volumes) on the Department for Work and Pensions website at http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/ or the National Archive website legislation.gov.uk . An explanation as to which instruments are maintained on each site is available here.

8. Consultation outcome

8.1 The policies were debated during the passage of the Pensions Bill 2013 and have not been subject to separate formal consultation.

8.2 The policy relating to the abolition of Savings Credit in the case of mixed-age couples is already well-established; details of the policy proposal were included in the Single-tier Pension (now "new State Pension") Green[4] and White[5] Papers. The AIP abolition is a "spend-to-save" initiative and was announced as part of the wider measures in the 2013 Spending Round. Both policy measures were debated during the passage of the Pensions Bill 2013, and informative discussions were held with key stakeholders. These regulations will simply implement the policy measures.

Parliamentary scrutiny

8.3 During the passage of the Pensions Bill 2013, no significant concerns were raised in relation to the abolition of Savings Credit or the removal of AIPs.

8.4 The policy relating to the abolition of Savings Credit in the case of mixed-age couples was already well-established: the removal of Savings Credit is a key component of the State Pension reforms package. An example of how the regulations might look was included in the Bill, and is now contained in paragraph 90 of Schedule 12 to the Pensions Act 2014. The proposed provision (Regulation 2(2) refers) closely follows the wording of that example.

8.5 When the Bill passed through the House of Lords, the following issues were debated:-

- The increase in the frequency of means-testing and whether it might deter people from claiming Pension Credit.
- The interaction between AIPs and funding through schemes such as equity release.
- The potential to retain indefinite AIPs.
- The transition from one regime of reporting changes of circumstances to a new one.
- The loss of passported benefits associated with the removal of Savings Credit.

[4] "A State Pension for the 21st Century", 4 April 2011
[5] "The single-tier pension: a simple foundation for saving", 14 January 2013

8.6 Neither of the two policy measures were pushed to a vote during any stage of the Bill proceedings.

Stakeholders

8.7 The policies, and the ways in which they will be communicated, were discussed during routine engagement with key stakeholders. Again, no significant issues were raised.

SSAC

8.8 The draft regulations were presented to the Social Security Advisory Committee (SSAC) on 4 March 2015. The main issues raised by SSAC were around:-

- pensioner incomes being more volatile than originally envisaged;
- which customer groups would be most affected;
- customer communications and guidance;
- safeguarding older, more vulnerable customers; and
- ensuring DWP staff guidance is fit for purpose.

8.9 The Committee decided that the Regulations could proceed without formal reference.

Conclusion

8.10 Most of the issues raised in Parliament or by stakeholders were addressed immediately, but it was clear that the main emphasis during all the discussions was on customer communications - particularly how DWP will inform older, more vulnerable customers of what will happen from 6 April 2016. This had been recognised by DWP at the outset of the policy-making process, and was a key factor in the development of its communications strategy; further details can be found in section 9 below.

8.11 DWP therefore concluded that formal consultation would not have added anything further to the evidence gathered from the sources listed above.

9. Guidance

9.1 DWP's primary focus is on making people aware of the policy changes at the appropriate time. DWP also recognises the need to ensure that communications are clear, concise and targeted appropriately to minimise the risk of issuing confusing messages (which might worry some people unnecessarily and prompt them to contact us for clarification).

Savings Credit removal

9.2 From December 2015, in most cases, letters issued to people who are or could potentially be entitled to Savings Credit will include a paragraph drawing attention to the change and directing them to an enclosed leaflet that will give the full details of the rules applying to mixed-age couples from 6 April 2016. Where someone is not sent a copy of the leaflet, the letter they receive will contain full details of the new rules.

9.3 The GOV.uk website and leaflets that contain references to Savings Credit have already been updated with "warm up" messages to make people aware that a change is coming. Once the regulations are in place, these messages will be updated to give specific details of the rules that will apply from 6 April 2016.

AIP removal

9.4 The intention is that recipients with a fixed-term AIP which is to be ended early will receive a letter giving 6 months' advance notice of their revised end-date.

9.5 Key customer leaflets will be updated with a reform message from October 2015. The GOV.UK website will be updated to reflect the changes.

Staff

9.6 Guidance has been issued to operational staff in respect of this legislation.

10. Impact

10.1 An impact assessment has not been produced for this instrument as it has no impact on the private sector or civil society organisations. A summary of the contents of the assessment made for the Pensions Act 2014 has been published.[6]

10.2 DWP estimates that the number of mixed-age couples who will not get Savings Credit as a result of this legislation will not exceed 40,000 in total over the next two decades.

10.3 The overall policy of abolishing AIPs will affect most Pension Credit recipients over time. Under the proposed schedule in the new Regulations, approximately 280,000 people will have their fixed-term AIPs ended prematurely. The effect on these 280,000 cases will vary, depending on their circumstances.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Government's objectives in respect of this legislation are:-

12.2 The limitation of the Savings Credit element where one member of a couple reaches State Pension age before 6 April 2016 and one on or after 6 April 2016.

12.3 To remove all fixed-length AIPs by April 2019 and deliver the closest fit to the AME savings profile agreed with HM Treasury in the 2013 Spending Round (approximately £80 million per year by 2020/21 (steady-state)).

[6] http://www.parliament.uk/documents/impact-assessments/IA13-25J.pdf

12.4 DWP will monitor the effect of any changes which may have an impact. Analysis will continue to be reviewed and updated if appropriate.

13. Contact

The Pension Credit Policy Team at the Department for Work and Pensions (Tel: 0113 232 4384 or email pensioncredit.policy@dwp.gsi.gov.uk) can answer queries regarding the instrument.