



# State Pension Credit Act (Northern Ireland) 2002

## 2002 CHAPTER 14

An Act to make provision for and in connection with a new social security benefit called state pension credit; and to amend section 43(1) of the Pension Schemes (Northern Ireland) Act 1993. [22nd November 2002]

### Modifications etc. (not altering text)

- C1** s 9(6) restored (24.6.2015) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\), ss. 28\(1\), 53\(2\)\(b\)](#)

### *State pension credit: entitlement and amount*

#### **Entitlement**

**1.—**(1) A social security benefit to be known as state pension credit shall be payable in accordance with the following provisions of this Act.

(2) A claimant is entitled to state pension credit if—

- (a) he is in Northern Ireland;
- (b) he has attained the qualifying age; and
- (c) he satisfies—
  - (i) the condition in section 2(1) (guarantee credit); or
  - (ii) the conditions in section 3(1) and (2) (savings credit).

(3) A claimant who is entitled to state pension credit is entitled—

- (a) to a guarantee credit, calculated in accordance with section 2, if he satisfies the condition in subsection (1) of that section; or
  - (b) to a savings credit, calculated in accordance with section 3, if he satisfies the conditions in subsections (1) and (2) of that section,
- (or to both, if he satisfies both the condition mentioned in paragraph (a) and the conditions mentioned in paragraph (b)).
- (4) Subsections (2) and (3) are subject to the following provisions of this Act.
  - (5) Regulations may make provision for the purposes of this Act—
    - (a) as to circumstances in which a person is to be treated as being or not being in Northern Ireland; or
    - (b) continuing a person's entitlement to state pension credit during periods of temporary absence from Northern Ireland.
  - (6) In this Act “the qualifying age” means—
    - (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.

### Guarantee credit

- 2<sup>F1</sup>.**—(1) The condition mentioned in section 1(2)(c)(i) is that the claimant—
- (a) has no income; or
  - (b) has income which does not exceed the appropriate minimum guarantee.
- (2) Where the claimant is entitled to a guarantee credit, then—
- (a) if he has no income, the guarantee credit shall be the appropriate minimum guarantee; and
  - (b) if he has income, the guarantee credit shall be the difference between the appropriate minimum guarantee and his income.
- (3) The appropriate minimum guarantee shall be the total of—
- (a) the standard minimum guarantee; and
  - (b) such prescribed additional amounts as may be applicable.
- (4) The standard minimum guarantee shall be a prescribed amount.
- (5) The standard minimum guarantee shall be—
- (a) a uniform single amount in the case of every claimant who is a member of a<sup>F2</sup> couple; and
  - (b) a lower uniform single amount in the case of every claimant who is not a member of<sup>F2</sup> a couple].

(6) Regulations may provide that, in prescribed cases, subsection (3) shall have effect with the substitution for the reference in paragraph (a) to the standard minimum guarantee of a reference to a prescribed amount.

(7) Where the claimant is severely disabled, there shall be included among the additional amounts prescribed under subsection (3)(b) an amount in respect of that circumstance.

(8) Where—

(a) the claimant is entitled to an allowance under section 70 of the Contributions and Benefits Act (invalid care allowance); or

(b) if the claimant is a member of a<sup>F2</sup> couple], the other member of the couple is entitled to such an allowance,

there shall be included among the additional amounts prescribed under subsection (3)(b) an amount in respect of that circumstance.

(9) Except for the amount of the standard minimum guarantee, the powers conferred by this section to prescribe amounts include power to prescribe nil as an amount.

**F1** mod. by SR 2003/28

**F2** 2004 c. 33

### Savings credit

**3**<sup>F3</sup>.—(1) The first of the conditions mentioned in section 1(2)(c)(ii) is that the claimant—

(a) has attained the age of 65; or

(b) is a member of a<sup>F4</sup> couple], the other member of which has attained that age.

