These notes refer to the State Pension Credit Act 2002 (c.16) which received Royal Assent on 25 June 2002

STATE PENSION CREDIT ACT 2002

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the State Pension Credit Act which received Royal Assent on 25 June 2002. They have been prepared by the Department for Work and Pensions in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.

2. The notes should be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require explanation or comment, none is given.

SUMMARY

3. This Act introduces a new State Pension Credit for persons aged 60 and over. This subsumes the Minimum Income Guarantee (the minimum level of Income Support payable to persons aged 60 and over under Part 7 of the Social Security Contributions and Benefits Act 1992). State Pension Credit, in these notes referred to as “Pension Credit”, comprises two elements:

   - a guarantee credit, to ensure a minimum level of income to those aged 60 and over;
   - a savings credit which will, from age 65, provide an additional income for pensioners who have low or modest incomes in addition to the basic state pension.

BACKGROUND TO THE ACT

4. A glossary of pension provision is at Annex A.

5. The Green Paper, "A new contract for welfare: Partnership In Pensions" (Cm 4179), was published in December 1998. It proposed a series of changes to improve both privately provided and state pensions. In sum, the main changes proposed were as follows.

   - Stakeholder pensions, for which the legislative framework was created by the Welfare Reform and Pensions Act 1999 and which came into effect from April 2001.
   - Reform of the State Earnings Related Pension Scheme (SERPS) to provide a more generous State Second Pension. The Child Support, Pensions and Social Security Act 2000 reformed SERPS from April 2002 by boosting the additional (second tier) pension of low and moderate earners, and by providing, for the first time, additional pension for carers and some long-term disabled people with broken work records.
   - A Minimum Income Guarantee for those aged 60 and over. This was introduced in April 1999 by means of regulations under section 135 of the Social Security Contributions and Benefits Act 1992.

6. In his March 2001 Budget the Chancellor of the Exchequer announced that the Minimum Income Guarantee would be replaced from 2003 by a Pension Credit.

7. The Act implements Pension Credit. It takes account of responses to “The Pension Credit: a consultation paper” (Cm 4900) which was published in November 2000. Copies of all responses are available from the Department for Work and Pensions and have also been placed in the libraries of both Houses of Parliament.

8. To coincide with the introduction of the Bill for the Act in the House of Lords on 28 November 2001, the Government published "The Pension Credit: the Government's proposals". Copies are available free of charge from: Welfare Reform, Freepost (HA4441), Hayes, UB3 1BR. (The document can also be accessed on the internet at http://www.dwp.gov.uk.)

Minimum Income Guarantee (MIG)

9. The MIG arrangements are Income Support for people, aged 60 or over, who are not required actively to seek work and whose income is below a certain level. From April 2002, the guaranteed level is £98.15 a week for a single person and £149.80 for a couple. The MIG payment makes up the difference between the guaranteed level and income from other sources, including income from pensions. The MIG level is set higher for carers and those with certain disabilities.

10. As is the case for other categories of Income Support, the amount of MIG payable is affected by people’s savings.

- The actual income from savings is not used in calculating income.
- Where savings are in the band £6,000 to £12,000, each £250 of savings in excess of £6,000 is assumed to generate £1 a week of income and this is the amount included in the income calculation. (For those in residential care and nursing homes, the band is £10,000 to £16,000, instead of £6,000 to £12,000.)
- MIG is not available to those who have savings of more than £12,000 (more than £16,000 for those in residential care and nursing homes).

11. A single person or, in the case of a couple, one member of the couple can claim MIG. About 1.7 million pensioner households currently receive payments under MIG.

THE NEW PENSION CREDIT

12. From 2003, the new Pension Credit will replace the Minimum Income Guarantee. It consists of a guarantee credit and a savings credit and will include simpler administrative arrangements for claimants. It can be claimed by one member (but not both members) of a couple.

The guarantee credit

13. The guarantee credit will bring recipients' incomes to a guaranteed level and will be payable to both men and women at or over the age which is the minimum qualifying age for women to receive the basic state pension. This is currently 60 but, under the Pensions Act 1995, it is set to rise by stages to 65 between 2010 and 2020. The guarantee credit will subsume the premiums currently paid to carers and the severely disabled under MIG. Those pensioners without additional needs will receive the “standard minimum guarantee”, which, in 2003, is expected to be around £100 for a person who is not a member of a couple (a “single person”) and £154 for a married or unmarried couple (a "couple").

14. The Government announced its intention, in "The Pension Credit: a consultation paper" (Cm 4900), that the guaranteed income level of Pension Credit will keep pace with the growth of earnings over this Parliament and this was reaffirmed in “The Pension Credit: the Government’s proposals” published in November 2001.

15. For everyone aged 60 and over it is intended that regulations under the Act will end the assumed rate of return of £1 a week for every £250 of capital held. The intention is that a rate of return of £1 a week for every £500 will be applied to capital that exceeds £6,000 (£10,000 in the case of people in residential care and nursing homes). Capital below this amount will not be taken into account in the assessment and there will no longer be a fixed upper capital limit. In exceptional circumstances actual income from capital will be used in the calculation.

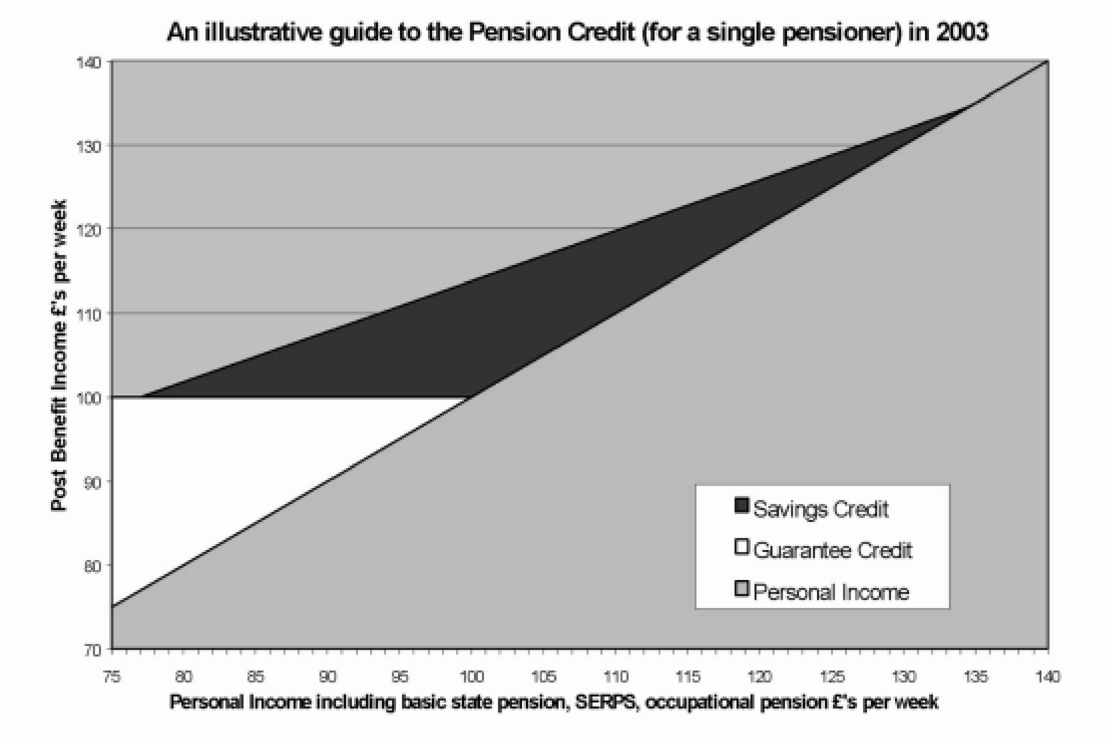
The savings credit

16. The savings credit will reward those aged 65 and over who have built up a modest income for retirement. It is intended that claimants will receive a cash addition of 60 pence a week for every pound of pension (such as occupational pensions and SERPS for example) and income from savings they have above the level of the savings credit threshold (expected to be around £77 in 2003). Single pensioners will receive a maximum savings credit that is expected to be around £13.80. For every pound of income a pensioner has above the level of the guarantee credit (expected to be around £100 in 2003), the intention is that the pensioner's savings credit will be reduced by 40 pence.

17. The savings credit threshold for couples in 2003 is expected to be around £123 a week, the level of the guarantee credit is expected to be around £154 a week, and the maximum savings credit is expected to be around £18.60 a week.

18. The Act also introduces measures to ensure that pensioners who receive amounts in respect of their extra costs (i.e. disability or caring) and other amounts (such as housing costs), in addition to the "standard minimum guarantee", also gain from the savings credit.

19. The chart below shows the impact of Pension Credit.



20. Tables showing how Pension Credit will work are at Annex B, and some examples are at Annex C.

The claims process

21. In the current Income Support system all income, regardless of source, and most personal circumstances have to be reported and there is a continuing obligation to report changes as they occur. The Department's research *(DSS Research Report No.100, 'Overcoming Barriers: Older People and Income Support' - copies are available at* http://www.dwp.gov.uk*)* has shown that these and other requirements create a claims and administration process which, for pensioners, can act as a significant deterrent in claiming entitlement. Various features of Pension Credit should reduce the deterrents.

22. The requirement to report changes in personal circumstances as they occur will be changed for those aged 65 and over. The Act introduces an assessed income period which will normally run for five years. During this time there will be no requirement to report changes in income from any retirement provision that a pensioner has made although benefit upratings and changes in income from private pension will be taken into account as they occur. In the main, only those types of changes that must be notified for basic state pension purposes will need to be reported. These include significant life events and changes in the composition of pensioners' households. When these occur the assessed income period will end and entitlement to Pension Credit will be reassessed. This will include consideration of setting a new assessed income period based on the pensioner's circumstances at that time. The new period will normally run for five years from the date of the new assessment.

