

SCHEDULES

SCHEDULE 2

Section 14

MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

AMENDMENTS OF THE CONTRIBUTIONS AND BENEFITS ACT

Introductory

1 The Contributions and Benefits Act is amended as follows.

Income support

- 2 (1) Section 124 is amended as follows.
- (2) In subsection (1) (entitlement to income support), after paragraph (a) (claimant must be 16 or over) insert—
- “(aa) he has not attained the qualifying age for state pension credit;”.
- (3) In that subsection, after paragraph (f) (claimant must not be entitled to jobseeker’s allowance etc) insert “; and
- (g) if he is a member of a married or unmarried couple, the other member of the couple is not entitled to state pension credit.”

Effect of attaining qualifying age for state pension credit

3 After section 136 (income and capital) insert—

“136A Effect of attaining qualifying age for state pension credit

- (1) Subsections (2) and (3) below apply in relation to housing benefit and council tax benefit in the case of any person who has attained the qualifying age for state pension credit.
- (2) Regulations may make provision for section 134(1) or any provision of section 136 above not to have effect in relation to those benefits in the case of any such person.
- (3) In relation to those benefits, regulations may make provision for the determination of the income and capital of any such person; and any such regulations may include provision applying (with such modifications as the Secretary of State thinks fit)—
- (a) section 5 of the State Pension Credit Act 2002 (provision for treating income of spouse as income of claimant, etc), and

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- (b) section 15 of that Act (determination of income and capital for purposes of state pension credit).
- (4) Regulations under subsection (3) above may also include provision—
 - (a) authorising or requiring the use of any calculation or estimate of a person’s income or capital made by the Secretary of State for the purposes of the State Pension Credit Act 2002; or
 - (b) requiring that, if and so long as an assessed income period is in force under section 6 of that Act in respect of a person falling within subsection (1) above,—
 - (i) the assessed amount of any element of his retirement provision shall be treated as the amount of that element for the purposes of housing benefit or council tax benefit; and
 - (ii) his income shall be taken for those purposes not to include any element of retirement provision which it is taken not to include for the purposes of state pension credit by virtue of a determination under subsection (5) of section 7 of that Act.
- (5) In subsection (4) above “assessed amount”, “element” and “retirement provision” have the same meaning as in the State Pension Credit Act 2002.
- (6) The Secretary of State may by regulations make provision for the preceding provisions of this section to apply with modifications in cases to which section 12 of the State Pension Credit Act 2002 (polygamous marriages) applies.
- (7) The provision that may be made by regulations under subsection (6) above includes any provision that may be made by regulations under section 133 above.”

Interpretation of Part 7 and supplementary provisions

- 4 (1) Section 137 is amended as follows.
 - (2) In subsection (1), insert the following entries at the appropriate place—
 - ““pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995 (c. 26);”;
 - ““the qualifying age for state pension credit” is (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act 2002)—
 - (a) in the case of a woman, pensionable age; or
 - (b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;”;
 - ““state pension credit” means state pension credit under the State Pension Credit Act 2002;”.

Entitlement of pensioners to Christmas bonus

- 5 (1) Section 148 is amended as follows.
 - (2) In subsection (2) (conditions for entitlement in case of couples), in paragraph (c)(ii) (condition that person be in receipt of income support only) for “income support” substitute “state pension credit”.

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(3) After that subsection insert—

“(2A) In a case falling within paragraph (c)(ii) of subsection (2) above, paragraph (a) of that subsection has effect with the substitution of “qualifying age for state pension credit” for “pensionable age”.”

(4) Omit subsection (4) (persons receiving income support only entitled to bonus if attaining pensionable age by end of relevant week).

Entitlement to Christmas bonus: supplementary

6 (1) Section 149 is amended as follows.

(2) In subsection (2) (circumstances in which a person is treated as entitled to qualifying benefit)—

- (a) in paragraph (a), for “other than income support” substitute “other than state pension credit”, and
- (b) in paragraph (b), for “income support”, in both places where it occurs, substitute “state pension credit”.