(2) The second of the conditions mentioned in section 1(2)(c)(ii) is that—

(a) the claimant's qualifying income exceeds the savings credit threshold; and

(b) the claimant's income is such that, for the purposes of subsection (3), amount A exceeds amount B.

(3) Where the claimant is entitled to a savings credit, the amount of the savings credit shall be the amount by which amount A exceeds amount B.

(4) For the purposes of subsection (3)—

“amount A” is the smaller of—

(a) the maximum savings credit; and

(b) a prescribed percentage of the amount by which the claimant's qualifying income exceeds the savings credit threshold; and

“amount B” is—

- (a) a prescribed percentage of the amount (if any) by which the claimant's income exceeds the appropriate minimum guarantee; or
- (b) if there is no such excess, nil.

(5) Where, by virtue of regulations under section 2(6), the claimant's appropriate minimum guarantee does not include the standard minimum guarantee, regulations may provide that the definition of “amount B” in subsection (4) shall have effect with the substitution for the reference in paragraph (a) to the appropriate minimum guarantee of a reference to a prescribed higher amount.

(6) Regulations may make provision as to income which is, and income which is not, to be treated as qualifying income for the purposes of this section.

(7) For the purposes of this section—

“the savings credit threshold” is such amount as may be prescribed;

“the maximum savings credit” is a prescribed percentage of the difference between—

- (a) the standard minimum guarantee; and
- (b) the savings credit threshold.

(8) Regulations may prescribe descriptions of persons in whose case the maximum savings credit shall be taken to be nil.

**F3** mod. by SR 2003/28

**F4** 2004 c. 33

#### **[<sup>F5</sup>Power to limit savings credit for certain mixed-age couples**

**3ZA.**—(1) Regulations may provide that, in prescribed cases, a person who is a member of a mixed-age couple is not entitled to a savings credit.

(2) For example, the regulations could provide that a member of a mixed-age couple is not entitled to a savings credit unless—

- (a) the person has been awarded a savings credit with effect from a day before 6 April 2016 and was entitled to a savings credit immediately before that date, and
- (b) the person remained entitled to state pension credit at all times since the beginning of 6 April 2016.

(3) In this section “mixed-age couple” means a couple (whenever formed) one member of which had attained pensionable age before 6 April 2016 and the other had not. ]

**F5** S. 3ZA inserted (14.9.2015) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\), s. 53\(3\), Sch. 12 para. 74; S.R. 2015/329, art. 2\(2\)\(c\)](#)

## Exclusions

**4.**—(1) A claimant is not entitled to state pension credit if he is a member of a<sup>F6</sup> couple] the other member of which is entitled to state pension credit.

(2) In section 115(2) of the Immigration and Asylum Act 1999 (c. 33) (exclusion from benefits) after “entitled to” insert “ state pension credit under the State Pension Credit Act (Northern Ireland) 2002, or to ”.

(3) Where the amount payable by way of state pension credit would (apart from this subsection) be less than a prescribed amount, it shall not be payable except in prescribed circumstances.

**F6** [2004 c. 33](#)

## Aggregation

### Income and capital of claimant, spouse, etc.

**5.** Where the claimant is a member of a<sup>F7</sup> couple], the income and capital of the other member of the couple shall, except in prescribed circumstances, be treated for the purposes of this Act as income and capital of the claimant.

**F7** [2004 c. 33](#)

## Retirement provision

### Duty to specify assessed income period

**6.**—(1) In any case falling within subsection (3) or (4), the Department shall, on the making of the relevant decision, specify a period as the assessed income period, unless prevented by subsection (2).

(2) The Department is prevented from specifying a period as the assessed income period under subsection (1)—

(a) if the relevant decision takes effect at a time when an assessed income period is in force in the case of the claimant by virtue of a previous application of this section; or

(b) in such other circumstances as may be prescribed.