23. At the end of the five-year period, a reassessment will be made and any adjustments in income will only take effect from the beginning of the new five-year assessed income period. However, pensioners will be able to have their cases reassessed on request at any time during the five-year assessed income period should their retirement provision decrease. If that results in higher entitlement to Pension Credit, Pension Credit will be paid at the new higher rate.

24. The income assessment for Pension Credit will abolish the current remunerative work (16-hour) rule that applies to MIG claimants. Pensioners will not lose their entitlement simply because of the number of hours they, or their partners, work each week.

25. On 15 March 2000, the Government announced a new pensions organisation within the Department for Work and Pensions, which would manage benefits and services for older people. On 2 April 2001, the Government announced that the new organisation would be called "The Pension Service". The Pension Service began to operate on 1 April 2002 and will manage Pension Credit from October 2003.

The position of those claiming Housing Benefit and Council Tax Benefit

26. Regulations will provide that pensioners who receive the guarantee credit will automatically qualify for maximum Housing Benefit and Council Tax Benefit. Those who receive the savings credit only, or who are not entitled to Pension Credit, will claim Housing Benefit and Council Tax Benefit under new rules which will, in the main, reflect those for Pension Credit. However, the applicable amount in the case of Housing Benefit and Council Tax Benefit for pensioners aged 65 and over will be increased by the maximum savings credit to ensure that they receive the full benefit of any savings credit entitlement. Pensioners with capital exceeding £16,000 who are entitled to the savings credit only or who have no entitlement to Pension Credit will be excluded from Housing Benefit and Council Tax Benefit, as they are under the present rules for MIG.

Pension Credit – legal framework

27. Pension Credit follows the pattern of benefits provided under the Social Security Contributions and Benefits Act 1992 and the Jobseekers Act 1995 and fits within the Social Security Administration Act 1992 and the Social Security Act 1998. In particular:

- it will be administered by the Secretary of State for Work and Pensions;
- entitlement will be decided by persons acting on behalf of the Secretary of State;
- decisions on entitlement and the assessed income period will be subject to appeal to an appeal tribunal and beyond that, on a point of law, to the Social Security Commissioners and the courts.

EQUAL TREATMENT FOR WIDOWS AND WIDOWERS

Background and Summary

28. Section 18 of the Act, which is consequential on the introduction of new bereavement benefits under sections 54 to 56 of the Welfare Reform and Pensions Act 1999, makes an amendment to the Pensions Schemes Act 1993 to provide equal treatment for widows and widowers. This amendment ensures that a widower who receives benefit based on the National Insurance contributions of his late wife, where she was a member of a contracted-out occupational or personal pension scheme, is treated in the same way as a widow in the same circumstances.

29. Someone who contracted out of the additional pension (SERPS) at any time between 6 April 1978 and 5 April 1997 will have built up a private pension in place of SERPS. At pensionable age the amount of their SERPS is reduced to take account of this pension from the private scheme. This is known as the contracted-out deduction and is based on the guaranteed minimum pension they receive or are treated as receiving from their private scheme.

30. The Pensions Act 1995 broke the link between SERPS and contracted-out private pension schemes with effect from 6 April 1997. So, from that date onwards, someone earns either SERPS or an occupational or a personal pension by being a member of a scheme which is contracted out of SERPS. There is no longer a guaranteed minimum pension and so there is no contracted-out deduction.

31. Contracted-out private pension schemes have been required to pay a pension to a member's widow since 6 April 1978 and to a member's widower since 6 April 1988. A widow could inherit SERPS from her late husband if she was entitled to widowed mother's allowance, widow's pension or a retirement pension based on her husband's contributions. Where her husband had been a member of a contracted-out pension scheme before 1997, legislation provided for the amount of benefit to be reduced by the contracted-out deduction so that there was no double provision (that is SERPS as well as a widow's pension from the contracted-out pension scheme).

32. However, until the new bereavement benefits were introduced from 9 April 2001, a widower could inherit SERPS from his wife only if they were both over pensionable age when the wife died. So legislation provided for a contracted-out deduction to be made in the case of a widower who was entitled to a widower's pension from his wife's contracted-out pension scheme only where both he and his wife were over pensionable age when she died.

33. With the introduction of bereavement benefits, a widower can inherit SERPS from his wife if he is entitled to widowed parent's allowance. In addition, a widower reaching pensionable age who has previously been entitled to widowed parent's allowance or bereavement allowance may inherit SERPS from his wife. However, where the wife had been a member of a contracted-out pension scheme and the widower is receiving a widower's pension from that scheme, there is no power to make a contracted-out deduction. As a result, there is currently double provision for certain widowers.

34. The Act amends the Pension Schemes Act 1993 in order to provide for a contracted-out deduction in cases where a widower would otherwise be entitled to inherit SERPS

from his late wife as well as a widower's pension from her contracted-out pension scheme. This will ensure that widows and widowers are treated equally in this respect.

COMMENTARY ON SECTIONS

Sections 1 to 4: Entitlement and amount

Section 1: Entitlement

35. *Section 1* provides for a new social security benefit called State Pension Credit ("Pension Credit") to be payable in accordance with the Act (*subsection (1)*).

36. Pension Credit consists of two elements, known as "guarantee credit" and "savings credit". A claimant may be entitled to either or both of those elements (*subsection (3)*).

37. The purpose of the guarantee credit is to ensure that the claimant has income equal to at least the amount of the "standard minimum guarantee" which, in 2003, is expected to be around £100 for a person who is not a member of a couple (a "single person") and £154 for a married or unmarried couple (a "couple").

38. The purpose of the savings credit is to provide claimants with a reward for having made some modest provision for retirement above the basic state pension.

39. The guarantee credit and the savings credit each have conditions of entitlement, but two of the conditions are common to both.

40. The first of the common conditions is that the claimant must be in Great Britain (*subsection (2)(a)*). That condition is the subject of two regulation-making powers set out in *subsection (5)*.

41. *Subsection (5)(a)* confers power to make provision by regulations as to the circumstances in which a person is to be treated as being in Great Britain. The intention is to exercise the power so that the claimant has to be habitually resident in Great Britain if he is to qualify, which is currently the position with Income Support and income-based Jobseeker's Allowance.

42. *Subsection (5)(b)* confers power to make provision by regulations for continuing a person's entitlement to Pension Credit during periods of temporary absence from Great Britain. The intention is to continue the current Income Support rules which allow for entitlement to continue for four, and exceptionally eight, week periods abroad.

43. The second of the common conditions is that the claimant must have attained the "qualifying age" for Pension Credit (*subsection (2)(b)*).

44. The "qualifying age" is defined in *subsection (6)* (as read with the definition of "pensionable age" in *section 17(1)*) so that it means, for both men and women, the age which is pensionable age for a woman. That age is currently 60, but between 2010 and 2020 will steadily rise until it reaches 65, the same as pensionable age for a man. The legislation effecting the equalisation of the pensionable ages for men and women is in Part 1 of Schedule 4 to the Pensions Act 1995.

45. In addition to the two common conditions, the claimant must satisfy the further conditions set out in *section 2(1)* for the guarantee credit or *section 3(1) and (2)* for the savings credit.

46. *Subsection (3)* provides for the amount to which the successful claimant is entitled to be found in accordance with *section 2* for the guarantee credit (*paragraph (a)*) and *section 3* for the savings credit (*paragraph (b)*).

Section 2: Guarantee credit

47. The claimant is entitled to the guarantee credit if (in addition to satisfying the two common conditions described above in connection with section 1) he also satisfies the condition in *subsection (1)*, which requires the claimant's "income" not to be above an amount referred to as "the appropriate minimum guarantee".

48. *Subsection (2)* provides that the amount of the guarantee credit is the amount of the appropriate minimum guarantee less any relevant income.

49. The meaning of "income" for the purposes of the Act is defined by *sections 15 and 16*, while *section 5* provides that, where the claimant is a member of a couple, the income of the other member is to be treated as income of the claimant for the purposes of the Act (and so in effect provides for the aggregation of their income).

50. The "appropriate minimum guarantee" consists of two parts (*subsection (3)*):

    (a) the standard minimum guarantee; and,

    (b) various prescribed amounts whose applicability in the case of each claimant is determined by reference to the particular circumstances of the claimant.

51. *Subsection (4)* provides that the amount of the standard minimum guarantee will be prescribed by regulations and *subsection (5)* requires there to be one uniform standard minimum guarantee for a single person (expected to be around £100 in 2003) and one for a couple (expected to be around £154 in 2003).

52. *Subsection (6)* enables the Secretary of State to make regulations substituting a reference to a prescribed amount for the reference to the standard minimum guarantee in *subsection (3)(a)* in prescribed cases.

53. Where the power is exercised, the prescribed amount does not for any purpose become the standard minimum guarantee, but simply replaces the reference to it in subsection (3)(a), so that that provision effectively reads, for example, "£10" instead of "the standard minimum guarantee".

54. Accordingly, such a substitution does not affect the amount of the claimant's standard minimum guarantee for other purposes of the Act (such as determining the "maximum savings credit" under *section 3(7)*), but the standard minimum guarantee will not be brought into account for the purpose of determining the claimant's appropriate minimum guarantee (the substituted prescribed amount being brought into account instead).

55. It is intended that the power conferred by subsection (6) will be exercised, for example, in cases where the claimant or, if the claimant is a member of a couple, the other member of the couple remains in hospital for longer than thirteen weeks.

