

2018 No. 135

SOCIAL SECURITY

The State Pension Credit (Additional Amount for Child or Qualifying Young Person) (Amendment) Regulations (Northern Ireland) 2018

Made - - - - *29th June 2018*

Coming into operation - *1st February 2019*

The Department for Communities^(a) makes the following Regulations in exercise of the powers conferred by sections 2(3)(b) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002^(b).

Citation and commencement

1. These Regulations may be cited as the State Pension Credit (Additional Amount for Child or Qualifying Young Person) (Amendment) Regulations (Northern Ireland) 2018 and come into operation on 1st February 2019.

Amendment of the State Pension Credit Regulations

2.—(1) The State Pension Credit Regulations (Northern Ireland) 2003^(c) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 6^(d) (amount of the guarantee credit)—

(a) in paragraph (6)—

(i) at the end of sub-paragraph (b) omit “or”,

(ii) at the end of sub-paragraph (c) for “.” substitute “; or”, and

(iii) after sub-paragraph (c) add—

“(d) except where paragraph (11) applies, or entitlement ceases by virtue of paragraph (14), in accordance with Schedule 2A (additional amount applicable for claimants responsible for a child or qualifying young person).”.

(b) after paragraph (10) add—

“(11) This paragraph applies in the case of a person who is awarded, or who is treated as having an award of, a tax credit under the Tax Credits Act^(e).

(12) For the purposes of paragraph (11)—

(a) See section 1(7) of the Departments Act (Northern Ireland) 2016 (c.5 (N.I.))

(b) 2002 c. 14 (N.I.)

(c) S.R. 2003 No. 28; relevant amending Rules are S.R. 2016 No. 236 and S.R. 2018 No. 58

(d) Regulation 6 was amended by regulation 31(3) of S.R. 2016 No. 236 and Article 26(2) of S.R. 2018 No. 58

(e) 2002 c. 21

- (a) a person is to be treated as having an award of a working tax credit with effect from the start of the current tax year even though a decision has not been made under section 14 of the Tax Credits Act in respect of a claim for that tax credit for that tax year, if the person was awarded a working tax credit for the previous tax year and any of the cases specified in paragraph (13) applies; and
 - (b) a person is to be treated as having an award of a child tax credit with effect from the start of the current tax year even though a decision has not been made under section 14 of the Tax Credits Act in respect of a claim for that tax credit for that tax year, if the person was awarded a child tax credit for the previous tax year and any of the cases specified in paragraph (13) applies.
- (13) The cases specified for the purposes of paragraph (12) are—
- (a) a final notice has not been given to the person under section 17 of the Tax Credits Act in respect of the previous tax year;
 - (b) a final notice has been given which includes provision by virtue of subsection (2) or (4) of section 17 of the Tax Credits Act, or a combination of those subsections and subsection (6), and—
 - (i) the date specified in the notice for the purposes of section 17(2) and (4) of the Tax Credits Act or, where different dates are specified, the later of them has not passed and no claim for a tax credit for the current tax year has been made or treated as made, or
 - (ii) a claim for a tax credit has been made or treated as made on or before the date mentioned in head (i), but no decision has been made in relation to that claim under section 14 of the Tax Credits Act; or
 - (c) a final notice has been given, no claim for a tax credit for the current tax year has been made or treated as made, and no decision has been made under section 18(1) of the Tax Credits Act in respect of an award of a tax credit for the previous tax year.
- (14) Entitlement to the additional amount specified in Schedule 2A ceases where a person is awarded a tax credit in the circumstances specified in paragraph (15) or (16).
- (15) The circumstances specified in this paragraph are—
- (a) the person was awarded a tax credit for the previous tax year which was not terminated by Her Majesty's Revenue and Customs under section 16 of the Tax Credits Act;
 - (b) a final notice has been given to the person under section 17 of the Tax Credits Act in respect of that tax year; and
 - (c) either—
 - (i) the person makes a declaration during the period of 30 days following the cessation of payment of a tax credit made under section 24(4) of the Tax Credits Act, or
 - (ii) the person makes a declaration after the end of the period of 30 days following the cessation of payment of a tax credit made under section 24(4) of the Tax Credits Act but before 31st January of the tax year following the period to which the notice relates, and, in the opinion of Her Majesty's Revenue and Customs, the person had good reason for not making the declaration by the date specified in paragraph (13)(b).
- (16) The circumstances specified in this paragraph are that a decision under sections 14(1), 15(1), 16(1), 18(1), (5), (6) or (9), 19(3) or 20(1) or (4) of the Tax Credits Act is revised in favour of the claimant following—
- (a) a revision by virtue of section 21 of the Tax Credits Act;

- (b) a request for a review under section 21A(a) of the Tax Credits Act;
- (c) an appeal under section 38 of the Tax Credits Act; or
- (d) a revision, in any other circumstances, of a decision by Her Majesty's Revenue and Customs relating to an award of a tax credit under the Tax Credits Act.

