
STATUTORY RULES OF NORTHERN IRELAND

2003 No. 191

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

PART VI

TRANSITIONAL PROVISIONS

Persons entitled to income support immediately before the appointed day

34.—(1) This regulation applies in the case of any person (referred to as “the transferee”) who –

- (a) immediately before the appointed day, is entitled to income support, and
- (b) attains or has attained the qualifying age on or before the appointed day.

(2) The transferee shall be treated as having made a claim for state pension credit in the period of 6 months immediately preceding the appointed day.

(3) The Department shall, so far as practicable, decide before the appointed day a claim for state pension credit treated as made under paragraph (2).

(4) A decision of the Department made in accordance with paragraph (3) may be revised by the Department at any time within the period of 13 months commencing on the date of notification of the decision if an application is made by the claimant to the Department or a person acting on his behalf to the Department for the decision to be revised.

(5) For the purposes of section 9 of the Act (duration of assessed income period), the decision of the Department takes effect on the appointed day.

(6) Notwithstanding the provisions of regulation 26B(4) of the Claims and Payments Regulations(1), state pension credit may in the case of a transferee be payable in arrears if the income support to which he was entitled before the appointed day was paid in arrears.

(7) In the case of a transferee to whom paragraph (6) applies, any decision under Article 11 of the 1998 Order which –

- (a) supersedes a decision awarding state pension credit to a transferee, and
- (b) is made on the grounds that there has been a relevant change of circumstances since the decision was made or that it is anticipated that a relevant change of circumstances will occur,

shall take effect from the first day of the benefit week in which the change occurs or is expected to occur.

(8) For the purpose of paragraph (7), “benefit week” means the period of 7 days ending on the day on which, in the claimant’s case, state pension credit is payable.

(9) Any payment made to a transferee to whom paragraph (10) applies –

- (a) in respect of a period falling on or after the appointed day;

(1) Regulation 26B was inserted by regulation 9 of these regulations

- (b) which would have been payable under an award of income support but for the coming into operation of the Act,

shall be offset against any state pension credit payable under an award on or after 6th October 2003 on a claim treated as made under paragraph (2).

(10) This paragraph applies to a transferee in respect of whom no decision has been made on his claim for state pension credit which is treated as having been made in accordance with paragraph (2).

(11) If the Department determines that no state pension credit is payable, or that the amount payable is less than the payments referred to in paragraph (9), the Department shall determine the amount of the overpayment.

(12) The amount of any overpayment determined in accordance with paragraph (11) shall be recoverable by the Department by the same procedures and subject to the same conditions as if it were recoverable under section 69(1) of the Administration Act.

(13) Where the transferee –

- (a) has, immediately before the appointed day, an award of income support payable by direct credit transfer in accordance with regulation 21 of the Claims and Payments Regulations, and

- (b) state pension credit is payable or treated as payable to him as from the appointed day,

the state pension credit shall be paid by direct credit transfer into the same bank or other account as the payment of income support, and for this purpose, any application made or treated as made and any consent given or treated as given in relation to the payment of income support shall be treated as made or given in relation to the payment of state pension credit.

(14) Where –

- (a) the transferee had immediately before the appointed day an award of income support from which deductions were made or where part of the benefit was paid to a third party in accordance with –

(i) regulation 34ZA of, and Schedule 8B to, the Claims and Payments Regulations (mortgage interest payments), or

(ii) regulation 34A of, and Schedule 8C to, those Regulations (deductions which may be made and payments to third parties), and

- (b) state pension credit is payable or treated as payable to the transferee as from the appointed day,

then as from the appointed day, those deductions shall be made from the transferee's state pension credit and those payments of part of the benefit shall continue to be made to the third party in accordance with those provisions.

(15) Except where paragraph (16) applies, in the case of a transferee who or whose partner, on the appointed day, has been a patient for more than 6 weeks but not more than 13 weeks, paragraph 2 of Schedule 3 to the State Pension Credit Regulations shall have effect as if for the references to "13 weeks" there were substituted references to "6 weeks".

(16) Paragraphs (17) to (19) apply only in relation to a transferee whose applicable amount immediately before the appointed day was determined in accordance with paragraph 13(2) of Schedule 7 to, the Income Support (General) Regulations (Northern Ireland) 1987(2) ("the Income Support Regulations") (persons in residential accommodation who become patients).

