
STATUTORY RULES OF NORTHERN IRELAND

2003 No. 191

The State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations (Northern Ireland) 2003

PART III

AMENDMENTS TO THE DECISIONS AND APPEALS REGULATIONS

Interpretation of Part III

15. The Decisions and Appeals Regulations shall be amended in accordance with regulations 16 to 22 of this Part. In this Part, any reference to a regulation or a Schedule is to the regulation or Schedule bearing that number in the Decisions and Appeals Regulations.

Amendment of regulation 1

16. In regulation 1(2) (interpretation) –

(a) after the definition of “the Arrears, Interest and Adjustment of Maintenance Assessment Regulations”(1) there shall be inserted the following definition –

““assessed income period” is to be construed in accordance with sections 6 and 9 of the State Pension Credit Act;”;

(b) in the definition of “claimant” in paragraph (a) for “or Article 2(2) of the Jobseekers Order” there shall be substituted “, Article 2(2) of the Jobseekers Order or section 17(1) of the State Pension Credit Act;” and

(c) after the definition of “relevant person”(2) there shall be inserted the following definitions –

““state pension credit” means state pension credit under the State Pension Credit Act;

“State Pension Credit Act” means the State Pension Credit Act (Northern Ireland) 2002(3);

“State Pension Credit Regulations” means the State Pension Credit Regulations (Northern Ireland) 2003(4);”.

Amendment of regulation 6

17. In regulation 6 (supersession of decisions) –

(1) The definition of “the Arrears, Interest and Adjustment of Maintenance Assessment Regulations” was inserted by regulation 2(2)(a) of [S.R. 2001 No. 23](#)

(2) The definition of “relevant person” was inserted by regulation 2(2)(e) of [S.R. 2001 No. 23](#)

(3) [2002 c. 14 \(N.I.\)](#)

(4) [S.R. 2003 No. 28](#)

- (a) in paragraph (2), after sub-paragraph (j)(5) there shall be added the following sub-paragraph –
 - “(k) is a relevant decision for the purposes of section 6 of the State Pension Credit Act and –
 - (i) on making that decision, the Department specified a period as the assessed income period, and
 - (ii) that period has ended or is about to end.”; and
- (b) after paragraph (7) there shall be added the following paragraph –

“(8) In relation to the assessed income period, the only change of circumstance relevant for the purposes of paragraph (2)(a) is that the assessed income period ends in accordance with section 9(4) of the State Pension Credit Act or regulations made under section 9(5) of that Act.”.

Amendment of regulation 7

- 18.** In regulation 7 (date from which a decision superseded under Article 11 takes effect) –
- (a) in paragraph (1), for sub-paragraph (a)(6) there shall be substituted the following sub-paragraph –
 - “(a) is, except for paragraphs (2)(b) and (28), subject to Schedules 2A and 2B; and”;
 - (b) in paragraph (2)(b)(i) and (ii), for “or a jobseeker’s allowance” there shall be substituted “, a jobseeker’s allowance or state pension credit”;
 - (c) in paragraph (3) at the end there shall be added “or regulation 1(2) of the State Pension Credit Regulations”;
 - (d) in paragraph (13)(a) at the end of head (ii) for “and” there shall be substituted – “or
 - (iii) paragraph 11 or 12 of Schedule 2 to the State Pension Credit Regulations; and”;
 - (e) after paragraph (17) there shall be inserted the following paragraphs –
 - “(17A) For the purposes of state pension credit –
 - (a) paragraph (14) shall apply as if the reference to –
 - (i) “income support and his applicable amount” was a reference to “state pension credit and his appropriate minimum guarantee”,
 - (ii) “Schedule 3 to the Income Support Regulations” was a reference to “Schedule 2 to the State Pension Credit Regulations”, and
 - (iii) “paragraph 15 or 16” was a reference to “paragraph 11 or 12”; and
 - (b) paragraphs (15) to (17) shall not apply.
 - (17B) Subject to paragraph (23), where a claimant who is in receipt of state pension credit or his partner is aged 65 or over, the claimant’s appropriate minimum guarantee includes an amount determined in accordance with Schedule 2 to the State Pension Credit Regulations and there is a change of circumstances referred to in paragraph (17C), a decision made under Article 11 shall take effect –
 - (a) on the first anniversary of the date on which the claimant’s housing costs were first met under that Schedule; or

(5) Paragraph (j) was added by regulation 7(4) of [S.R. 2002 No. 80](#)

(6) Paragraph (1) was substituted by Article 17(a) of [S.R. 1999 No. 472 \(C. 36\)](#) sub-paragraph (a) was substituted by regulation 6(5)(a) of [S.R. 2000 No. 215](#)

(b) where the change occurred after the first anniversary of the date referred to in sub-paragraph (a), on the next anniversary of that date following the date of the change.

(17C) Paragraph (17B) applies in a case where a non-dependant commences residing with the claimant or there is an increase in a non-dependant's income.”.