Interpretation of provisions relating to Christmas bonus

7 (1) Section 150 is amended as follows.

(2) In subsection (1) (definition of “qualifying benefit”) in paragraph (k) for “income support” substitute “state pension credit”.

(3) In subsection (2) (interpretation of Part 10) insert the following definitions at the appropriate place—

““the qualifying age for state pension credit” is (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act 2002)—

- (a) in the case of a woman, pensionable age; or
- (b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;”;

““state pension credit” means state pension credit under the State Pension Credit Act 2002;”.

PART 2

AMENDMENTS OF THE ADMINISTRATION ACT

Introductory

8 The Administration Act is amended as follows.

Payment out of benefit of sums in respect of mortgage interest etc

9 (1) Section 15A is amended as follows.

(2) After subsection (1) (application of section to persons entitled to income support or income-based jobseeker’s allowance) insert—

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“(1A) This section also applies in relation to cases where—

- (a) mortgage interest is payable to a qualifying lender by a person (also referred to as “the borrower”) who is, or whose partner, or former partner or qualifying associate is, entitled to state pension credit; and
- (b) a sum in respect of that mortgage interest is or was brought into account in determining the appropriate minimum guarantee for the purposes of state pension credit in the case of the borrower or the partner, former partner or qualifying associate;

and any reference in this section to “the relevant beneficiary” includes a reference to the person whose appropriate minimum guarantee for the purposes of state pension credit is or was determined as mentioned in paragraph (b) above.”

(3) In subsection (2) (regulations about paying benefit directly to mortgagees) in paragraph (a), after “any relevant benefits” insert “(other than state pension credit)”.

(4) In that subsection, after paragraph (a) insert—

“(aa) authorising or requiring that, in prescribed circumstances, a prescribed part of any state pension credit to which the relevant beneficiary is entitled may (or, as the case may be, shall) be paid by the Secretary of State directly to the qualifying lender and shall be applied by that lender towards the discharge of the liability in respect of the mortgage interest;”.

(5) In subsection (4)—

(a) before the definition of “mortgage interest” insert—

““appropriate minimum guarantee” has the meaning given by section 2(3) of the State Pension Credit Act 2002;”;

(b) in the definition of “qualifying associate”—

- (i) for “or an income-based jobseeker’s allowance,” substitute “, an income-based jobseeker’s allowance or state pension credit;”;
- (ii) after “under the Jobseekers Act 1995” insert “or the State Pension Credit Act 2002”; and

(c) in the definition of “relevant benefits”, after paragraph (b) insert—

“(c) state pension credit;”.

Overpayments of benefit: general

10 In section 71(11) (benefits to which section applies) after paragraph (aa) insert—
“(ab) state pension credit;”.

Adjustment of income support and other payments

11 (1) Section 74 is amended as follows.

(2) In subsection (1)(b) (recovery of income support etc paid because prescribed income not paid until after prescribed date) for “or an income-based jobseeker’s allowance” substitute “, an income-based jobseeker’s allowance or state pension credit”.

(3) In subsection (2)(b) (recovery of income support etc paid because prescribed payment from public funds not paid until after prescribed date) for “or an income-

based jobseeker’s allowance” substitute “, an income-based jobseeker’s allowance or state pension credit”.

Interpretation of Part 6: enforcement

- 12 In section 121DA(1) (definition of “the relevant social security legislation”) after paragraph (h) insert—
“(hh) the State Pension Credit Act 2002;”.

Provisions relating to age, death or marriage

- 13 In section 124(1) (regulations as to furnishing of information from registers of births, marriages and deaths) after “Jobseekers Act 1995;” insert—
“(ab) of the provisions of the State Pension Credit Act 2002;”.

Regulations as to notification of death

- 14 In section 125(1) (regulations as to notification of death by Registrar General for England and Wales, etc) after “the Social Security Act 1998” insert “, the State Pension Credit Act 2002”.

Provision of information by personal representatives as to estate of deceased person

- 15 In section 126(1) (duty to furnish information as to assets and liabilities of a person in receipt of certain benefits) after “income-based jobseeker’s allowance” insert “, state pension credit”.