(3) The first case is where—

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- (a) the Department determines the amount of a claimant's income for the purposes of a decision relating to state pension credit;
  - (b) the decision is a decision under Article 9(1), 10 or 11 of the 1998 Order (decisions by the Department and decisions revising or superseding decisions);
  - (c) the decision takes effect on or after—
    - (i) the day on which the claimant attains the age of 65; or
    - (ii) if earlier, in a case where the claimant is a member of a<sup>F8</sup> couple], the day on which the other member of the couple attains that age; and
  - (d) the decision is not to the effect that the claimant is not entitled to state pension credit.
- (4) The second case is where—
- (a) the amount of the claimant's income is determined on, or for the purposes of, an appeal against a decision that the claimant is not entitled to state pension credit;
  - (b) on the appeal, it is decided that the claimant is entitled to state pension credit; and
  - (c) the decision takes effect as mentioned in subsection (3)(c).
- (5) In this section “the relevant decision” means—
- (a) so far as relating to the first case, the decision mentioned in subsection (3)(a);
  - (b) so far as relating to the second case, the decision on appeal mentioned in subsection (4)(b).
- (6) This section is subject to section 9.
- (7) This section and sections 7 to 10 shall be construed as one.

F8 [2004 c. 33](#)

### Fixing of claimant's retirement provision for assessed income period

7.—(1) This section applies where, pursuant to section 6(1), the Department on the making of the relevant decision specifies a period as the assessed income period.

(2) This section has effect for the purpose of determining, as at any time in the assessed income period,—

- (a) the claimant's entitlement to state pension credit; or
- (b) the amount of state pension credit to which the claimant is entitled.

(3) Where the claimant's income, as determined for the purposes of the relevant decision, includes an amount (the “assessed amount”) in respect of an

element of the claimant's retirement provision, the amount of that element as at any time in the assessed income period shall be taken to be the assessed amount as for the time being varied in accordance with regulations under subsection (4).

(4) The assessed amount shall be deemed, except in prescribed circumstances,

(a) to increase; or

(b) in the case of income from capital, to increase or decrease,

on such date or dates and by such amounts as may be prescribed.

(5) Where it is determined for the purposes of the relevant decision that the claimant's income does not include any, or any further, elements of retirement provision, the claimant's income throughout the assessed income period shall be taken not to include those elements.

(6) For the purposes of this Act “retirement provision” means income of any of the following descriptions—

(a) retirement pension income, other than benefit under the Contributions and Benefits Act;

(b) income from annuity contracts (other than retirement pension income);

(c) income from capital,

[<sup>F9</sup>(d) PPF periodic payments,]

and an “element” of a person's retirement provision is income of any of those descriptions from a particular source.

(7) For the purposes of this section, regulations may make provision—

(a) for treating income of any particular description as income of another description; or

(b) for treating income from different sources as income from the same source.

(8) Nothing in subsections (3) to (5) prevents the revision under Article 10 of the 1998 Order of the relevant decision or of any earlier or later decision under Article 11 of that Order.

(9) This section is subject to section 8.

**F9** S. 7(6)(d) added (14.2.2006) by S.R. 2006/37, art. 2, Sch. para. 3(2)

### Fresh determination increasing claimant's entitlement

**8.—**(1) Subsections (3) to (5) of section 7 do not prevent the making of a fresh determination as to the elements, or any of the elements, or the amount of any of the elements, of the claimant's retirement provision as at any time during the assessed income period, if—

- (a) the fresh determination is for the purpose of making a decision under Article 11 of the 1998 Order ( “the new decision”);
  - (b) the new decision increases the amount of state pension credit to which the claimant is entitled; and
  - (c) the increase is in whole or in part the result of any fresh determination.
- (2) The conditions in paragraphs (b) and (c) of subsection (1) shall be taken to be satisfied if—
- (a) the new decision reduces the amount of state pension credit to which the claimant is entitled; but
  - (b) the reduction is less than it would have been apart from any fresh determination.
- (3) Where a fresh determination is made by virtue of subsection (1), then, as respects the part of the assessed income period that begins with (and includes) the day on which the new decision takes effect, subsections (3) to (5) of section 7 shall have effect in accordance with the fresh determination, instead of the determination which it replaces, but as if—
- (a) the fresh determination were (and the determination which it replaces were not) a determination for the purposes of the relevant decision;
  - (b) any assessed amount resulting from the fresh determination were not subject to variation under subsection (4) of that section at any time before the day on which the new decision takes effect; and
  - (c) the claimant's income, as determined for the purposes of the relevant decision, were constituted accordingly.