56. It is also intended that the power, as read with the power conferred by *subsection (9)* to prescribe nil as an amount, will be exercised to substitute "nil" for the reference to the standard minimum guarantee in subsection (3)(a) in cases corresponding to those in paragraphs 7 and 8 of Schedule 7 to the Income Support (General) Regulations 1987 (S.I. 1987/1967) where a nil amount is prescribed. That Schedule prevents prisoners, and members of religious orders who are fully maintained by their order, from receiving Income Support.

57. The power to prescribe "additional amounts" under *subsection (3)(b)* enables the Secretary of State to make provision for the appropriate minimum guarantee to be greater than the standard minimum guarantee.

58. Where, for example, the claimant is an owner-occupier with housing costs, it is intended that additional amounts will be prescribed in respect of those costs, such as mortgage interest, ground rent or service charges.

59. It is also intended that this power will be used to prescribe an amount additional to the standard guaranteed minimum where, immediately before qualifying for Pension Credit, the recipient was receiving Income Support or Jobseeker's Allowance which included an element of transitional protection. The increase will be included if, without it, the guarantee credit would not maintain, or improve, their previous level of income. The power will also allow for other additions to be made in future without the need for further primary legislation.

60. It is not intended that additional amounts should be prescribed in respect of children, as benefits for children are to become part of the new Child Tax Credit under the Tax Credits Bill.

61. The section requires the power to prescribe additional amounts under subsection (3)(b) to be exercised in two particular cases.

62. The first of these cases, addressed by *subsection (7)*, is where the claimant is severely disabled. The circumstances in which a person is to be regarded as being or not being "severely disabled" will be the subject of regulations under *section 17(2)(b)*.

63. In such cases the intention is that there will be a prescribed additional amount corresponding to the severe disability premium in Income Support. It is expected that in 2003 this will be around £43.45 for a single person and £86.90 for a couple.

64. The intention is that the rules will be the same as those for the receipt of the severe disability premium in Income Support.

65. In the case of a claimant who is a single person, those rules are that:

- the claimant must be in receipt of the care component of Disability Living Allowance at the highest or middle rate, or Attendance Allowance at either rate;
- there must be no non-dependants aged 18 or over living with the claimant; and
- there must be no one receiving Invalid Care Allowance (to be re-named "Carer’s Allowance" – see paragraph 67 below) for looking after the claimant.

66. In the case of a claimant who is a member of a couple, the higher rate mentioned above can be paid if:

- both members are in receipt of Disability Living Allowance or Attendance Allowance;
- they have no non-dependants living with them; and,
- no one is receiving Invalid Care Allowance (to be re-named "Carer’s Allowance" – see paragraph 67 below) for looking after either of them.

67. The second case where an additional amount must be prescribed under subsection (3)(b) is addressed by *subsection (8)* and is the case where the claimant is entitled, or is a member of a couple the other member of which is entitled, to an allowance under section 70 of the Social Security Contributions and Benefits Act 1992 (allowances for caring for another person). The allowance in question is Invalid Care Allowance but the Regulatory Reform (Carer’s Allowance) Order 2002 (S.I. 2002/1457), which was made on 29 May 2002, changes the name of Invalid Care Allowance to Carer’s Allowance with effect from April 2003.

68. The intention is that the additional amount in such a case will correspond to the carer premium in Income Support. It is expected that in 2003 the amount will be around £25.35.

69. Subsection (9) confers power to prescribe nil as an amount. This power cannot be used to prescribe nil as the standard minimum guarantee, but in combination with the power

conferred by subsection (6), it can be used to prescribe nil as the amount that replaces the reference to the standard minimum guarantee in subsection (3)(a).

Section 3: Savings credit

70. *Section 3* specifies the conditions that must be satisfied (in addition to the two "common conditions" described in connection with section 1) if the claimant is to be entitled to savings credit *(subsections (1) and (2))*. It then goes on to explain the calculation for determining the amount of savings credit to which a claimant is entitled (*subsections (3) and (4)*).

71. The condition of entitlement in subsection (1) is that the claimant has attained the age of 65 or is a member of a couple the other member of which has attained the age of 65.

72. The condition in subsection (2) has two parts, each concerned with aspects of the claimant's income.

73. The first part (*paragraph (a)*) requires that the claimant has what is referred to as "qualifying income" of an amount that exceeds a figure referred to as "the savings credit threshold".

74. "Qualifying income" is addressed by *subsection (6)*, which confers power to make provision by regulations as to income which will or will not be "qualifying income". The intention is that the claimant's "qualifying income" will, broadly, be those parts of the claimant's income which arise from:

- contributing to the National Insurance system (for example, a Category A or Category B retirement pension, including additional pension);
- the claimant's own retirement provision (for example, an occupational or personal pension, or income from capital);
- earnings.

75. The "savings credit threshold" is a prescribed amount (see the definition in *subsection (7)*). The amount prescribed is expected to be around £77 in 2003 for a single person and £123 in the case of a couple.

76. Savings credit is, however, to be subject to a maximum entitlement, referred to as "the maximum savings credit" (defined in subsection (7)), which is a prescribed percentage (the intention is that it will be 60 per cent) of the difference between:

(a) the standard minimum guarantee (discussed in the Notes on section 2); and

(b) the savings credit threshold.

77. The maximum savings credit is therefore expected to be around:

- £13.80 in the case of a single person (60 per cent of the difference between £100 and £77); and,
- £18.60 in the case of a couple (60 per cent of the difference between £154 and £123).

78. If the claimant has income in excess of the appropriate minimum guarantee, the savings credit will be adjusted by deducting a prescribed percentage (the intention is that it will be 40 per cent) of the amount by which the claimant's income exceeds the appropriate minimum guarantee.

79. The effect, based on estimates for 2003, is that normally the savings credit is reduced to nil in the case of a single person if the claimant's income is £135 or more and in the case of a couple if the claimant's income is £201 or more.

80. The second part of the condition of entitlement in subsection (2) (*paragraph (b)*) reflects the provision for reducing the amount of savings credit in circumstances where the claimant has income in excess of the appropriate minimum guarantee. The section provides that there is no entitlement to savings credit where the claimant's income is such that the adjustment has the effect of reducing the savings credit to such an extent that none is payable. The same calculation therefore serves to determine both entitlement to, and the amount of, savings credit.

81. *Subsections (2)(b) and (3)* together produce the above results by providing that the amount of the savings credit to which a claimant is entitled is the amount by which "amount A" exceeds "amount B" (subsection (3)) and that there must be such an excess if the claimant is to be entitled to savings credit (subsection (2)(b)).

82. Amount A and amount B are defined in *subsection (4)*, but to find their amount involves some further calculation. The following amounts (all of which have been described either in the Notes on section 2 or in the preceding Notes on this section) must be found in the case of the claimant:

(1) the amount of the "income";

(2) the amount of that income which is "qualifying income";

(3) the "appropriate minimum guarantee";

(4) the "standard minimum guarantee";

(5) the "savings credit threshold"; and,

(6) the "maximum savings credit".

83. From those amounts two further amounts that need to be known can be calculated:

((7) a prescribed percentage (expected to be 60 per cent) of the amount by which:

(a) the qualifying income,

exceeds

((b) the savings credit threshold, and

((8) a prescribed percentage (expected to be 40 per cent) of the amount (if any) by which:

(a) the claimant's income,

exceeds

((b) the appropriate minimum guarantee.

84. Subsection (4) defines "amount A" and “amount B”.

85. Amount A will always be amount (7), unless that amount exceeds the maximum savings credit, in which case amount A will be the maximum savings credit.

86. Amount B will be amount (8) in any case where the claimant's income exceeds the appropriate minimum guarantee. In any other case, amount B will be nil (and the amount of savings credit to which the claimant is entitled will accordingly be amount A without any reduction).

87. Section 2(6) makes provision for a prescribed amount to be substituted for the reference to the standard minimum guarantee in section 2(3)(a). Where that happens, the claimant's appropriate minimum guarantee will normally be less than if it included the standard minimum guarantee instead of the prescribed amount substituted for it.

88. That has consequences for the calculation of amount B. Where the standard minimum guarantee is replaced by virtue of section 2(6), a smaller amount of income will be

sufficient to exceed the appropriate minimum guarantee and bring the adjusted amount B into operation.

89. It is not, however, intended that, simply because of the application of regulations under section 2(6), the claimant's savings credit should necessarily be subject to that extra degree of adjustment in all cases where those regulations apply, so *subsection (5)* confers power by regulations to substitute for the appropriate minimum guarantee a prescribed higher amount, but only for the purpose of finding the amount (8) described above.

90. The effect of such a substitution is that the amount (8) described above, and accordingly amount B, will be less than it would otherwise be, or will become nil, and so a smaller amount B falls to be set against amount A.

91. *Subsection (8)* confers the power to prescribe nil as an amount. This will be exercised to substitute “nil” for the reference to the maximum savings credit in cases corresponding to those in paragraphs 7 and 8 of Schedule 7 to the Income Support (General) Regulations 1987 where a nil amount is prescribed.

92. That Schedule prevents prisoners, and members of religious orders who are fully maintained by their order, from receiving Income Support. See also paragraph 56 above.

93. Annex C to these Notes contains worked examples of the operation of the rules for determining the amount of a claimant's savings credit.

Section 4: Exclusions

94. *Section 4(1)* provides that Pension Credit shall not be payable to or for a person who is a member of a married or unmarried couple if the other member is entitled to Pension Credit. The intention here is simply to prevent double provision from public funds.

95. *Subsection (2)* provides that someone who is subject to immigration control within the meaning of section 115 of the Immigration and Asylum Act 1999 will have no entitlement to Pension Credit.

