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STATUTORY INSTRUMENTS

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**2024 No. 611**

**The Social Security (State Pension Age Claimants:  
Closure of Tax Credits) (Amendment) Regulations 2024**

**Closure of tax credits - transitional protection in state pension credit**

- 4.—(1) The State Pension Credit Regulations 2002(1) are amended as follows.
- (2) In regulation 1 (citation, commencement and interpretation) in the appropriate place insert—
- ““tax credit closure notice” means a notice issued under article 3A (tax credit closure notice) of the Welfare Reform Act 2012 (Commencement No. 32 and Savings and Transitional Provisions) Order 2019;”.
- (3) In regulation 6 (amount of the guarantee credit) after paragraph (6)(c) omit “or” and after paragraph (6)(d) insert—
- “or
- (e) in accordance with Schedule IIB (transitional protection on closure of tax credits).”.
- (4) In regulation 18 (notional income)—
- (a) in paragraph (1A) for “and (1CB)” substitute “, (1CB) and (5A)”;
- (b) in paragraphs (1D) and (2) at the beginning insert “Subject to paragraph (5A),”; and
- (c) after paragraph (5) insert—
- “(5A) Where a person—
- (a) makes a claim for state pension credit on or after the issue of a tax credit closure notice and before the expiry of one month beginning with the deadline day specified in that notice; and
- (b) has not, at the time the notice is issued, made an application for retirement pension income to which they might expect to be entitled,
- paragraphs (1), (1D) and (2) are not to apply for a period beginning with the first day on which the person is entitled to an award of state pension credit as a consequence of that claim and ending after 52 weeks or, if sooner, on the day the person ceases to be entitled to state pension credit.”.
- (5) After Schedule IIA(2) (additional amount applicable for claimants responsible for a child or qualifying young person) insert—

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(1) [S.I. 2002/1792](#), as amended by [S.I. 2006/2378](#), [2007/2618](#) and [2010/641](#); there are other amending instruments, but none are relevant.

(2) Schedule IIA was inserted by [S.I. 2018/676](#).

“Schedule IIB

regulation 6(6)

Transitional Protection on Closure of Tax Credits

**Interpretation**

1. In this Schedule—

“HMRC” means His Majesty’s Revenue and Customs;

“indicative SPC amount” has the meaning given in paragraph 5;

“migration day” in relation to a claimant means the day before the day specified in paragraph (1) of article 3B (saving to cease following issue of tax credit closure notice) of the No. 32 Order;

“the No. 32 Order” means the Welfare Reform Act 2012 (Commencement No. 32 and Savings and Transitional Provisions) Order 2019;

“tax credit”, “child tax credit” and “working tax credit” have the same meaning as in the Tax Credits Act 2002(3).

**Claimants eligible for protection**

2.—(1) This Schedule applies where the claimant has been issued with a tax credit closure notice and—

(a) the claimant was entitled to an award of child tax credit on the migration day; and

(b) either—

(i) the claimant was entitled to an award of state pension credit when the tax credit closure notice was issued; or

(ii) the claimant made a claim for state pension credit on or after the issue of the tax credit closure notice and before the expiry of one month beginning with the deadline day specified in that notice.

(2) This Schedule does not apply where—

(a) the claimant was a member of a couple for the purposes of the child tax credit award when the tax credit closure notice was issued but is a single person or a member of a different couple for the purposes of state pension credit on the migration day; or

(b) the claimant was a single person for the purposes of the child tax credit award when the tax credit closure notice was issued but is a member of a couple for the purposes of state pension credit on the migration day.

**Transitional additional amount**

3. An additional amount of the appropriate minimum guarantee (“the transitional additional amount”) applies in accordance with regulation 6(6)(e) if the weekly amount determined in accordance with paragraph 4 (representative weekly amount of child tax credit), combined with the weekly amount of state pension credit (if any) to which the claimant was entitled on the migration day, is greater than the weekly amount determined in accordance with paragraph 5 (indicative SPC amount).

**Representative weekly amount of child tax credit**

4.—(1) To calculate the representative weekly amount of an award of child tax credit—

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(3) 2002 c. 21.

- (a) take the figure for the daily rate of the award on the migration day provided by HMRC and calculated on the basis of the information as to the claimant's circumstances held by HMRC on that day; and
  - (b) convert to a weekly figure by multiplying by 7.
- (2) For the purposes of sub-paragraph (1)(a) "the daily rate" is—
- (a) in a case where section 13(1) of the Tax Credit Act 2002 (relevant income does not exceed the income threshold or the claimant is entitled to a prescribed social security benefit) applies, the maximum rate of each element to which the claimant is entitled on the migration day divided by 365; and
  - (b) in any other case, the rate that would be produced by applying regulations 6 to 9 of the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002<sup>(4)</sup> as if the migration day were a relevant period of one day.