(17) Where a transferee is a patient on the appointed day and continues to be a patient after that day, section 2(3) of the Act has effect for so long as the transferee continues to be a patient with

(2) Paragraph 13 was amended by regulation 22(d) of S.R. 1988 No. 318, regulation 19(k) of S.R. 1990 No. 131 and paragraph 1(6)(a) of Schedule 1 to, S.R. 1993 No. 149

the substitution for the reference to the standard minimum guarantee in paragraph (a) of the amount which is for the time being specified as the applicable amount in column (2) of paragraph 13(2) of Schedule 7 to, the Income Support Regulations less the amount applicable under regulation 17(1)(f) or (g) of those Regulations.

(18) Where a transferee –

- (a) ceases to be a patient on or after the appointed day but again becomes a patient no more than 28 days after the last day on which he was previously a patient, and
- (b) was in residential accommodation (as defined for the purposes of the Income Support Regulations) immediately before again becoming a patient,

section 2(3) of the Act has effect when the transferee again becomes a patient with the substitution for the reference to the standard minimum guarantee in paragraph (a) of the amount which is for the time being specified as the applicable amount in column (2) of paragraph 13(2) of Schedule 7 to the Income Support Regulations less the amount applicable under regulation 17(1)(f) or (g) of those Regulations.

(19) Where a transferee –

- (a) ceases to be a patient on or after the appointed day but again becomes a patient no more than 28 days after the last day on which he was previously a patient;
- (b) was not in accommodation referred to in paragraph (18)(b) immediately before again becoming a patient, and
- (c) has been a patient for a total period of more than six weeks,

section 2(3) of the Act shall have effect when the transferee again becomes a patient with the substitution for the reference to the standard minimum guarantee in paragraph (a) of a reference to an amount determined by taking the amount for the time being specified in regulation 6(1)(a) of the State Pension Credit Regulations and reducing it by an amount equal to 20 per cent. of the weekly rate of the basic pension for the time being specified in section 44(4) of the Contributions and Benefits Act(3).

Assessed income period

35.—(1) A person to whom paragraph (2) applies shall have an assessed income period allotted to him by the Department of at least 5 years but not exceeding 7 years beginning on the day the decision takes effect, unless regulation 10(1) of the State Pension Credit Regulations applies in his case.

(2) This paragraph applies to the first assessed income period specified in respect of a person who –

- (a) attains or has attained the age of 65 or whose partner attains or has attained that age on or before the appointed day, and
- (b) is awarded state pension credit with effect from the appointed day.

Claims for state pension credit

36.—(1) A claim for state pension credit may be made before the appointed day by a person who is not in receipt of income support at the time the claim is made.

(2) Where the Department is satisfied that unless there is a change in the claimant's circumstances before the appointed day he will satisfy the conditions for entitlement to state pension credit on that day, then the Department may –

- (a) treat that claim as if made for a period beginning with the appointed day, and

(3) Section 44(4) was substituted by Article 64 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10))

(b) award benefit accordingly, but subject to the condition that the claimant does in fact satisfy those conditions when benefit becomes payable under the award.

(3) A decision under paragraph (2)(b) to award benefit may be revised under Article 10 of the 1998 Order if the requirements for entitlement to state pension credit are found not to have been satisfied on the appointed day.

(4) A claim for state pension credit made in the period of 12 months beginning with the appointed day may be treated as made on that day if the claimant satisfied the conditions for entitlement to state pension credit on that day.

(5) A person who does not fall within paragraph (4) –

(a) solely because he does not satisfy the conditions for entitlement to state pension credit on the appointed day, but

(b) does satisfy those conditions on a day after the appointed day but before the day on which the claim is received by the Department,

shall be treated as having made the claim on the day the conditions were first satisfied in his case.

(6) A claim for income support made in the period of 6 months preceding the appointed day may be treated also as a claim for state pension credit if the claimant –

(a) is not entitled to income support, and

(b) has attained the age of 60 on the date the claim is made or will have attained that age on the appointed day.

(7) Paragraphs (2) and (3) shall apply to a claim treated as made under paragraph (6) as they apply to a claim made under paragraph (1).

(8) In the case of a person who –

(a) on the appointed day has attained the qualifying age;

(b) was, within the period of 6 months preceding the appointed day, entitled to income support, and

(c) was not entitled to income support on the day immediately preceding the appointed day,

that person shall be treated as having made a claim for state pension credit for a period beginning on the appointed day.

(9) The Department may treat a claim for state pension credit made in accordance with paragraph (1) as also a claim for income support made on the same day.