### **Duration of assessed income period**

**9.—**<sup>F10</sup>(1) An assessed income period shall (subject to the following subsections) be—

- (a) in the case of a claimant who is under the age of 75 on the day on which the relevant decision takes effect, the period of 5 years beginning with that day;
- (b) in the case of a claimant who is aged 75 or over on that day, an indefinite period beginning with that day.]

(2) If the Department considers that the particulars of the claimant's retirement provision, as determined for the purposes of the relevant decision, are not likely, after taking account of any assumed variations under subsection (3), to be typical of the claimant's retirement provision throughout the period of 12 months beginning with (and including) the day on which that decision takes effect—

- (a) it need not specify a period under section 6(1); and

(b) if it does so, it [<sup>F11</sup>shall specify a period that is shorter than 5 years] (but beginning as mentioned in subsection (1)).

(3) It shall be assumed for the purposes of subsection (2) that the same variations fall to be made in relation to the amount of an element of the claimant's retirement provision as determined for the purposes of the relevant decision as would fall to be made under section 7(4) if an assessed income period were to be specified in accordance with subsection (1).

(4) An assessed income period shall, except in prescribed circumstances, end at any time at which—

- (a) the claimant becomes a member of a [<sup>F12</sup> couple];
- (b) the claimant ceases to be a member of a [<sup>F12</sup> couple];
- (c) the claimant attains the age of 65; or
- (d) in a case where the claimant is a member of a [<sup>F12</sup> couple], the other member of the couple attains the age of 65.

(5) Regulations may prescribe further times at which, or circumstances in which, an assessed income period shall end.

[<sup>F13</sup>(6) Where—

- (a) an assessed income period is brought to an end [<sup>F14</sup>, on or after 6 April 2009 but before 6 April 2014,] by the expiry of a period of 5 years or more, and
- (b) the claimant is aged 80 or over at that time,

the assessed income period shall be treated as not ending at that time but, subject to subsection (4) and provision made under subsection (5), as continuing indefinitely.]

**F10** S. 9(1) substituted (6.4.2009) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), [ss. 84\(2\)](#), [118\(4\)](#) (with [s. 84\(5\)](#))

**F11** Words in s. 9(2)(b) substituted (6.4.2009) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), [ss. 84\(3\)](#), [118\(4\)](#) (with [s. 84\(5\)](#))

**F12** 2004 c. 33

**F13** S. 9(6) added (temp. from 6.4.2009 to 6.4.2014) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), [ss. 84\(4\)](#), [118\(4\)](#) (with [s. 84\(6\)](#))

**F14** Words in s 9(6)(a) inserted (24.6.2015) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\)](#), [s. 28\(2\)](#)

#### Modifications etc. (not altering text)

**C2** S. 9(6) restored (24.06.2015) by [Pensions Act \(Northern Ireland\) 2015 \(c.5\)](#), [ss. 28\(1\)](#), [53\(2\)](#) (b)

**C3** S. 9(5) modified (14.9.2015) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\)](#), [ss. 27\(3\)](#), [53\(1\)](#); [S.R. 2015/329](#), [art. 2\(2\)\(b\)](#)

### Effect of variations under section 7(4)

10.—(1) This section applies where—

- (a) an assessed income period is in force; and
- (b) there is an alteration in an element of the claimant's retirement provision which affects the computation of the amount of state pension credit to which the claimant is entitled.