96. *Subsection (3)* reproduces for Pension Credit the power in section 134(4) of the Social Security Contributions and Benefits Act 1992. The intention is that Pension Credit is not to be paid if entitlement is under ten pence a week, unless payment can be combined with payment of another benefit.

Aggregation

Section 5: Income and capital of claimant, spouse etc.

97. Section 5 provides that any income or capital of the claimant’s partner, whether or not they are married, is treated as the income or capital of the claimant for the purposes of the Pension Credit income assessment. This includes the assessment of the guarantee credit (at section 2) and the savings credit (at section 3). In effect this means that the income of a couple, whether married or unmarried, is added together for the purposes of calculating how much Pension Credit they will receive.

98. This will be the case except in circumstances to be prescribed by the Secretary of State in regulations. There are no immediate plans to use this power to make regulations. A corresponding power exists in relation to Income Support and is replicated here in order to provide sufficient flexibility for the future. If this power were to be used, the effect of not aggregating a couple’s income or capital would be to disregard totally the income or capital of the claimant’s partner.

Sections 6 to 10: Retirement provision

99. The social security system requires a claimant to notify benefits administrators of any changes that affect his benefit entitlement. In the case of Pension Credit, this would include any change in income that is taken into account when calculating the rate of Pension Credit. Sections 6 to 10 provide for certain types of income (a person's "retirement provision") to be treated as remaining the same for a period of up to five years ("the assessed income period"). This is subject to routine adjustment for inflation. The effect of this provision is that increases in income do not affect Pension Credit entitlement and therefore do not have to be reported by the claimant during that period. However this does not prevent an increase in the rate of Pension Credit where a person's actual retirement provision is reduced.

100. A person's retirement provision is any income from a pension (other than one payable under the Social Security Contributions and Benefits Act 1992 or the Social Security Contributions and Benefits (Northern Ireland) Act 1992), an annuity or capital (see *section 7(6)*). Income from a particular source is referred to as an "element" of retirement provision.

Section 6: Duty to specify assessed income period

101. The system in sections 6 to 10 can only be used once a claimant attains age 65 or the claimant's spouse or partner attains that age (see *subsections (3)(c) and (4)(c)*).

102. If the Secretary of State makes a decision on the claimant's entitlement to Pension Credit and Pension Credit is payable, he must specify an assessed income period in relation to the claimant (see *subsections (1), (3) and (4)* and also the exceptions in *subsections (2) and (3)(d)* and *section 9(2)*). The decision might be the first decision made in relation to the claimant, or it might be a decision revising or superseding an earlier decision (see *subsection (3)(b)* and sections 8(1), 9 and 10 of the Social Security Act 1998), including a decision on appeal that Pension Credit is payable *(subsections (4) and (5))*.

Section 7: Fixing of claimant's retirement provision for assessed income period

103. Specifying an assessed income period has the effect of fixing, for that period, what is to be treated as an element of the claimant's retirement provision (see *subsection (3)*). Further elements of retirement provision acquired later in the assessed income period are simply disregarded (see *subsection (5)*). The claimant need not, therefore, report such a further element during the period.

104. Specifying a period also fixes the amount the claimant receives from each element of his retirement provision (the "assessed amount"), but those assessed amounts are liable to be adjusted in accordance with regulations (see*subsections (3) and (4)*). The intention is that the regulations will provide for the amount of income from a pension or annuity to be deemed to increase from time to time. This will be in line with the terms of a claimant's pension or annuity arrangements or, if these details cannot be supplied, in line with the uprating of social security benefits. The regulations will also provide for the rate of assumed income from capital to be treated as adjusted from time to time. In some cases, the assessed amount may be deemed to stay the same.

105. The amounts a claimant is deemed to receive and the amounts actually received may differ. If that works in the claimant's favour, he need not report it during the period. The point of subsection (3) is that a calculation based on deemed amounts is not to be treated as giving rise to an overpayment. If the difference works against the claimant, he may seek a new decision on the amount of his entitlement (see *section 8(1)(a) and (b)*).

106. None of the powers in the Act will affect the powers in section 9 of the Social Security Act 1998 which allow the revision of a decision.

Section 8: Fresh determinations increasing claimant's entitlement

107. The existence of an assessed income period does not prevent a fresh determination of any element of the claimant's retirement provision if it is freshly determined under section 10 of the Social Security Act 1998 and the effect of the fresh determination is to increase his Pension Credit entitlement. There can also be a fresh determination where the supersession decision under section 10 reduces Pension Credit entitlement but the reduction is less than it would have been because another change of circumstances has also been brought into account.

108. Where there is a fresh determination of any element of retirement provision, that determination applies for the remainder of the assessed income period (subject to any further application of section 8).

109. The result is that if a claimant wants the Secretary of State to look again at his pension credit entitlement because, for example, part of his retirement provision has gone or yields him less income, section 8 allows the Secretary of State to make a supersession decision under section 10 of the Social Security Act 1998 without interrupting or terminating the assessed income period.

Section 9: Duration of assessed income period

110. The Secretary of State will not always specify an assessed income period and sometimes he may specify a period of less than five years. This happens if he considers, looking at the claimant's circumstances for the 12 months following the day on which the decision on entitlement takes effect, that the elements of the claimant's retirement provision and their amounts on that day are not likely to be typical (see *subsections (1) and (2))*. Foreseeable increases in retirement provision (of the sort dealt with in section 7(4)) would not be treated as making a claimant's retirement provision atypical (see *subsection (3)*).

111. An assessed income period may end prematurely. Under *subsection (4)* it will end if:

- the claimant marries or becomes a member of an unmarried couple;
- the claimant ceases to be a member of a couple, by divorce, separation or death;
- the claimant reaches 65 or, if the claimant is a member of a couple, the other member reaches 65.

The Secretary of State may by regulations create exceptions to the general rule in subsection (4). There is no present intention of using that regulation-making power, but the power gives future flexibility. *Subsection (5)* allows the Secretary of State to make regulations setting out other cases in which the assessed income period will be brought to an end. The power under subsection (5) may be used for cases where a person ceases to satisfy the conditions of entitlement to Pension Credit or where a person goes into residential care. It should be noted that bringing the assessed income period to an end does not necessarily entail bringing a person's entitlement to Pension Credit to an end.

Section 10: Effect of variations under section 7(4)

112. The provision in *section 10* resembles the routine adjustment provisions in sections 159 and 159A of the Social Security Administration Act 1992. Unlike those sections, which are open-ended, this provision operates only while an assessed income period is in force (see *subsection (1)*).

113. Any adjustment in the assessed amount of a claimant's retirement provision which is made by regulations under section 7(4) can give rise to an increase or reduction in the claimant's Pension Credit (see *subsection (2)*). If there is no net effect, a claimant's Pension Credit simply continues at the same amount (see *subsection (3)*). In any case,

there is no need for a new decision by the Secretary of State and there is continuity in the claimant's entitlement to Pension Credit.

Sections 11 to 14: Miscellaneous and supplementary

Section 11: Administration

114. *Section 11* introduces *Schedule 1*, which makes amendments to the Social Security Administration Act 1992 and the Social Security Act 1998 so as to apply, in the case of Pension Credit, the normal social security rules for claims, decisions and appeals.

Section 12: Polygamous marriages

115. *Section 12(1)* describes, for Pension Credit purposes, the conditions for a person to be treated as being in a polygamous marriage.

116. *Subsection (2)(a)* confers the power for regulations to prescribe the circumstances in which a member of a polygamous marriage is entitled to Pension Credit.

117. *Subsection (2)(b) and (c)* confers the power for regulations to prescribe the level of award of Pension Credit, which may include an amount payable in respect of the second and any subsequent spouse.

118. *Subsection (2)(d)* provides for the aggregation of income and capital of all members of a polygamous marriage for the purposes of determining entitlement to Pension Credit.

119. *Subsection (3)* allows regulations under this section to modify the Act itself.

Section 13: Transitional provisions

120. *Section 13(1)* confers power to make regulations in connection with the introduction of Pension Credit in 2003.

121. *Section 13(2)* provides that, in particular, regulations may treat people aged 60 and over who are receiving Income Support immediately before the introduction of Pension Credit as having been awarded, or having made a claim for, Pension Credit. This will remove the need for them to make a separate claim and provide continuity in payment. Also, where an assessed income period of five years would otherwise apply to a person who has reached the qualifying age when Pension Credit is introduced, the regulations will allow for a longer period to apply. This is to avoid the operational problems which could otherwise occur in 2008.

Section 14: Minor and consequential amendments

122. *Section 14* introduces *Schedule 2*. The amendments of existing legislation in that Schedule are discussed below.

Sections 15 to 17: Interpretation of State Pension Credit provisions

123. *Sections 15 and 16* define what is meant by income for the purposes of the Act. Section 15 confers regulation-making powers, which will allow the Secretary of State to prescribe how a person’s income and capital are to be calculated and attributed for the purpose of determining entitlement to the guarantee credit and the savings credit. *Section 16(1)* contains the definition of "retirement pension income". *Section 16(2)* confers power to make regulations varying that definition.

Section 15: Income and capital

124. In section 15,*subsection (1)* defines income for the purposes of the Act.

- *Paragraph (e)* includes a regulation-making power which enables the Secretary of State to prescribe those social security benefits that are taken into account in the assessment.
- *Paragraph (f)* enables further regulations to prescribe the foreign social security benefits that are to count as income. The intention is that this will include any social security benefit paid by the government of a country outside the United Kingdom that is analogous to any of those prescribed under paragraph (e).
- *Paragraph (g)* brings in war disablement pensions and war widow's or widower's pensions (see the definitions of these terms in section 17(1)), while *paragraph (h)* brings in their foreign equivalents, paid by governments of countries outside the United Kingdom (again, see the corresponding definitions of these expressions in section 17(1)).
- *Paragraph (j)* enables regulations to be made bringing in other descriptions of income. It is intended that this power will be used to cover income streams which few pensioners have, such as employers' sick pay or matrimonial maintenance payments. In the future, the power might be exercised to bring new types of income into account.