### **Indicative SPC amount**

5.—(1) The indicative SPC amount is the weekly amount to which a claimant would be entitled if an award of state pension credit were calculated in accordance with the Act and these Regulations by reference to the claimant's circumstances on the migration day—

- (a) disregarding any amount of working tax credit to which the person may be entitled on that day;
  - (b) including an additional amount in accordance with Schedule IIA (additional amount applicable for claimants responsible for a child or qualifying young person); and
  - (c) applying the assumptions in sub-paragraph (2).
- (2) The assumptions are—
- (a) the claimant is responsible for any child or qualifying young person in respect of whom the individual element of child tax credit is payable;
  - (b) the amount of the claimant's earned income is the annual amount of any employment income or trading income, as defined by regulation 4 or 6 respectively of the Tax Credits (Definition and Calculation of Income) Regulations 2002<sup>(5)</sup>, by reference to which the representative weekly rate of that tax credit is calculated for the purposes of paragraph 4(1) converted to a net weekly amount by—
    - (i) dividing by 52; and
    - (ii) deducting such amount for income tax and national insurance contributions as the Secretary of State considers appropriate.

(3) If the claimant would not satisfy the condition in section 2(1) (guarantee credit) of the Act because the claimant has income which exceeds the appropriate minimum guarantee, the claimant is to be treated for the purposes of calculating the indicative SPC amount as if they were entitled to a guarantee credit of a nil amount.

### **Initial calculation of the transitional additional amount**

6. The initial amount of the transitional additional amount is—
- (a) if the amount of the guarantee credit in the indicative SPC amount is greater than nil, the amount by which the representative weekly amount of child tax credit combined with the

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<sup>(4)</sup> S.I. 2002/2008, as amended by S.I. 2011/1035, 2012/849, 2019/713 and 2024/247.

<sup>(5)</sup> S.I. 2002/2006, as amended by S.I. 2003/732, 2003/2815, 2004/762, 2004/2663, 2006/766, 2007/824, 2008/2169, 2008/604, 2009/2887, 2012/848, 2014/658, 2014/2924, 2015/175, 2017/396, 2019/364, 2018/365, 2020/354, 2020/941 and 2023/179.

weekly amount of state pension credit (if any) to which the claimant was entitled on the migration day, exceeds the weekly amount of the indicative SPC amount;

- (b) if the amount of the guarantee credit in the indicative SPC amount is nil—
- (i) the sum of the representative weekly amount of child tax credit and the amount, if any, by which the income deducted in the calculation of the indicative SPC amount exceeds the amount of the appropriate minimum guarantee; minus
  - (ii) the amount of the maximum saving credit, but only if the indicative SPC amount includes a savings credit or would do but for the claimant's income being such that the condition in section 3(2)(b) of the Act is not met.

### **Reduction of the transitional additional amount**

7.—(1) Whenever there is a relevant increase after the first day on which the transitional additional amount applies, the transitional additional amount is to be reduced by an amount equal to that increase.

(2) A relevant increase is an increase in the standard minimum guarantee or in any additional amount prescribed under section 2(3) of the Act, including where that additional amount is applied for the first time or reapplied following a change of circumstances.

### **Circumstances in which the transitional additional amount ceases**

- 8.—(1) A transitional additional amount is no longer applicable if—
- (a) the transitional additional amount is reduced to nil in accordance with paragraph 7;
  - (b) the claimant was a member of a couple and ceases to be a member of that couple or becomes a member of a different couple;
  - (c) the claimant was single and becomes a member of a couple; or
  - (d) the claimant is no longer responsible for any child or qualifying young person for whom they were responsible at the time the tax credit closure notice was issued.

(2) Where the claimant ceases to be entitled to state pension credit, the transitional additional amount is not, subject to sub-paragraph (3), to apply to a subsequent award to the claimant or, if the claimant is a member of a couple, their partner.

(3) Where an award (“the subsequent award”) is made to a person who moves from Northern Ireland when they are entitled to an award of state pension credit that includes a transitional additional amount then, provided their circumstances are otherwise unchanged, the subsequent award is to include a transitional additional amount calculated as if the subsequent award were a continuation of the award made in Northern Ireland.

### **Effect of revision, appeal etc. of an award of a tax credit**

9.—(1) Nothing in paragraph 4 or 5 requiring a calculation in relation to the transitional additional amount to be made on the basis of information held by HMRC on the migration day prevents the Secretary of State from revising or superseding a decision in relation to a claim for, or an award of, state pension credit where—

- (a) in the opinion of the Secretary of State, the information held on that day was inaccurate or incomplete in some material respect because of—
  - (i) a misrepresentation by a claimant;
  - (ii) a failure to report information that a claimant was required to report where that failure was advantageous to the claimant; or
  - (iii) an official error; or

- (b) a decision has been made on or after the migration day on—
  - (i) an application made before the migration day to revise a decision in relation to an award of a tax credit (including the report of a change of circumstances); or
  - (ii) an appeal in relation to such an application.
- (2) In this paragraph “official error” means an error that—
  - (a) was made by an officer of, or an employee of a body acting on behalf of, the Department for Work and Pensions or HMRC; and
  - (b) was not caused, or materially contributed to, by any person outside that body or outside the Department or HMRC,but excludes any error of law which is shown to have been such by a subsequent decision of the Upper Tribunal or of a court as defined in section 27(7) of the Social Security Act 1998(6).”.