(2) Where, as a result of the alteration, the amount of state pension credit to which the claimant is entitled is increased or reduced, then, as from the commencing date, the amount of state pension credit payable in the case of the claimant shall be the increased or reduced amount, without any further decision of the Department (and the award of state pension credit shall have effect accordingly).

(3) Where, notwithstanding the alteration, the claimant 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) In this section—

“alteration” means a variation in the amount of an element of the claimant's retirement provision in accordance with regulations under section 7(4);

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

### *Miscellaneous and supplementary*

### Administration

11. Schedule 1 shall have effect and in that Schedule—

- (a) Part I makes amendments to Part I of the Administration Act (claims for, and payments and general administration of, benefit);
- (b) Part II makes amendments to Part II of the 1998 Order (decisions and appeals); and
- (c) Part III makes miscellaneous and supplementary provision.

### Polygamous marriages

12.—(1) This section applies to any case where—

- (a) a person ( “the person in question”) is a husband or wife by virtue of a marriage entered into under a law which permits polygamy;
- (b) either party to the marriage has for the time being any spouse additional to the other party; and

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- (c) the person in question, the other party to the marriage and the additional spouse are members of the same household.
- (2) Regulations under this section may make provision—
  - (a) as to the entitlement of the person in question to state pension credit;
  - (b) as to any guarantee credit or savings credit to which that person is entitled;
  - (c) for prescribing a different amount as the standard minimum guarantee in the case of the person in question;
  - (d) in a case where the person in question is the claimant, for treating the income and capital of the other party and of the additional spouse as income and capital of the person in question.
- (3) Any such regulations may provide—
  - (a) that prescribed provisions shall apply instead of prescribed provisions of this Act; or
  - (b) that prescribed provisions of this Act shall not apply or shall apply subject to prescribed modifications or adaptations.
- (4) Except in relation to the amount of the standard minimum guarantee, any power to prescribe amounts by virtue of this section includes power to prescribe nil as an amount.

### Transitional provisions

**13.—**(1) The Department may by regulations make such transitional provision, consequential provision or savings as it considers necessary or expedient for the purposes of, or in connection with,—

- (a) the coming into operation of any of the state pension credit provisions of this Act; or
  - (b) the operation of any statutory provision repealed or amended by any of those provisions during any period when the repeal or amendment is not wholly in operation.
- (2) The provision that may be made by regulations under this section includes in particular—
- (a) provision for a person who attains or has attained the qualifying age on or before the appointed day and who immediately before that day is entitled to income support—
    - (i) to be treated as having been awarded on, and with effect as from, that day state pension credit of an amount specified in or determined in accordance with the regulations; or
    - (ii) to be treated as having made a claim for state pension credit; and
  - (b) provision for an assessed income period under section 6 of such length as may be specified in or determined in accordance with the regulations

(which may be longer than the maximum period provided for by section 9(1)) to have effect in the case of a person who attains or has attained the qualifying age on or before the appointed day.

(3) In this section—

“the appointed day” means such day as the Department may by order appoint;

“the state pension credit provisions of this Act” means this Act other than section 18.

### *Section 14—Amendments*

#### *Interpretation of state pension credit provisions*

#### **Income and capital**

**15.—**(1) In this Act “income” means income of any of the following descriptions—

- (a) earnings;
- (b) working tax credit;
- (c) retirement pension income;
- (d) income from annuity contracts (other than retirement pension income);
- (e) prescribed social security benefits (other than retirement pension income and state pension credit);
- (f) foreign social security benefits of any prescribed description;
- (g) a war disablement pension or war widow's or widower's pension;
- (h) a foreign war disablement pension or foreign war widow's or widower's pension;
- (i) income from capital;
- (j) income of any prescribed description.

(2) Regulations may provide that a person's capital shall be deemed to yield him income at a prescribed rate.

(3) Income and capital shall be calculated or estimated in such manner as may be prescribed.

(4) A person's income in respect of any period shall be calculated in accordance with prescribed rules.