Annual up-rating of benefits

- 16 (1) Section 150 is amended as follows.
(2) In subsection (1) (sums which are to be reviewed by the Secretary of State) after paragraph (k) insert—
“(l) specified in regulations under section 2 or 3 of the State Pension Credit Act 2002;”.
(3) In subsection (7) (provision which may be added to draft up-rating order) after “the Jobseekers Act 1995” insert “or the State Pension Credit Act 2002”.

Effect of alterations affecting state pension credit

- 17 After section 159A (effect of alteration of rates of a jobseeker’s allowance) insert—

“159B Effect of alterations affecting state pension credit

- (1) Subject to such exceptions and conditions as may be prescribed, subsection (2) or (3) below shall have effect where—
(a) an award of state pension credit is in force in favour of any person (“the recipient”); and
(b) an alteration—
(i) in any component of state pension credit,
(ii) in the recipient’s benefit income,

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- (iii) in any component of a contribution-based jobseeker's allowance, or
 - (iv) in the recipient's war disablement pension or war widow's or widower's pension,affects the computation of the amount of state pension credit to which he is entitled.
- (2) Where, as a result of the alteration, the amount of state pension credit to which the recipient is entitled is increased or reduced, then, as from the commencing date, the amount of state pension credit payable in the case of the recipient under the award shall be the increased or reduced amount, without any further decision of the Secretary of State; and the award shall have effect accordingly.
- (3) Where, notwithstanding the alteration, the recipient continues on and after the commencing date to be entitled to the same amount of state pension credit as before, the award shall continue in force accordingly.
- (4) Subsection (5) below applies where a statement is made in the House of Commons by or on behalf of the Secretary of State which specifies—
 - (a) in relation to any of the items referred to in subsection (1)(b)(i) to (iv) above, the amount of the alteration which he proposes to make by an order under section 150 or 152 above or by or under any other enactment; and
 - (b) the date on which he proposes to bring the alteration into force ("the proposed commencing date").
- (5) If, in a case where this subsection applies, an award of state pension credit is made in favour of a person before the proposed commencing date and after the date on which the statement is made, the award—
 - (a) may provide for state pension credit to be paid as from the proposed commencing date at a rate determined by reference to the amounts of the items specified in subsection (1)(b)(i) to (iv) above which will be in force on that date; or
 - (b) may be expressed in terms of the amounts of those items in force at the date of the award.
- (6) In this section—
 - "alteration" means—
 - (a) in relation to any component of state pension credit, its alteration by or under any enactment;
 - (b) in relation to a person's benefit income, the alteration of any of the sums referred to in section 150 above by any enactment or by an order under section 150 or 152 above to the extent that any such alteration affects the amount of his benefit income;
 - (c) in relation to any component of a contribution-based jobseeker's allowance, its alteration by or under any enactment; and
 - (d) in relation to a person's war disablement pension or war widow's or widower's pension, its alteration by or under any enactment;

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“benefit income”, in relation to a person, means so much of his income as consists of benefit under the Contributions and Benefits Act;

“the commencing date”, in relation to an alteration, means the date on which the alteration comes into force in relation to the recipient;

“component”—

- (a) in relation to contribution-based jobseeker’s allowance, means any of the sums specified in regulations under the Jobseekers Act 1995 (c. 18) which are relevant in calculating the amount payable by way of a jobseeker’s allowance;
- (b) in relation to state pension credit, means any of the sums specified in regulations under section 2, 3 or 12 of the State Pension Credit Act 2002;

“war disablement pension” means—

- (a) any retired pay, pension or allowance granted in respect of disablement under powers conferred by or under—
 - (i) the Air Force (Constitution) Act 1917 (c. 51);
 - (ii) the Personal Injuries (Emergency Provisions) Act 1939 (c. 82);
 - (iii) the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939 (c. 83);
 - (iv) the Polish Resettlement Act 1947 (c. 19); or
 - (v) Part 7 or section 151 of the Reserve Forces Act 1980 (c. 9); or
- (b) without prejudice to paragraph (a), any retired pay or pension to which subsection (1) of section 315 of the Income and Corporation Taxes Act 1988 (c. 1) applies;

“war widow’s or widower’s pension” means—

- (a) any widow’s or widower’s pension or allowance granted in respect of a death due to service or war injury and payable by virtue of any enactment mentioned in paragraph (a) of the definition of “war disablement pension”; or
- (b) a pension or allowance for a widow or widower granted under any scheme mentioned in section 315(2)(e) of the Income and Corporation Taxes Act 1988.”