(17) In this regulation—

“a tax credit” includes a child tax credit and a working tax credit;

“the Tax Credits Act” means the Tax Credits Act 2002;

“child tax credit” means a child tax credit under and by virtue of section 8 of the Tax Credits Act;

“working tax credit” means a working tax credit under and by virtue of section 10 of the Tax Credits Act and includes the child care element by virtue of section 12 of that Act.”.

(3) After Schedule 2 (Housing Costs) insert—

“SCHEDULE 2A

Regulation 6(6)(d)

Additional amount applicable for claimants responsible for a child or qualifying young person

General

1. This Schedule applies to a claimant who is responsible for a child or qualifying young person.

2.—(1) In this Schedule—

“child” means a person under the age of 16;

“qualifying young person” has the meaning given in regulation 4A (meaning of “qualifying young person”).

(2) Whether a claimant is responsible for a child or qualifying young person for the purposes of this Schedule is determined in accordance with paragraphs 3 to 8.

Child or qualifying young person normally living with the claimant

3.—(1) Subject to sub-paragraph (2), a claimant is responsible for a child or qualifying young person who normally lives with the claimant.

(2) A claimant is not responsible for a qualifying young person if the 2 of them are living as a couple.

(3) Where a child or qualifying young person normally lives with 2 or more persons who are not a couple, only one of them is to be treated as responsible, and that is the person who has the main responsibility for that child or qualifying young person.

(4) The persons referred to in sub-paragraph (3) may jointly nominate for the purposes of this Schedule which of them has the main responsibility for the child or qualifying young person, but the Department may determine that question—

(a) if there is no joint nomination; or

(b) if a nomination or change of nomination does not, in the opinion of the Department, reflect the arrangements between those persons.

(a) Section 21A was inserted by S.I. 2014/886

Child or qualifying young person looked after by an authority

4.—(1) Except where sub-paragraph (3) applies, a claimant is to be treated as not being responsible for a child or qualifying young person during any period when the child or qualifying young person is looked after by an authority.

(2) A child or qualifying young person is treated as looked after by an authority for the purposes of sub-paragraph (1) if that child or qualifying young person is looked after by an authority within the meaning of Article 25 of the Children (Northern Ireland) Order 1995(a).

(3) This sub-paragraph applies to any period—

- (a) which is in the nature of a planned short term break, or is one of a series of such breaks, for the purpose of providing respite for the person who normally cares for the child or qualifying young person; or
- (b) during which the child or qualifying young person is placed with, or continues to live with, their parent or a person who has parental responsibility for them.

(4) For the purposes of sub-paragraph (3), a person has parental responsibility if they are not a foster parent and have parental responsibility within the meaning of Article 6 of the Children (Northern Ireland) Order 1995.

Prisoners

5. The claimant is to be treated as not being responsible for a child or qualifying young person during any period when the child or qualifying young person is a prisoner.

Temporary absence in Northern Ireland

6. A claimant is to be treated as not being responsible for a child or qualifying young person during periods of temporary absence of the child or qualifying young person in Northern Ireland if the period of absence is likely to exceed 52 weeks, except where there are exceptional circumstances (for example, the child or qualifying young person is in hospital), and the absence is unlikely to be substantially more than 52 weeks.

Temporary absence outside Northern Ireland

7.—(1) A claimant is to be treated as not being responsible for a child or qualifying young person if the child or qualifying young person is temporarily absent from Northern Ireland for longer than—

- (a) 4 weeks, or where the absence is expected to exceed 4 weeks;
- (b) where sub-paragraph (2) applies—
 - (i) 8 weeks, or
 - (ii) where the absence is expected to exceed 8 weeks; or
- (c) where sub-paragraph (3) applies—
 - (i) 26 weeks, or
 - (ii) where the absence is expected to exceed 26 weeks.

