

*Draft Regulations laid before Parliament under section 19(2A) of the State Pension Credit Act 2002,  
for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2010 No. 0000**

**SOCIAL SECURITY**

**The State Pension Credit Pilot Scheme Regulations 2010**

*Made - - - - 2010  
Coming into force in accordance with regulation 2(2)*

The Secretary of State makes the following Regulations in exercise of the powers conferred by:

- (a) section 175(3) and (5) of the Social Security Contributions and Benefits Act 1992(1);
- (b) sections 1(1) and 5(1)(i), (k) and (l) of the Social Security Administration Act 1992(2); and
- (c) sections 1(5)(a), 2(3) and (4), 3(4), (6) and (7), 15(1)(j), (2) and (3), 17(1) and (2), 18A(1), (2) and (5) to (8) and 19(1) of the State Pension Credit Act 2002(3).

The Secretary of State has referred these Regulations to the Social Security Advisory Committee in accordance with section 172(1) of the Social Security Administration Act 1992(4).

In accordance with section 18A(11) of the State Pension Credit Act 2002, this instrument has been made with the consent of the Treasury.

In accordance with section 19(2A) of the State Pension Credit Act 2002, a draft of this instrument was laid before and approved by a resolution of each House of Parliament.

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(1) 1992 c. 4. Section 175(3) and (5) are applied to the power to make regulations under the State Pension Credit Act 2002 (c. 16) by section 19(1) of that Act.

(2) 1992 c. 5. State pension credit is a benefit to which section 1(1) applies by virtue of section 1(4)(ab) of the Social Security Administration Act 1992 (c. 5), inserted by paragraph 1 and 2 of Schedule 1 to the State Pension Credit Act 2002 (c. 16). The relevant amendment to section 5 is by paragraph 1 and 3(1) and (2) of Schedule 1 to the State Pension Credit Act 2002 (c. 16).

(3) 2002 c. 16. Section 17(1) is cited due to the meaning of “prescribed” and “regulations”. Section 18A and section 19(2A) were inserted by section 27 of the Welfare Reform Act 2009 (c. 24).

(4) 1992 c. 5.

## PART 1

### General

#### Citation, commencement and duration

1.—(1) These Regulations may be cited as the State Pension Credit Pilot Scheme Regulations 2010.

(2) These Regulations shall come into force on the day after the day on which they are made.

(3) These Regulations shall cease to have effect after they have been in force for 12 months.

#### Interpretation

2. In these Regulations—

“the 1992 Act” means the Social Security Contributions and Benefits Act 1992;

“the 2002 Act” means the State Pension Credit Act 2002, as modified by regulation 3 and the Schedule;

“benefit” means state pension credit payable in accordance with these Regulations;

“partner” means the other member of a couple, and “partners” shall be construed accordingly; and

“retirement pension” means a Category A or Category B retirement pension payable under sections 43 to 55 of the 1992 Act.

#### Application of social security enactments

3. The provisions of the State Pension Credit Act 2002 apply to an award of benefit subject to the modifications specified in the Schedule.

4. Regulations made under section 1 or 5 of the Social Security Administration Act 1992 apply to an award of benefit only to the extent provided by regulations 11 to 14.

5. Regulations made under the State Pension Credit Act 2002 apply to an award of benefit only to the extent provided by regulations 10 and 15 to 28.

## PART 2

### Selection

#### Selection of beneficiaries for the purposes of the 2002 Act

6.—(1) Beneficiaries eligible to receive benefit under these Regulations are the persons selected by the Secretary of State who satisfy the conditions in regulation 7, other than those who are excluded by regulation 8.

(2) The Secretary of State shall select such persons on the basis set out in regulation 9.

7. The conditions are—

(a) the person must have claimed and be in receipt of a retirement pension; and

(b) that retirement pension must be paid by way of direct credit transfer to that person’s bank or other account.