125. *Subsection (2)* confers power to make regulations prescribing how capital holdings will be taken into account in calculating Pension Credit. Normally, capital will be deemed to have an assumed rate of return for purposes of assessing entitlement to the guarantee credit and savings credit. The intention is that a rate of return of £1 a week for every £500 will be applied to capital in excess of £6,000 (£10,000 in cases of people in residential care and nursing homes). Capital below this amount will not be treated as giving rise to income which is to be taken into account in the assessment. Certain types of actual income from capital will be relevant to the assessment. These are limited to income from boarders and sub-tenants in the person’s own home and income from certain trusts. Here, there will be different provision as to disregarding income, which will follow the existing provision for Income Support.

126. *Subsections (3) and (4)* provide regulation-making powers to prescribe how income and capital will be assessed. The subsections provide that income accrued during any period will be calculated in line with prescribed rules. It is intended that the rules will provide that income may be averaged (see*subsection (5)*). In averaging income for fluctuating earnings, for example, the Secretary of State may take an average for a past and current period and apply it to a future period.

127. *Subsection (6)* confers the power to make regulations prescribing how income and capital will be treated in certain situations. It is intended that Pension Credit will also have the limited income and capital disregards that currently apply in Income Support.

128. It is also intended that existing provisions in the Income Support (General) Regulations 1987 concerning unacceptable deprivation of income or capital will be applied to Pension Credit with amendments. These will contain provisions which state what is unacceptable deprivation, for example gifts to third parties, and what is not, for example, a claimant repaying a mortgage on their home. Thus, for example, a claimant may be treated as having a notional income from capital no longer in their possession if they have disposed of the capital solely or mainly to secure or increase entitlement to Pension Credit.

Section 16: Retirement pension income

129. In section 16, *subsection (2)* allows the Secretary of State to use regulations to add to, vary or remove the descriptions in the list of retirement pension income in *subsection (1)*. This power provides the Secretary of State with the flexibility to change the scope of the scheme where it is appropriate to do so. It will, for example, allow the list of retirement pension income to be amended so that it remains relevant and

reflects any future legislative change as regards pensions and other financial products that provide an income in retirement.

Section 17: Other interpretation provisions

130. *Section 17(1)* contains definitions of expressions used in the Act.

131. *Subsection (2)* confers the power to prescribe in regulations the circumstances in which persons are to be treated, or are not to be treated, *(a)* as members of the same household or *(b)* as severely disabled. In practice, questions whether persons are members of the same household arise in only two cases:

- the determination of whether two persons are a "married couple" (see the definition in section 17(1)); and
- the determination of whether the conditions in section 12 (polygamous marriages) are satisfied in any particular case (see*subsection (1)(c)* of that section).

Effect of guaranteed minimum pension on social security benefits

Section 18: Equal treatment for widows and widowers

132. *Section 18* amends section 47(1) of the Pensions Schemes Act 1993, which sets out when section 46(1) of that Act applies to the widower of an earner. Section 46(1) provides for the amount of certain state retirement, widow's and bereavement benefits to be reduced by the amount of any guaranteed minimum pension also received from a private pension scheme.

133. *Paragraph (a)* provides for section 46(1) to apply to a widower who receives widowed parent's allowance.

134. *Paragraph (b)* provides for section 46(1) to apply to a widower who is entitled to a retirement pension based upon his wife's contributions, or who would be so entitled were it not for the provisions in section 43(1) of the Social Security Contributions and Benefits Act 1992. These provisions prevent an individual from receiving more than the full amount of retirement pension available to a single person.

Final provisions

Section 19: Regulations and orders

135. *Section 19* contains supplementary provision relating to the regulation and order making powers conferred by the Act.

136. It applies to Pension Credit the usual regulation-making powers provided for social security benefits by subsections (1), (2) to (5) and (10) of section 175 of the Social Security Contributions and Benefits Act 1992. These provide that:

- regulations and orders shall be made by the Secretary of State;
- orders or regulations shall be made by statutory instruments;
- the power may be exercised in relation to all cases, all cases subject to specified exceptions or only for specified cases;
- the power may be exercised fully or not, make the same provision for all cases or not, and specify conditions or not;
- regulations may be made for such incidental, consequential or transitional provision as appear to be suitable;
- the power to make regulations or an order includes power to provide for a person to exercise discretion when dealing with any matter.

137. *Subsection (2)* provides for the first regulations made under specified provisions of the Act to be subject to the approval of each House of Parliament. This includes regulations that:

- set the amounts to be paid as the guarantee credit (as defined in section 2);
- set the amount of the standard minimum guarantee (as defined in section 2);
- define the cases in which a prescribed amount may be substituted for the standard minimum guarantee;
- set the percentage of the excess qualifying income used to calculate the savings credit;
- set the percentage of the excess income used to calculate the savings credit;
- prescribe cases in which a prescribed higher amount may be substituted for the appropriate minimum guarantee when calculating the savings credit;
- define the income which will enable a person to qualify for a savings credit;
- prescribe the amount of the savings credit threshold;
- define the minimum amount payable;
- provide for the treatment of people who are polygamously married;
- provide for the treatment of income and capital in the calculation of Pension Credit.

138. *Subsection (3)* provides that any regulations under the Act which are not subject to the "draft affirmative" Parliamentary procedure described in subsection (2) are subject to the Parliamentary "negative resolution" procedure.

Schedules

Schedule 1: Administration

Schedule 1, paragraph 2

139. *Paragraph 2* amends section 1 of the Social Security Administration Act 1992 to the effect that a person must, in order to establish entitlement to Pension Credit, make a claim for Pension Credit in the manner and within the time specified in regulations made under that Act, and that the claimant (and any other person for whom they are claiming) must have a valid National Insurance number in order to establish a claim. (See also *paragraph 3* and the commentary below.)

Schedule 1, paragraph 3

140. *Paragraph 3* amends section 5(2) of the Social Security Administration Act 1992 to include Pension Credit within the definition of the benefits to which section 5(1) of that Act applies. The effect is to confer power:

- to prescribe in regulations the manner in which a claim to Pension Credit is to be made;
- to prescribe time limits for claiming;
- to disallow claims if they have not been made in the prescribed manner and within prescribed time limits;
- to enable one person to act for another in relation to a claim;
- to require evidence and information in relation to a claim;

- to specify the date on which entitlement is to begin and the length of the award; and,
- when the requirements for entitlement are satisfied, to provide for the revision or supersession of an award if the requirements are no longer satisfied.

141. The effect of the amendment inserting a new subsection (3A) into section 5 of the Social Security Administration Act 1992 is that regulations may be made under paragraph (h) or (hh) of subsection (1) of that section requiring a person to provide information enabling a decision to be made on whether there should be an assessed income period and, if so, its length.

Schedule 1, paragraphs 4 to 12

142. The rules about how entitlement to social security benefits is to be decided, including the way appeals are to be resolved, are in the Social Security Act 1998 and related regulations. These paragraphs add references to Pension Credit in the relevant provisions of the Social Security Act 1998. The effect of this is that the established decision-making and appeal provisions of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (S.I. 1999/991) will apply to Pension Credit.

Schedule 1, paragraph 13

143. The intention in *paragraph 13* is to secure that Pension Credit is normally paid at a weekly rate and also, where necessary, to provide the flexibility to make the adjustments necessary to align payment of Pension Credit with other benefits paid to the claimant.

Schedule 2: Minor and consequential amendments

Schedule 2, paragraph 2

144. The amendments of section 124 of the Social Security Contributions and Benefits Act 1992 remove entitlement to Income Support for those claimants who have attained the qualifying age for Pension Credit and for those claimants whose partners are entitled to Pension Credit.

Schedule 2, paragraph 3

145. New section 136A of the Social Security Contributions and Benefits Act 1992 makes provision for the treatment of income and capital for Housing Benefit and Council Tax Benefit where the claimant has attained the qualifying age for Pension Credit.

146. *Subsection (1)* of section 136A applies subsections (2) and (3) to Housing Benefit and Council Tax Benefit in the case of any person who has attained the qualifying age for Pension Credit.

147. *Subsection (2)* allows the Secretary of State to make provision in regulations to disapply, for Housing Benefit and Council Tax Benefit, the provisions of section 134(1) (exclusion where capital exceeds the prescribed limit), or any provision of section 136 (treatment of income and capital).

148. *Subsection (3)* allows the Secretary of State to make regulations which provide for the income and capital of a claimant who has attained the qualifying age to be determined for Housing Benefit and Council Tax Benefit by applying, with such modifications as he thinks fit, sections 5 and 15 of this Act.

149. S*ubsection (4)(a)* allows regulations under subsection (3) to authorise or require that any calculation or estimate of a claimant's income or capital made by the Secretary of State for the purposes of Pension Credit be used for Housing Benefit and Council Tax Benefit.

150. S*ubsection (4)(b)(i)* allows regulations under subsection (3) to require that where there is an assessed income period in force for Pension Credit, the assessed amount of any retirement provision for the purposes of Pension Credit shall be used in the determination of the Housing Benefit and Council Tax Benefit entitlement.