(5) The rules may provide for the calculation to be made by reference to an average over a period (which need not consist of or include the whole or any part of the period concerned).

(6) Circumstances may be prescribed in which—

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- (a) a person is treated as possessing capital or income which he does not possess;
- (b) capital or income which a person does possess is to be disregarded;
- (c) income is to be treated as capital; or
- (d) capital is to be treated as income.

### Retirement pension income

**16.—(1)** In this Act “retirement pension income” means any of the following—

- (a) a Category A or Category B retirement pension payable under sections 43 to 55 of—
  - (i) the Contributions and Benefits Act; or
  - (ii) the Social Security Contributions and Benefits Act 1992 (c. 4);
- (b) a shared additional pension payable under section 55A of either of those Acts (utilisation of State scheme pension credits on divorce);
- (c) graduated retirement benefit payable under section 62 of either of those Acts;
- (d) a Category C or Category D retirement pension payable under section 78 of either of those Acts;
- (e) age addition payable under section 79 of either of those Acts;
- (f) income from an occupational pension scheme or a personal pension scheme;
- (g) income from an overseas arrangement;
- (h) income from a retirement annuity contract;
- (i) income from an annuity or insurance policy purchased or transferred for the purpose of giving effect to rights under a personal pension scheme or an overseas arrangement;
- (j) income from an annuity purchased or entered into for the purpose of discharging liability under—
  - (i) Article 26(1)(b) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (NI 11) (pension credits on divorce); or
  - (ii) section 29(1)(b) of the Welfare Reform and Pensions Act 1999 (c. 30) (corresponding provision for Great Britain).
- <sup>F15</sup>[<sup>F16</sup>(k) any sum payable by way of pension under section 5 of the Civil List Act 1837 or section 7 of the Civil List Act 1952;]
- (l) any payment, other than a payment ordered by a court or made in settlement of a claim, made by or on behalf of a former employer of a

person on account of the early retirement of that person on grounds of ill-health or disability]

(2) The Department may by regulations amend subsection (1); and any such regulations may—

- (a) add to or vary the descriptions of income for the time being listed in that subsection; or
- (b) remove any such description from that subsection.

(3) In this section—

“overseas arrangement” has the meaning given by section 176(1) of the Pension Schemes Act;

“retirement annuity contract” means a contract or scheme approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988 (c. 1).

**F15** SR 2003/28

**F16** S. 16(1)(k) substituted (1.4.2012) by [Sovereign Grant Act 2011 \(c. 15\)](#), ss. 14, 15(1), [Sch. 1 para. 33](#)

### Other interpretation provisions

**17.—**(1) In this Act—

“the 1998 Order” means the Social Security (Northern Ireland) Order 1998 (NI 10);

“the Administration Act” means the Social Security Administration (Northern Ireland) Act 1992 (c. 8);

“appropriate minimum guarantee” shall be construed in accordance with section 2(3);

“assessed income period” shall be construed in accordance with sections 6 and 9;

“capital” shall be construed in accordance with section 15;

“claimant” means a claimant for state pension credit;

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7);

[<sup>F17</sup>“couple” means—

- (a) a man and woman who are married to each other and are members of the same household;
- (b) a man and woman who are not married to each other but are living together as husband and wife otherwise than in prescribed circumstances;
- (c) two people of the same sex who are civil partners of each other and are members of the same household; or

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- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners otherwise than in prescribed circumstances;]

“the Department” means the Department for Social Development;

“earnings” has the same meaning as in Parts I to V of the Contributions and Benefits Act (see sections 3(1) and 112, and the definition of “employment” in section 121(1), of that Act);

“element”, in relation to the claimant's retirement provision, shall be construed in accordance with section 7(6);

“entitled”, in relation to state pension credit, shall be construed in accordance with—

- (a) this Act;
- (b) section 1 of the Administration Act (entitlement to benefit dependent on claim); and
- (c) Article 27 of the 1998 Order (restrictions on entitlement to benefit in certain cases of error),