(f) for paragraph (23) there shall be substituted the following paragraph –

“(23) Where, in any case to which paragraph (14), (17A), (17B) or (18) applies, a claimant has been continuously in receipt of, or treated as having been continuously in receipt of income support, a jobseeker's allowance or state pension credit, or one of those benefits followed by another, and he or his partner continues to receive any of those benefits, the anniversary to which those paragraphs refer shall be –

(a) in the case of income support or jobseeker's allowance, the anniversary of the earliest date on which benefit in respect of those mortgage interest costs became payable;

(b) in the case of state pension credit, the relevant anniversary date determined in accordance with paragraph 7 of Schedule 2 to the State Pension Credit Regulations.”.

(g) after paragraph (27)(7) there shall be added the following paragraph –

“(28) A decision to which regulation 6(2)(k) refers shall take effect from the day following the day on which the assessed income period ends if that day is the first day of the claimant's benefit week, but if it is not, from the next following such day.”.

Amendment of regulation 13

19. In regulation 13 (income support and social fund determinations on incomplete evidence) –

(a) in paragraph (1) –

(i) for sub-paragraph (a) there shall be substituted the following sub-paragraph –

“(a) a determination falls to be made by the Department as to what housing costs are to be included in –

(i) a claimant's applicable amount by virtue of regulation 17(1)(e) or 18(1)(f) of, and Schedule 3 to, the Income Support Regulations, or

(ii) a claimant's appropriate minimum guarantee by virtue of regulation 6(6)(c) of, and Schedule 2 to, the State Pension Credit Regulations; and”;

(ii) for “applicable amount are those” there shall be substituted “applicable amount or, as the case may be, appropriate minimum guarantee are those”;

(b) after paragraph (2) there shall be added the following paragraph –

“(3) Where, for the purposes of a decision under Article 9 or 11 –

(a) a determination falls to be made by the Department as to whether a claimant's appropriate minimum guarantee includes an additional amount in accordance with regulation 6(4) of, and paragraph 1 of Schedule 1 to, the State Pension Credit Regulations; and

(b) it appears to the Department that it is not in possession of all the information or evidence which is relevant for the purpose of such a determination,

it shall make the determination on the assumption that the relevant information or evidence which is not in its possession is adverse to the claimant.”.

Amendment of regulation 14

20. In regulation 14 (effect of alteration in the component rates of income support and jobseeker’s allowance), after paragraph (4) there shall be added the following paragraphs –

“(5) Section 139B of the Administration Act⁽⁸⁾ shall not apply to any award of state pension credit in favour of a person where in relation to that person the appropriate minimum guarantee includes an amount determined under paragraph 6 of Schedule 1 to the State Pension Credit Regulations.

(6) Where section 139B of the Administration Act does not apply to an award of state pension credit by virtue of paragraph (5), a decision under Article 11 may be made in respect of that award for the sole purpose of giving effect to any change made by an order under section 132 of the Administration Act.”.

Amendment of Schedule 1

21. In Schedule 1 (decisions against which no appeal lies) after paragraph 11 (income support) there shall be inserted the following paragraph –

“State pension credit

11A. A decision of the Department made in accordance with regulation 13 (1) or (3).”.

Change of circumstances

22. After Schedule 2A⁽⁹⁾ there shall be inserted the following Schedule –

“SCHEDULE 2B

Regulation 7(1)(a)

Date on which change of circumstances takes effect where a claimant is entitled to state pension credit

1. Where the amount of state pension credit payable under an award is changed by a superseding decision made on the ground that there has been a relevant change of circumstances, that superseding decision shall take effect –

- (a) for the purpose only of determining the day on which an assessed income period begins under section 9 of the State Pension Credit Act, from the day following the day on which the last previous assessed income period ended; and
- (b) except as provided in the following paragraphs, from the day on which that change occurs or is expected to occur if either of those days is the first day of the benefit week but if it is not from the next following such day.

2. Subject to paragraph 3, where the relevant change is that the claimant’s income (other than deemed income from capital) has changed, the superseding decision shall take effect from the first day of the benefit week in which that change occurs or if that is not practicable in the circumstances of the case, from the first day of the next following benefit week.

(8) Section 139B was inserted by paragraph 15 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14) (N.I.)

(9) Schedule 2A was inserted by Schedule 1 to S.R. 2000 No. 215

3. Paragraph 2 shall not apply where the only relevant change is that working tax credit under the Tax Credits Act 2002⁽¹⁰⁾ becomes payable or becomes payable at a higher rate.

4. A superseding decision shall take effect from the day on which the change of circumstances occurs or is expected to occur if –

- (a) the person becomes or ceases to be a prisoner, and for this purpose “prisoner” has the same meaning as in regulation 1(2) of the State Pension Credit Regulations; or
- (b) whilst entitled to state pension credit a claimant is awarded another relevant benefit and in consequence of that award his benefit week changes or is expected to change.

5. In a case where the relevant change of circumstances is that the claimant ceased for one or more days to be a patient, the superseding decision shall take effect from the first day of the benefit week in which the change occurred.

6. In paragraph 5, “patient” means a person (other than a prisoner) who is regarded as receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975⁽¹¹⁾.”.