151. *Subsection (4)(b)(ii)* allows regulations under subsection (3) to provide that elements of a claimant's retirement provision which are not taken into account for Pension Credit shall not be taken into account for Housing Benefit and Council Tax Benefit.

152. *Subsections (6) and (7)* allow regulations made under section 136A to include provision for cases to which section 12 of the Act applies. Such regulations may include provision such as may be made by section 133 of the Social Security Contributions and Benefits Act 1992.

Schedule 2, paragraphs 5 to 7

153. These paragraphs amend sections 148 to 150 of the Social Security Contributions and Benefits Act 1992 so as to make Pension Credit a benefit which qualifies the recipient for the Christmas Bonus.

Schedule 2, paragraph 9

154. *Paragraph 9* amends section 15A of the Social Security Administration Act 1992 so as to give the Secretary of State power to make, in prescribed circumstances, payments of a prescribed part of any Pension Credit directly to a mortgage lender in respect of a claimant's mortgage interest.

Schedule 2, paragraph 10

155. *Paragraph 10* amends section 71 of the Social Security Administration Act 1992 so that the Secretary of State is entitled to recover overpayments of Pension Credit where the overpayment was the result of the claimant's misrepresentation or failure to disclose a material fact.

Schedule 2, paragraph 11

156. *Paragraph 11* amends section 74 of the Social Security Administration Act 1992 so that the Secretary of State is entitled to recover overpayments of Pension Credit where the overpayment resulted from the claimant's receiving a late payment of other moneys (usually of another social security benefit).

Schedule 2, paragraph 12

157. *Paragraph 12* has the effect of applying the provisions in Part 6 of the Social Security Administration Act 1992 (enforcement) to Pension Credit. This causes the provisions on inspection and offences and legal proceedings to apply to Pension Credit.

Schedule 2, paragraph 13

158. *Paragraph 13* amends section 124 of the Social Security Administration Act 1992 to add Pension Credit to the list of social security benefits for which copies of birth, marriage and death certificates are to be provided.

Schedule 2, paragraph 14

159. *Paragraph 14* amends section 125 of the Social Security Administration Act 1992 to include Pension Credit in the list of social security benefits for which keepers of registers of births, marriages and deaths are required to provide notification of deaths.

Schedule 2, paragraph 15

160. *Paragraph 15* amends section 126 of the Social Security Administration Act 1992 to include Pension Credit in the list of social security benefits which give rise to a duty on personal representatives to give information about the estate of a deceased person.

Schedule 2, paragraph 16

161. *Paragraph 16* amends section 150 of the Social Security Administration Act 1992 to include sums relating to guarantee credit and savings credit in the list of sums to be reviewed by the Secretary of State in connection with the annual uprating of benefits.

Schedule 2, paragraph 17

162. *Paragraph 17* inserts a new section 159B into the Social Security Administration Act 1992. The new section provides for the Secretary of State to make a routine adjustment of a person's Pension Credit in consequence of benefit uprating.

163. *Subsections (2) and (3)* of section 159B allow Pension Credit to continue being paid after its amount is adjusted without the need for the Secretary of State to make a further decision on the award.

164. *Subsections (4) and (5)* allow an award of Pension Credit made in the period after the uprated amounts have been announced, but before they have started to have effect, to take account of the new rates.

Schedule 2, paragraph 23

165. *Paragraph 23* amends section 187 of the Social Security Administration Act 1992 so as to add Pension Credit to the list of social security benefits which cannot be assigned to a third party, nor passed to creditors in the event of the bankruptcy of the claimant.

Schedule 2, paragraph 25

166. *Paragraph 25* amends Schedule 6 to the Magistrates' Courts Act 1980 to include the guarantee credit in the list of social security benefits, receipt of which exempts persons from payment of magistrates' courts' fees.

Schedule 2, paragraph 26

167. *Paragraph 26* amends section 70(2) of the Transport Act 1982 to allow the Secretary of State for Transport to make payments, in respect of securing a medical exemption from the requirement to wear a seat belt, where the person seeking the exemption is in receipt of the guarantee credit.

Schedule 2, paragraphs 27 and 29

168. *Paragraph 27* amends paragraph 7A of Schedule 2 to the Abolition of Domestic Rates Etc. (Scotland) Act 1987 so as to enable Scottish local authorities to request that deductions be made from Pension Credit for outstanding Community Charge. *Paragraph 29* makes similar provision as regards local authorities in England and Wales by amending paragraph 6 of Schedule 4 to the Local Government Finance Act 1988.

Schedule 2, paragraph 28

169. *Paragraph 28* amends section 617(2) of the Income and Corporation Taxes Act 1988 so as to include Pension Credit in the list of social security benefits which shall not be treated as income for any purpose of the Income Tax Acts.

Schedule 2, paragraph 30

170. *Paragraph 30* amends section 29 of the Children Act 1989 so as to include the guarantee credit in the list of social security benefits, receipt of which exempts persons from being liable to pay the cost of certain day care and other services provided by local authorities.

Schedule 2, paragraph 31

171. This amendment of section 24 of the Criminal Justice Act 1991 enables magistrates' courts to request the Secretary of State to make deductions from Pension Credit in order to pay fines or compensation orders imposed by the court.

Schedule 2, paragraphs 32 to 35

172. The amendments to Schedules 4 and 8 to the Local Government Finance Act 1992 enable local authorities in England, Wales and Scotland to apply to the Secretary of State for sums outstanding under liability orders imposed by magistrates' courts to be deducted from Pension Credit. Liability orders are made where council tax is unpaid.

Schedule 2, paragraphs 37 and 38

173. The amendments of sections 3 and 3A of the Jobseekers Act 1995 remove entitlement to income-based Jobseeker's Allowance for those claimants who are entitled to Pension Credit or whose partners are entitled to Pension Credit.

Schedule 2, paragraph 41

174. *Paragraph 41* amends subsection (3) of section 34 of the Social Security Act 1998 so that regulations may require local authorities to give priority to Housing Benefit and Council Tax Benefit claims received from people who have been receiving Pension Credit.

Schedule 2, paragraph 43

175. *Paragraph 43* amends section 94 of the Local Government Act 2000 so as to add Pension Credit to the list of benefits information on which may be provided to local authorities in connection with the local authorities' applications for grants for welfare services.

Schedule 2, paragraphs 44 to 49

176. *Paragraphs 44 to 49* amend the Social Security Fraud Act 2001 ("the Fraud Act") so that Pension Credit is a disqualifying and sanctionable benefit for the purposes of that Act. The Fraud Act provides for certain social security benefits to be reduced where a claimant has been convicted of certain offences relating to social security.

177. *Paragraph 45(2)* inserts new subsection (4A) into section 7 of the Fraud Act so that the Pension Credit entitlement of an offender can be reduced for any period comprised in the disqualification period by an amount prescribed in regulations.

178. *Paragraph 46(3)* inserts new subsection (4A) into section 9 of the Fraud Act so that the Pension Credit entitlement of a member of the offender's family can be reduced for the whole or any part of the disqualification period by an amount prescribed in regulations.

COMMENCEMENT

179. Except for sections 19, 20 and 22 (which relate to commencement and come into force at Royal Assent), the provisions of the Act come into force by commencement orders.

ANNEX A: GLOSSARY OF PENSION PROVISION

1. The social security system provides a number of sources of income for retirement in the form of contributory, non-contributory and income-related benefits.

   The contributory benefits are:

   - Category A and B retirement pensions which comprise a basic component (the state basic pension) and additional pension (SERPS or State Second Pension) either of which may be payable (the relevant primary legislation is contained in sections 43 to 55 of the Social Security Contributions and Benefits Act 1992);
   - graduated retirement benefit (based on graduated National Insurance contributions paid when the Graduated Retirement Benefit scheme existed, between 1961 and 1975) payable under sections 36 and 37 of the National Insurance Act 1965.

2. These are payable at state pension age (currently 65 for men and 60 for women) to persons who satisfy the contribution conditions. State pension age will be equalised at 65 from 6 April 2020.

   The non-contributory benefits are:

   - Category C retirement pension paid to persons (or their spouses) who had reached pensionable age before the start of the National Insurance scheme in 1948 and who satisfied the residence conditions;
   - Category D retirement pension paid under section 78 of the Social Security Contributions and Benefits Act 1992 to persons aged 80 and over who satisfy the residence conditions and either do not satisfy the contribution conditions or do not qualify for a full contributory retirement pension because of a deficient National Insurance record;
   - an age addition under section 79 of the Social Security Contributions and Benefits Act 1992, normally paid to persons aged 80 and over in receipt of any category of retirement pension, but not always paid to pensioners abroad.

3. *The income-related benefit is* Income Support payable under section 124 of the Social Security Contributions and Benefits Act 1992. Income Support paid to persons aged 60 and over is known as the Minimum Income Guarantee. In order to qualify for Income Support a person must:

   - have income below a set level; and,
   - not have savings or capital assets in excess of a prescribed limit, currently £12,000 in the case of persons aged 60 and over.

BASIC STATE PENSION

4. The National Insurance Scheme operates on a pay-as-you-go basis. The state pensions of today's pensioners are paid for by today's contributors. The basic state pension provides the foundation of retirement income - a third of all pensioner income. It is the largest single source of support. It is paid, to all who meet the qualifying conditions, at a flat rate of £75.50 a week from April 2002 for single pensioners and £120.70 a week for couples.

5. Firstly, they must have paid 50 qualifying contributions in a tax year ending before 6 April 1975 or enough contributions in a tax year ending after April 1975 for that year to be a qualifying year. Secondly, enough contributions must be paid or credited to give qualifying years for about 90 per cent of the working life. In order to receive a full pension, men must have 44 qualifying years and women 39 qualifying years, over their working lives.