(and, in relation to any other benefit within the meaning of section 1 of the Administration Act or Article 27 of the 1998 Order, in accordance with that section or that Article or (as the case may be) both that section and that Article in addition to any other conditions relating to that benefit);

“foreign social security benefit” means any benefit, allowance or other payment which is paid under the law of a country outside the United Kingdom and is in the nature of social security;

“foreign war disablement pension” means any retired pay, pension, allowance or similar payment granted by the government of a country outside the United Kingdom—

- (a) in respect of disablement arising from forces' service or war injury; or
- (b) corresponding in nature to any retired pay or pension to which<sup>[F18]</sup> section 641 of the Income Tax (Earnings and Pensions) Act 2003] applies;

“foreign war widow's or widower's pension” means any pension, allowance or similar payment granted to a<sup>[F17]</sup> widow, widower or surviving civil partner] by the government of a country outside the United Kingdom—

- (a) in respect of a death due to forces' service or war injury; or
- (b) corresponding in nature to a pension or allowance for a<sup>[F17]</sup> widow, widower or surviving civil partner] under any scheme mentioned in<sup>[F18]</sup> section 641(1)(e) or (f) of the Income Tax (Earnings and Pensions) Act 2003];

“guarantee credit” shall be construed in accordance with sections 1 and 2;

“income” shall be construed in accordance with section 15;

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*Definition rep. by 2004 c. 33*

“occupational pension scheme” has the meaning given by section 1 of the Pension Schemes Act;

“pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995 (NI 22) (equalisation of pensionable ages for men and women);

“the Pension Schemes Act” means the Pension Schemes (Northern Ireland) Act 1993 (c. 49);

“personal pension scheme” means a personal pension scheme—

- (a) as defined in section 1 of the Pension Schemes Act; or
- (b) as defined in section 1 of the Pension Schemes Act 1993 (c. 48);

[<sup>F19</sup>“PPF periodic payments” means—

- (a) any periodic compensation payments made in relation to a person, payable under the pension compensation provisions as specified in Article 146(2) of the Pensions (Northern Ireland) Order 2005 or section 162(2) of the Pensions Act 2004 (the pension compensation provisions); or
- (b) any periodic payments made in relation to a person, payable under Article 150 of the Pensions (Northern Ireland) Order 2005 or section 166 of the Pensions Act 2004 (duty to pay scheme benefits unpaid at assessment date etc.);]

“prescribed” means specified in, or determined in accordance with, regulations;

“the qualifying age” has the meaning given by section 1(6);

“regulations” means regulations made by the Department;

“retirement pension income” shall be construed in accordance with section 16;

“retirement provision” shall be construed in accordance with section 7(6);

“savings credit” shall be construed in accordance with sections 1 and 3;

“social security benefits” means benefits payable under the enactments relating to social security in any part of the United Kingdom;

“standard minimum guarantee” shall be construed in accordance with section 2(3) to (5) and (9);

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33);

*Definition rep. by 2004 c. 33*

“war disablement pension” means—

- (a) any retired pay, pension or allowance granted in respect of disablement under powers conferred by or under—

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- (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 VII 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<sup>F18</sup> any of paragraphs (a) to (f) of section 641(1) of the Income Tax (Earnings and Pensions) Act 2003] applies;

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

- (a) [<sup>F17</sup>any widow's, widower's or surviving civil partner'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<sup>F17</sup> widow, widower or surviving civil partner] granted under any scheme mentioned in<sup>F18</sup> section 641(1)(e) or (f) of the Income Tax (Earnings and Pensions) Act 2003];

“working tax credit” means a working tax credit under the Tax Credits Act 2002 (c. 21) to which a person is entitled whether alone or jointly with another.

<sup>F17</sup>(1A) For the purposes of this Act, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.]

(2) Regulations may make provision for the purposes of this Act—

- (a) as to circumstances in which persons are to be treated as being or not being members of the same household;
- (b) as to circumstances in which persons are to be treated as being or not being severely disabled.