(2) This sub-paragraph applies where the absence of the child or qualifying young person is in connection with the death of—

- (a) the claimant's partner or a child or qualifying young person normally living with the claimant; or
- (b) a close relative of—

(a) S.I. 1995/755 (N.I. 2)

- (i) the claimant,
- (ii) the claimant's partner, or
- (iii) a child or qualifying young person normally living with the claimant,

and the Department considers that it would be unreasonable to expect the child or qualifying young person to return to Northern Ireland within 4 weeks.

(3) This sub-paragraph applies where the absence of the child or qualifying young person is solely in connection with—

- (a) the child or qualifying young person undergoing—
 - (i) treatment for an illness or physical or mental impairment by, or under the supervision of, a qualified practitioner, or
 - (ii) medically approved convalescence or care as a result of treatment for an illness or physical or mental impairment, where the child or qualifying young person had that illness or impairment before leaving Northern Ireland; or
- (b) the child or qualifying young person accompanying the claimant or the claimant's partner for convalescence or care as mentioned in head (a).

(4) In this paragraph—

“medically approved” means certified by a registered medical practitioner;

“qualified practitioner” means a person qualified to provide medical treatment, physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment.

Death of child or qualifying young person

8.—(1) If a child or qualifying young person for whom a claimant is responsible dies, the claimant is to be treated as responsible for that child or qualifying young person until—

- (a) the end of the period of 8 weeks starting with and including the day on which the child or qualifying young person dies; or
- (b) in the case of a qualifying young person, the date on which he or she would have attained the age of 20, if earlier.

(2) The additional amount applicable to the claimant during the period in which they are treated as responsible for a child or qualifying young person under sub-paragraph (1) is to be calculated in accordance with paragraph 9 on the basis of the circumstances which existed on the day before the day on which the child or qualifying young person died.

Amount of additional payment

9.—(1) The additional amount applicable to a claimant to whom this Schedule applies is—

- (a) subject to paragraph 10, £53.34 for each child or qualifying young person; and
- (b) a further amount of—
 - (i) £29.02 where sub-paragraph (2) applies, or
 - (ii) £88.34 where sub-paragraph (3) applies.

(2) This sub-paragraph applies where the claimant is responsible for a child or qualifying young person who is entitled to a disability living allowance or personal independence payment.

(3) This sub-paragraph applies where the claimant is responsible for a child or qualifying young person who is—

- (a) entitled to the care component of disability living allowance at the highest rate or the daily living component of personal independence payment at the enhanced rate; or

(b) certified as severely sight impaired or blind by a consultant ophthalmologist.

Amount for the eldest child or qualifying young person born before 6th April 2017

10. In a case where the eldest child or qualifying young person for whom the claimant is responsible was born before 6th April 2017, the amount prescribed in paragraph 9(1)(a) in respect of that child or qualifying young person is £63.84.”

Sealed with the Official Seal of the Department for Communities on 29th June 2018

(L.S.)

Anne McCleary
A senior officer of the Department for Communities

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the State Pension Credit Regulations (Northern Ireland) 2003 (“the 2003 Regulations”).

Regulation 2(2) amends regulation 6 of the 2003 Regulations, to provide for the payment of an additional amount to a pension credit claimant entitled to the standard minimum guarantee, where that claimant is responsible for a child or qualifying young person and does not have an award of a tax credit.

Regulation 2(3) inserts a new Schedule 2A into the 2003 Regulations which:

- applies to a claimant who is responsible for a “child” or “qualifying young person” (paragraph 1);
- defines the terms “child” and “qualifying young person” (paragraph 2);
- sets out the circumstances in which a person is or is not to be treated as responsible for a child or qualifying young person (paragraphs 3 to 8);
- specifies the additional amount of benefit applicable to a claimant where he or she is responsible for a child or qualifying young person; the amount is increased if the child or qualifying young person is entitled to a disability living allowance or personal independence payment or if they are certified as severely sight impaired or blind (paragraph 9); and
- provides for a higher amount to be payable where the eldest child or qualifying young person was born before 6th April 2017 (paragraph 10).

These Regulations make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992 (c. 8), are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

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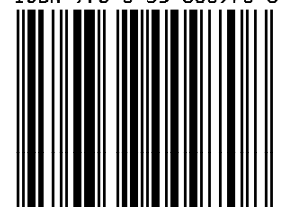
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