6. A reduced rate pension will be payable if the number of qualifying years is less than this but to receive any pension at all a person must have enough qualifying years to receive a pension of at least 25 per cent of the standard rate.

7. By 2020 both men and women will need the same number of qualifying years once the state pension age is equalised at 65. Currently, 3.4 million men and 3.3 million women receive a full basic state pension.

ADDITIONAL PENSION (SERPS AND THE STATE SECOND PENSION)

8. The additional pension element of Category A and B retirement pensions (commonly called the State Earnings Related Pension Scheme or SERPS until 2002) is payable to people, or in certain circumstances their widows or widowers, who have paid, or are treated as having paid, Class 1 National Insurance contributions. The relevant legislation is sections 43 to 55 of the Social Security Contributions and Benefits Act 1992.

9. The additional pension is based on an average of earnings between the National Insurance lower and upper earnings limits over a person's whole working life, and the amount of that pension is increased in line with earnings inflation up to state pension age, and by price inflation once it is in payment.

10. From 6 April 2002, the State Second Pension reforms additional pension to provide a higher pension for low and moderate earners. In addition, for the first time, certain carers looking after young children, or a sick or disabled person, and long-term disabled people with broken work records will also be able to build up an additional pension.

11. People earning between the National Insurance lower earnings limit and a new low earnings threshold will be treated for additional pension purposes as if they had earned at the low earnings threshold. Qualifying carers or disabled people who earn less than the lower earnings limit (or nothing at all) will also be treated for additional pension purposes as if they had earned at the low earnings threshold in any qualifying year. A new accrual rate, which is twice the current rate, will apply to earnings (actual or treated) up to the low earnings threshold.

12. In total, some 18 million people stand to gain from the State Second Pension reforms - 14 million low and moderate earners, over 2 million carers and 2 million disabled people.

13. People can be contracted out of the additional pension into an occupational pension scheme or appropriate personal pension (including stakeholder pensions). Those contracting out into an occupational pension pay a reduced rate of National Insurance contributions. Those contracting out into an appropriate personal pension or a stakeholder pension pay full rate National Insurance contributions, but the Inland Revenue pay a rebate of National Insurance and tax relief directly to the pension provider. From April 2002 people contracted out are no worse off than they would have been had they remained in the state scheme because they will receive the extra help given to low and moderate earners by the State Second Pension by a combination of enhancing National Insurance rebates and topping up their additional pensions.

14. Some 5.5 million people currently receive an additional pension as part of their retirement income at an annual cost of about £4 billion. The Government Actuary reviews the level of rebates at least every five years.

OCCUPATIONAL AND PERSONAL PENSIONS

15. Occupational pension schemes are arrangements organised by employers to provide pensions for their employees. Schemes may be:

- salary related (defined benefit) where the pension payable depends on the length of service and the salary (usually the final salary) earned by the employee; or

- money purchase (defined contribution) where the contributions are invested and the pot of money is used at retirement to buy an annuity which provides the pension.

There are 10.3 million members of occupational pension schemes (8.9 million in salary-related schemes, 1.1 million in money-purchase schemes, and 0.3m in 'hybrid' schemes).

16. Personal pensions are money purchase arrangements between pension providers and individuals (although there may be group arrangements through employers to give access on favourable terms – group personal pensions).

STAKEHOLDER PENSIONS

17. Stakeholder pensions are a new type of private pension. Stakeholder pensions are required to meet certain standards laid down in law. The standards include a limit on the charges that can be levied. Stakeholder pensions became available to the public on 6 April 2001. From 8 October 2001, all employers with 5 or more employees should have a designated stakeholder scheme for their employees to join, unless they are exempt. Employers are exempt from this requirement if, for example, they have an occupational pension that all employees can join.

MINIMUM INCOME GUARANTEE (MIG)

18. The Minimum Income Guarantee, paid as Income Support, is designed to help people who are aged 60 or over, are not required actively to seek work, and whose income is below a certain level. It is intended to help with basic living expenses. As of April 2002 the weekly rates are £98.15 for a single person and £149.80 for a couple. Currently, there are 1.7 million pensioner households claiming Minimum Income Guarantee.

BEREAVEMENT BENEFITS

19. These were introduced from 9 April 2001 to replace the Widow's Benefit scheme, when benefits on the death of a spouse became available to both men and women for the first time. The amount of benefit is based on the contributions of the deceased spouse.

Widowed Mother's Allowance

20. A weekly benefit payable to widowed mothers who satisfy the qualifying conditions.

Widowed Parent's Allowance

21. A weekly benefit payable to widowed parents who satisfy the qualifying conditions, equivalent to Widowed Mother's Allowance but also payable to widowed fathers.

Widow's Pension

22. A weekly benefit payable to women aged 45 or over when widowed, who were widowed before 9 April 2001 and satisfied the qualifying conditions.

Bereavement Payment

23. A lump sum payment of £2000 payable immediately to help with costs arising on bereavement.

Bereavement Allowance

24. A weekly benefit payable to widows and widowers aged 45 or over without dependent children. Payable for 52 weeks following the date of widowhood. The weekly rate of Bereavement Allowance payable to a widow or widower aged between 45 and 54 is related to their age at the date of entitlement.

ANNEX B: ILLUSTRATIVE FIGURES FOR PENSION CREDIT IN 2003

The tables below show the amount of Pension Credit in 2003. The figures are illustrative. The single pensioner shown is assumed to have a full basic state pension of £77 a week, and the pensioner couple are assumed to have a combined state pension of £123 a week. In both cases, all other pre-Pension Credit income comes from a second pension or savings.

SINGLE PENSIONERS

£ per week 2003-04

		Your Pension Credit		
Your Basic State Pension plus income from savings or second pension	*Income from savings or second pension*	*Guaranteed income top-up*	*Savings credit*	*Your income including Pension Credit*
77.00	0.00	23.00	-	100.00
78.00	1.00	22.00	0.60	100.60
79.00	2.00	21.00	1.20	101.20
80.00	3.00	20.00	1.80	101.80
81.00	4.00	19.00	2.40	102.40
82.00	5.00	18.00	3.00	103.00
83.00	6.00	17.00	3.60	103.60
84.00	7.00	16.00	4.20	104.20
85.00	8.00	15.00	4.80	104.80
86.00	9.00	14.00	5.40	105.40
87.00	10.00	13.00	6.00	106.00
88.00	11.00	12.00	6.60	106.60
89.00	12.00	11.00	7.20	107.20
90.00	13.00	10.00	7.80	107.80
91.00	14.00	9.00	8.40	108.40
92.00	15.00	8.00	9.00	109.00
93.00	16.00	7.00	9.60	109.60
94.00	17.00	6.00	10.20	110.20
95.00	18.00	5.00	10.80	110.80
96.00	19.00	4.00	11.40	111.40
97.00	20.00	3.00	12.00	112.00
98.00	21.00	2.00	12.60	112.60
99.00	22.00	1.00	13.20	113.20
100.00	23.00	-	13.80	113.80
101.00	24.00	-	13.40	114.40
102.00	25.00	-	13.00	115.00

		Your Pension Credit		
Your Basic State Pension plus income from savings or second pension	*Income from savings or second pension*	*Guaranteed income top-up*	*Savings credit*	*Your income including Pension Credit*
103.00	26.00	-	12.60	115.60
104.00	27.00	-	12.20	116.20
105.00	28.00	-	11.80	116.80
106.00	29.00	-	11.40	117.40
107.00	30.00	-	11.00	118.00
108.00	31.00	-	10.60	118.60
109.00	32.00	-	10.20	119.20
110.00	33.00	-	9.80	119.80
111.00	34.00	-	9.40	120.40
112.00	35.00	-	9.00	121.00
113.00	36.00	-	8.60	121.60
114.00	37.00	-	8.20	122.20
115.00	38.00	-	7.80	122.80
116.00	39.00	-	7.40	123.40
117.00	40.00	-	7.00	124.00
118.00	41.00	-	6.60	124.60
119.00	42.00	-	6.20	125.20
120.00	43.00	-	5.80	125.80
121.00	44.00	-	5.40	126.40
122.00	45.00	-	5.00	127.00
123.00	46.00	-	4.60	127.60
124.00	47.00	-	4.20	128.20
125.00	48.00	-	3.80	128.80
126.00	49.00	-	3.40	129.40
127.00	50.00	-	3.00	130.00
128.00	51.00	-	2.60	130.60
129.00	52.00	-	2.20	131.20
130.00	53.00	-	1.80	131.80
131.00	54.00	-	1.40	132.40
132.00	55.00	-	1.00	133.00
133.00	56.00	-	0.60	133.60
134.00	57.00	-	0.20	134.20
135.00	58.00	-	-	135.00

PENSIONER COUPLES £ PER WEEK 2003-04

		Your Pension Credit		
Your Basic State Pension plus income from savings or second pension	*Income from savings or second pension*	*Guaranteed income top-up*	*Savings credit*	*Your income including Pension Credit*
123.00	0.00	31.00	-	154.00
124.00	1.00	30.00	0.60	154.60
125.00	2.00	29.00	1.20	155.20
126.00	3.00	28.00	1.80	155.80
127.00	4.00	27.00	2.40	156.40
128.00	5.00	26.00	3.00	157.00
129.00	6.00	25.00	3.60	157.60
130.00	7.00	24.00	4.20	158.20
131.00	8.00	23.00	4.80	158.80
132.00	9.00	22.00	5.40	159.40
133.00	10.00	21.00	6.00	160.00
134.00	11.00	20.00	6.60	160.60
135.00	12.00	19.00	7.20	161.20
136.00	13.00	18.00	7.80	161.80
137.00	14.00	17.00	8.40	162.40
138.00	15.00	16.00	9.00	163.00
139.00	16.00	15.00	9.60	163.60
140.00	17.00	14.00	10.20	164.20
141.00	18.00	13.00	10.80	164.80
142.00	19.00	12.00	11.40	165.40
143.00	20.00	11.00	12.00	166.00
144.00	21.00	10.00	12.60	166.60
145.00	22.00	9.00	13.20	167.20
146.00	23.00	8.00	13.80	167.80
147.00	24.00	7.00	14.40	168.40
148.00	25.00	6.00	15.00	169.00
149.00	26.00	5.00	15.60	169.60
150.00	27.00	4.00	16.20	170.20
151.00	28.00	3.00	16.80	170.80
152.00	29.00	2.00	17.40	171.40
153.00	30.00	1.00	18.00	172.00