(3) The following provisions of the Contributions and Benefits Act, namely—

- (a) section 168 (references to Northern Ireland or United Kingdom to include reference to adjacent territorial waters, etc.), and
- (b) section 169 (meaning of attaining an age, etc.),

shall apply for the purposes of this Act as they apply for the purposes of that Act.

**F17** 2004 c. 33

**F18** 2003 c. 1

**F19** S. 17(1): definition of “PPF periodic payments” inserted (14.2.2006) by S.R. 2006/37, art. 2, Sch. para. 3(3)

### *Effect of guaranteed minimum pension on social security benefits*

#### **Equal treatment for widows and widowers**

**18.** In section 43(1) of the Pension Schemes Act (further provisions concerning entitlement to guaranteed minimum pensions for the purposes of section 42)—

- (a) after “an earner” insert “ in any case where he is entitled to a benefit other than a widowed parent's allowance ”;
- (b) for paragraph (a) substitute—
  - “(a) he is also entitled to a Category B retirement pension by virtue of the earner's contributions (or would be so entitled but for section 43(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992); or” ; and
- (c) in paragraph (b), for “section 41(7) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992” substitute “ section 41(5) of that Act ”.

### *Final provisions*

#### **Regulations and orders**

**19.—**(1) Where any power under this Act to make regulations or an order is expressed to be exercisable for alternative purposes it may be exercised in relation to the same case for any or all of those purposes.

(2) Any such power includes power—

- (a) to make such incidental, supplemental, consequential or transitional provision as appears to the authority making the regulations or order to be expedient; and
- (b) to provide for a person to exercise a discretion in dealing with any matter.

(3) Any power to make regulations or an order for the purposes of any provision of this Act is without prejudice to any power to make regulations or an order for the purposes of any other provision.

(4) Regulations containing (whether alone or with other provisions) the first regulations under—

- (a) section 2(3)(b), (4) or (6);
- (b) section 3(4), (5), (6), (7) or (8);
- (c) section 4(3);
- (d) section 12; or
- (e) section 15(1)(e), (f) or (j), (2), (3), (4) or (6),

shall be laid before the Assembly after being made and shall take effect on such date as may be specified in the regulations, but shall (without prejudice to the validity of anything done thereunder or to the making of new regulations) cease to have effect upon the expiration of a period of six months from that date unless at some time before the expiration of that period the regulations have been approved by a resolution of the Assembly.

(5) Regulations made under this Act, other than the regulations specified in subsection (4), shall be subject to negative resolution.

### *Section 20—Repeals*

#### **Short title and commencement**

**21.—**(1) This Act may be cited as the State Pension Credit Act (Northern Ireland) 2002.

(2) This Act (except section 19 and this section) shall come into operation on such day or days as the Department may by order appoint<sup>F20</sup>.

(3) Any order under this section may make such transitional provision as appears to the Department to be necessary or expedient in connection with the provisions brought into operation by the order.

**F20** fully exercised by SR 2002/366; 2003/29, 211, 373

## SCHEDULES

### SCHEDULE 1

Section 11.

#### ADMINISTRATION

*Part I (Paras. 1#3)—Amendments*

*Part II (Paras. 4#12)—Amendments*

### PART III

#### MISCELLANEOUS AND SUPPLEMENTARY

*Amount payable for periods of less than a week*

**13.—**(1) Where a person is entitled to state pension credit—

(a) for a period of less than a week, which is the whole period for which state pension credit is payable; or

(b) for any other period of less than a week for which it is payable,

the amount payable for that period shall be such amount as may be prescribed.

(2) The power conferred by sub-paragraph (1) to prescribe an amount includes power to prescribe nil as an amount.

*Schedule 2—Amendments*

*Schedule 3—Repeals*

**Status:**

Point in time view as at 14/09/2015.

**Changes to legislation:**

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