Adjustments between National Insurance Fund and Consolidated Fund

- 18 (1) Section 165 is amended as follows.
- (2) After subsection (5) (payments from National Insurance Fund into Consolidated Fund) insert—
- “(5A) There shall be excluded from the estimate under subsection (5)(a) above any expenses attributable to the carrying into effect of provisions of this Act so far as relating to state pension credit.”
- (3) In subsection (6) (expenses excluded from Secretary of State’s estimate under subsection (5)(b)) in paragraph (a), after “section 163(2) above” insert “or section 20 of the State Pension Credit Act 2002”.

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Adjustments between social fund and other sources of finance

- 19 In section 169(1) (adjustments of social fund, Consolidated Fund and National Insurance Fund in relation to repayment or offsetting of benefit or other payment) at the end insert “or the State Pension Credit Act 2002”.

The Social Security Advisory Committee

- 20 In section 170(5) (interpretation)—
- (a) in the definition of “the relevant enactments”, after paragraph (ag) insert—
 - “(ah) the provisions of the State Pension Credit Act 2002;”, and
 - (b) in the definition of “the relevant Northern Ireland enactments”, after paragraph (ag) insert—
 - “(ah) any provisions in Northern Ireland which correspond to provisions of the State Pension Credit Act 2002; and”.

Reciprocal agreements with countries outside the United Kingdom

- 21 (1) Section 179 is amended as follows.
- (2) In subsection (3)(a) (modifications for securing that acts, omissions and events have corresponding effect for the purposes of United Kingdom legislation) after “Part III of the Social Security Contributions (Transfer of Functions, etc) (Northern Ireland) Order 1999” insert “, the State Pension Credit Act 2002”.
 - (3) In subsection (4) (legislation to which the section applies) after paragraph (ad) insert—
 - “(ae) to the State Pension Credit Act 2002; and”.
 - (4) In subsection (5) (regulations which may be modified) after paragraph (aa) insert—
 - “(ab) state pension credit;”.

Payment of travelling expenses by Secretary of State

- 22 In section 180—
- (a) in paragraph (a) (expense of attending interview) after “the Social Security Act 1998” insert “, the State Pension Credit Act 2002”, and
 - (b) in paragraph (b)(i) (expense of attending local office) after “the Social Security Act 1998” insert “, the State Pension Credit Act 2002”.

Certain benefits to be inalienable

- 23 In section 187(1), after paragraph (aa) insert—
 - “(ab) state pension credit;”.

Interpretation: general

- 24 (1) Section 191 is amended as follows.
- (2) In the definition of “benefit”, at the end insert “and state pension credit”.
 - (3) Insert the following definition at the appropriate place—

Status: This is the original version (as it was originally enacted).

““state pension credit” means state pension credit under the State Pension Credit Act 2002;”.

PART 3

AMENDMENTS OF OTHER ACTS

Magistrates' Courts Act 1980

- 25 In Part 1 of Schedule 6 to the Magistrates' Courts Act 1980 (c. 43) (fees to be taken by justices' chief executives) in paragraph 1(a) of the Note at the end, after “the Jobseekers Act 1995” insert “, of guarantee state pension credit (under section 1(3) (a) of the State Pension Credit Act 2002)”.