		Your Pension Credit		
Your Basic State Pension plus income from savings or second pension	*Income from savings or second pension*	*Guaranteed income top-up*	*Savings credit*	*Your income including Pension Credit*
154.00	31.00	-	18.60	172.60
155.00	32.00	-	18.20	173.20
156.00	33.00	-	17.80	173.80
157.00	34.00	-	17.40	174.40
158.00	35.00	-	17.00	175.00
159.00	36.00	-	16.60	175.60
160.00	37.00	-	16.20	176.20
161.00	38.00	-	15.80	176.80
162.00	39.00	-	15.40	177.40
163.00	40.00	-	15.00	178.00
164.00	41.00	-	14.60	178.60
165.00	42.00	-	14.20	179.20
166.00	43.00	-	13.80	179.80
167.00	44.00	-	13.40	180.40
168.00	45.00	-	13.00	181.00
169.00	46.00	-	12.60	181.60
170.00	47.00	-	12.20	182.20
171.00	48.00	-	11.80	182.80
172.00	49.00	-	11.40	183.40
173.00	50.00	-	11.00	184.00
174.00	51.00	-	10.60	184.60
175.00	52.00	-	10.20	185.20
176.00	53.00	-	9.80	185.80
177.00	54.00	-	9.40	186.40
178.00	55.00	-	9.00	187.00
179.00	56.00	-	8.60	187.60
180.00	57.00	-	8.20	188.20
181.00	58.00	-	7.80	188.80
182.00	59.00	-	7.40	189.40
183.00	60.00	-	7.00	190.00
184.00	61.00	-	6.60	190.60
185.00	62.00	-	6.20	191.20
186.00	63.00	-	5.80	191.80

		Your Pension Credit		
Your Basic State Pension plus income from savings or second pension	*Income from savings or second pension*	*Guaranteed income top-up*	*Savings credit*	*Your income including Pension Credit*
187.00	64.00	-	5.40	192.40
188.00	65.00	-	5.00	193.00
189.00	66.00	-	4.60	193.60
190.00	67.00	-	4.20	194.20
191.00	68.00	-	3.80	194.80
192.00	69.00	-	3.40	195.40
193.00	70.00	-	3.00	196.00
194.00	71.00	-	2.60	196.60
195.00	72.00	-	2.20	197.20
196.00	73.00	-	1.80	197.80
197.00	74.00	-	1.40	198.40
198.00	75.00	-	1.00	199.00
199.00	76.00	-	0.60	199.60
200.00	77.00	-	0.20	200.20
201.00	78.00	-	-	201.00

ANNEX C: PENSION CREDIT EXAMPLES

Note: All figures in this Annex are illustrative, and based on estimates of likely benefit rates in 2003/4 prices.

BACKGROUND

1. Pension Credit has two elements:

   - a guarantee credit - an assumed guaranteed minimum income of £100 per week for a single person and £154 for a couple. This amount will be increased for those who have high applicable amounts under Income Support, that is, those receiving the severe disability premium, those receiving the carer premium, polygamous relationships and those with housing costs;
   - a savings credit - a cash addition to reward savings of single people with incomes up to £135 per week and couples with incomes up to £201 per week. These income levels will be increased commensurate with the high applicable amount cases mentioned above.

2. The savings credit may be payable to those with income below the guaranteed minimum as well as those with income above the guaranteed minimum.

3. **Income equivalent to the basic state pension**

   A single pensioner with £77 basic state pension will receive the maximum top up of £23; the total income will be £100. They have no income relevant to the savings credit[1] therefore they will not receive a savings credit.

4. **Income above the basic state pension but below the guaranteed minimum.**

   - Any relevant income above the basic state pension will count towards the guaranteed minimum.
   - A single pensioner with £77 basic state pension and £10 SERPS will receive a top up of £13 to bring the income up to the £100 minimum guarantee. The amount of the savings credit will be 60% of the relevant income above the basic state pension. Thus in this example the recipient will also receive a savings credit of £10 (SERPS) x 60% = £6, bringing the total income to £77 + £10 + £13 + £6 = £106.
   - If, however, the single pensioner in the above example had a basic state pension of £70, he would receive a top up of £20 to bring the income up to the guaranteed £100 level. But, the savings credit will be calculated using the balance of the SERPS after the £77 level has been reached, that is, £3. Thus the savings credit will be £3 x 60% = £1.80, bringing the total income to £70 + £10 + £20 + £1.80 = £101.80.

5. **Income at the same level as the guaranteed minimum**

   - Where the basic state pension and other income total £100 (single) or £154 (couple) a top up will not be appropriate but the maximum savings credit will be payable if all the other income is relevant to the savings credit calculation. This maximum will be £23 (i.e. £100 - £77) x 60% = £13.80 for a single person and £31 (i.e. £154 - £123) x 60% = £18.60 for a couple.
   - A single recipient with £77 basic state pension and £23 other relevant income will receive a savings credit of £13.80 making the total income £113.80.

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1 SERPS, graduated pension, increments, second pensions and income from capital and earnings.

1 SERPS, graduated pension, increments, second pensions and income from capital and earnings.

- A couple with £123 basic state pension and £31 other relevant income will receive a savings credit of £18.60, making the total £172.60.

6. **Income exceeding the guaranteed minimum**

- A top up will not be appropriate where the basic state pension and other income exceeds the guaranteed minimum. A savings credit may be appropriate but the maximum £13.80 or £18.60 will be reduced on a sliding scale of 40% for every £1 of relevant income above the guaranteed minimum level.
- A couple has £123 basic state pension and £60 SERPS. The total (£183) exceeds the guaranteed minimum (£154) by £29. Thus, the maximum savings credit of £18.60 will be reduced by 40% of £29 (£11.60) making it £7. The total income will be £123 + £60 + £7 = £190.
- The income level at which the maximum savings credit will be completely eroded is £135 for a single person and £201 for a couple.

CALCULATION - HIGHER REQUIREMENTS

7. The above examples relate to the majority of recipients. However, severely disabled people, carers, and those with housing costs will have higher requirements, as will persons in polygamous marriages.

8. The guaranteed minimum for these groups will be increased as follows:

- severely disabled people - by the amount of the Income Support severe disability premium making it £140 for a single person and £194 for a couple;
- carers - by the amount of Invalid Care Allowance making it £140 for a single person and £194 for a couple;
- those with housing costs - by that amount.

9. The maximum savings credit will be payable if their basic state pension and other relevant income total £100 (single) or £154 (couple) and will remain payable until their relevant income exceeds their personal guaranteed minimum.

10. **Income below the guaranteed minimum for normal requirements**

A single severely disabled pensioner aged 70 has £77 basic state pension, and £3 income from capital. A top up of £60 will be payable to bring his income to the £140 personal guaranteed minimum. As income from capital is a relevant income, a savings credit (£3 x 60%) = £1.80 will also be appropriate. The total income will be £77 + £3 + £60 + £1.80 = £141.80.

11. **Income equivalent to the guaranteed minimum for normal requirements**

If the same pensioner also has £20 SERPS the top up would be £40. The savings credit would be the maximum (£13.80) i.e. £23 of relevant income above the basic state pension rate x 60%.

12. **Income between the guaranteed minimum for normal requirements but below the personal guaranteed minimum**

A single pensioner aged 66 is caring for an elderly relative. She has basic state pension of £77 and £53 SERPS. A top up of £10 will be appropriate to bring her income to the £140 personal guaranteed minimum. As her income is above the guaranteed minimum for normal requirements but does not exceed her personal guaranteed minimum the maximum £13.80 savings credit will be payable.

13. **Income above the personal guaranteed minimum**

A single pensioner aged 68 has housing costs of £30 per week and income of a basic state pension of £77 and a second pension of £60. No top up is payable as the income exceeds the personal guaranteed minimum of £130. The maximum savings credit of £13.80 is reduced by 40% of the amount over the personal guaranteed minimum i.e. £7 x 40% = £2.80, making the savings credit £11. The total income will be £77 + £60 + £11 = £148.

Hansard References

The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament.

Stage	**Date**	**Hansard references**
House of Lords		
Introduction	28 November 2001	Vol 629 col 301
Second Reading	18 December 2001	Vol 630 cols 139-193
Committee	24 January 2002 29 January 2002	Vol 630 cols 1587-1646 & 1663-1690 Vol 631 cols 75-115 & 129-155
Report	12 February 2002	Vol 631 cols 1004-1071
Third Reading	25 February 2002	Vol 631 cols 1266-1285
House of Commons		
Introduction	25 February 2002	
Second Reading	25 March 2002	Vol 382 cols 597 -675
Committee	16 April 2002 18 April 2002 23 April 2002 25 April 2002	Hansard Standing Committee A
Report and Third Reading	23 May 2002	Vol 386 cols 417-488
Royal Assent	25 June 2002	