Transport Act 1982

- 26 In section 70(2) of the Transport Act 1982 (c. 49) (payments by Secretary of State in respect of applicants for medical exemption from wearing seat belts) after paragraph (b), insert—
- “(bb) those in receipt of guarantee state pension credit (under section 1(3) (a) of the State Pension Credit Act 2002) and those persons who (within the meaning of that Act) are members of a married or unmarried couple the other member of which is in receipt of guarantee state pension credit;”.

Abolition of Domestic Rates Etc. (Scotland) Act 1987

- 27 Paragraph 7A of Schedule 2 to the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47) (recovery of outstanding community charge by deduction from income support) shall, so far as it continues to have effect by virtue of Article 2 of the Local Government Finance Act 1992 (Recovery of Community Charge) Saving Order 1993 (S.I. 1993/1780), apply as if there were inserted at the end—
- “(4) This paragraph applies to state pension credit as it applies to income support.”

Income and Corporation Taxes Act 1988

- 28 In section 617(2) of the Income and Corporation Taxes Act 1988 (c. 1) (payments not treated as income for any purpose of the Income Tax Acts) after paragraph (af) insert—
- “(ag) payments of state pension credit under the State Pension Credit Act 2002 or under any corresponding enactment having effect with respect to Northern Ireland;”.

Local Government Finance Act 1988

- 29 Paragraph 6 of Schedule 4 to the Local Government Finance Act 1988 (c. 41) (recovery of outstanding community charge by deduction from income support) shall, so far as it continues to have effect by virtue of Article 2 of the Local

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Government Finance Act 1992 (Recovery of Community Charge) Saving Order 1993, apply as if there were inserted at the end—

“(4) This paragraph applies to state pension credit as it applies to income support.”

Children Act 1989

30 In section 29 of the Children Act 1989 (c. 41) (recoupment of cost of providing day care and other services) after subsection (3A) (no charge for certain services if receiving income support or income-based jobseeker’s allowance) insert—

“(3B) No person shall be liable to pay any charge under subsection (1) for a service provided under section 18(2) or (6) at any time when—

- (a) he is in receipt of guarantee state pension credit under section 1(3) (a) of the State Pension Credit Act 2002, or
- (b) he is a member of a married or unmarried couple (within the meaning of that Act) the other member of which is in receipt of guarantee state pension credit.”

Criminal Justice Act 1991

31 In section 24 of the Criminal Justice Act 1991 (c. 53) (recovery of fines by deduction from income support and jobseeker’s allowance)—

- (a) in subsection (1), for “or a jobseeker’s allowance” substitute “, a jobseeker’s allowance or state pension credit”, and
- (b) in subsection (2)(d) for “or a jobseeker’s allowance” substitute “, a jobseeker’s allowance or state pension credit”.

Local Government Finance Act 1992

32 The Local Government Finance Act 1992 (c. 14) is amended as follows.

33 (1) Paragraph 6 of Schedule 4 (deductions from income support and jobseeker’s allowance in respect of unpaid council tax) is amended as follows.

- (2) In sub-paragraph (1) for “or a jobseeker’s allowance” substitute “, a jobseeker’s allowance or state pension credit”.
- (3) In sub-paragraph (2)(b) for “or a jobseeker’s allowance” substitute “, a jobseeker’s allowance or state pension credit”.

34 In paragraph 12(1) of that Schedule (relationship between remedies available)—

- (a) after sub-paragraph (b) insert—
 - “(bb) deductions from state pension credit may be resorted to more than once;”, and
- (b) in sub-paragraph (d), after “deductions from income support” insert “, deductions from state pension credit”.

35 (1) Paragraph 6 of Schedule 8 (enforcement in Scotland) is amended as follows.

- (2) In sub-paragraph (1), for “or a jobseeker’s allowance” substitute “, a jobseeker’s allowance or state pension credit”.

Status: This is the original version (as it was originally enacted).

- (3) In sub-paragraph (2)(b), for “or a jobseeker’s allowance” substitute “, a jobseeker’s allowance or state pension credit”.

Jobseekers Act 1995

- 36 The Jobseekers Act 1995 (c. 18) is amended as follows.
- 37 In section 3 (the income-based conditions) in subsection (1)—
- (a) in paragraph (b) (claimant must not be entitled to income support) after “income support” insert “or state pension credit”; and
 - (b) after paragraph (d) insert—
 - “(dd) is not a member of a married or unmarried couple the other member of which is entitled to state pension credit;”.
- 38 In section 3A (conditions for claims by joint-claim couples) in subsection (1), after paragraph (c) insert—
 - “(cc) that neither member of the couple is entitled to state pension credit;”.

Pensions Act 1995

- 39 In Schedule 4 to the Pensions Act 1995 (c. 26) (equalisation of pension ages for men and women) in paragraph 1 (Acts to which the rules for determining pensionable age apply) for “and the Pension Schemes Act 1993” substitute “, the Pension Schemes Act 1993 (c. 48) and the State Pension Credit Act 2002”.

Social Security Act 1998

- 40 The Social Security Act 1998 (c. 14) is amended as follows.
- 41 In section 34 (determination by local authorities of claims for housing benefit and council tax benefit) in subsection (3) (regulations giving priority to persons who have been entitled to jobseeker’s allowance or income support) after “or to income support” insert “or state pension credit”.

Immigration and Asylum Act 1999

- 42 In section 123 of the Immigration and Asylum Act 1999 (c. 33) (back-dating of benefits where person recorded as refugee) in subsection (9) (meaning of “regulations”) in paragraph (c)—
- (a) after “a benefit under the Social Security Contributions and Benefits Act 1992” insert “or state pension credit”, and
 - (b) for “or the Social Security Administration Act 1992” substitute “, the Social Security Administration Act 1992 (c. 5) or the State Pension Credit Act 2002”.

Local Government Act 2000

- 43 In section 94 of the Local Government Act 2000 (c. 22) (disclosure of information) in subsection (1) (information relating to income support and income-based jobseeker’s allowance) for “or income-based jobseeker’s allowance” substitute “, income-based jobseeker’s allowance or state pension credit”.

Status: This is the original version (as it was originally enacted).

Social Security Fraud Act 2001

- 44 The Social Security Fraud Act 2001 (c. 11) is amended as follows.
- 45 (1) Section 7 (loss of benefit for commission of benefit offences) is amended as follows.
- (2) After subsection (4) (cases where sanctionable benefit is jobseeker's allowance) insert—
- “(4A) The Secretary of State may by regulations provide that, where the sanctionable benefit is state pension credit, the benefit shall be payable in the offender's case for any period comprised in the disqualification period as if the rate of the benefit were reduced in such manner as may be prescribed.”
- (3) In subsection (8) (interpretation) in the definition of “disqualifying benefit”, after paragraph (a) insert—
- “(aa) any benefit under the State Pension Credit Act 2002 or under any provision having effect in Northern Ireland corresponding to that Act;”.
- 46 (1) Section 9 (effect of offence on benefits for members of offender's family) is amended as follows.
- (2) In subsection (1) (benefits to which section applies) after paragraph (b) insert—
- “(bb) state pension credit;”.
- (3) After subsection (4) (reduction of jobseeker's allowance) insert—
- “(4A) In relation to cases in which the benefit is state pension credit, the provision that may be made by virtue of subsection (2) is provision that, in the case of the offender's family member, the benefit shall be payable for the whole or any part of any period comprised in the relevant period as if the rate of the benefit were reduced in such manner as may be prescribed.”
- 47 In section 10 (power to supplement and mitigate loss of benefit provisions) in subsection (3), after paragraph (b) insert—
- “(bb) any benefit under the State Pension Credit Act 2002 or under any provision having effect in Northern Ireland corresponding to that Act; or”.
- 48 In section 11(3) (loss of benefit regulations: draft regulations requiring approval by resolution of each House of Parliament) in paragraph (c)—
- (a) after “section 7(4)” insert “, (4A)”, and
- (b) after “or 9(4)” insert “, (4A)”.
- 49 In section 13 (interpretation) insert the following definition at the appropriate place—
- ““state pension credit” means state pension credit under the State Pension Credit Act 2002;”.