- 8.**—(1) A person is excluded if, at the time of selection, that person—
- (a) is a resident in a care home;
  - (b) is an in-patient at a hospital;
  - (c) is a member of a religious order; or
  - (d) has indicated to the Secretary of State, expressly or otherwise, a preference not to receive communication in respect of matters connected with social security.
- (2) For the purposes of paragraph (1)—
- “care home”—
- (a) in relation to England and Wales, has the same meaning as that given by section 3 (care homes) of the Care Standards Act 2000<sup>(5)</sup>; and
  - (b) in relation to Scotland, means accommodation provided by a care home service within the meaning of section 2(3) of the Regulation of Care (Scotland) Act 2001<sup>(6)</sup>;
- “hospital” has the same meaning as in section 275 (interpretation) of the National Health Service Act 2006<sup>(7)</sup>.
- 9.**—(1) The Secretary of State shall select persons on a random basis from those whom the Secretary of State estimates, taking into account the information specified in paragraph (2), would be entitled to state pension credit under section 1 of the State Pension Credit Act 2002 if such persons were to make a claim for that benefit under section 1 of the Social Security Administration Act 1992<sup>(8)</sup>.
- (2) The information referred to in paragraph (1) is information—
- (a) held by the Secretary of State in relation to social security; and
  - (b) supplied to the Secretary of State for the purposes of functions relating to social security.
- (3) The Secretary of State shall not select more than 2000 persons.

### **Persons in Great Britain**

**10.** For the purposes of section 1(2)(a) of the 2002 Act, a person is to be treated as being in Great Britain if information held by the Secretary of State in respect of that person’s retirement pension shows that that person has a residential address in Great Britain.

## **PART 3**

### **Entitlement and payment of benefit**

#### **Entitlement to benefit**

**11.**—(1) A beneficiary selected by the Secretary of State under regulation 6 is a prescribed case for the purposes of section 1(1) of the Social Security Administration Act 1992 (such that a beneficiary is entitled to benefit notwithstanding the conditions in section 1(1)(a) and (b) of that Act not being satisfied).

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(5) 2000 c. 14.

(6) 2001 asp. 8.

(7) 2006 c. 41.

(8) 1992 c. 5. State pension credit is a benefit to which section 1 applies by virtue of section 1(4)(ab), inserted by paragraphs 1 and 2 of Schedule 1 to the State Pension Credit Act 2002 (c. 16).

(2) A beneficiary is entitled to benefit from the day on which the Secretary of State notifies that beneficiary of such entitlement.

(3) Entitlement to benefit shall cease twelve weeks from the date of notification.

### **Payment of benefit**

**12.**—(1) Following notification in accordance with regulation 11, benefit is payable every four weeks in arrears.

(2) Benefit shall be paid by direct credit transfer to the same account to which the beneficiary's retirement pension is paid.

**13.**—(1) The weekly amount of benefit to be paid shall be rounded as follows.

(2) Amounts of less than one pound shall be rounded to one pound.

(3) Amounts greater than one pound shall be rounded to the nearest pound, taking fifty pence as nearest to the next whole pound.

**14.**—(1) No account is to be taken of a payment of benefit in considering a person's—

(a) liability to tax;

(b) entitlement to another benefit under any enactment relating to social security (irrespective of the name or nature of that other benefit, and including entitlement to state pension credit payable other than by virtue of these Regulations); or

(c) entitlement to a tax credit.

(2) Paragraph (1) applies only in respect of the tax year in which a payment of benefit is received.

## **PART 4**

### **Amount of benefit**

#### **Amount of the standard minimum guarantee**

**15.** The prescribed amount of the standard minimum guarantee for the purposes of section 2(4) of the 2002 Act is—

(a) £132.60 per week for a beneficiary who does not have a partner;

(b) £202.40 per week for a beneficiary who has a partner.

#### **Amounts additional to the standard minimum guarantee: severe disability**

**16.**—(1) For the purposes of section 2(3)(b) and (7) of the 2002 Act, an additional amount prescribed in paragraph (2) is applicable if the beneficiary is treated as being a severely disabled person in accordance with regulation 17.

(2) The prescribed additional amount is—

(a) except where subparagraph (b) applies, £53.65 per week; or

(b) £107.30 per week if regulation 17(1)(b) is satisfied and no one is entitled to and in receipt of an allowance under section 70 (carer's allowance) of the 1992 Act in respect of caring for either partner.

**17.**—(1) For the purposes of regulation 16(1), the beneficiary is to be treated as being severely disabled if—

- (a) where a beneficiary does not have a partner—
  - (i) the beneficiary is in receipt of attendance allowance or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the 1992 Act; and
  - (ii) no person is entitled to and in receipt of an allowance under section 70 (carer's allowance) of the 1992 Act in respect of caring for the beneficiary;
- (b) where a beneficiary has a partner—
  - (i) both partners are in receipt of attendance allowance or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the 1992 Act; and
  - (ii) either a person is entitled to and in receipt of an allowance under section 70 of the 1992 Act in respect of caring for one only of the partners or no person is entitled to and in receipt of such an allowance in respect of caring for either partner.

(2) In this regulation, “attendance allowance” means an attendance allowance under section 64 (entitlement to attendance allowance) of the 1992 Act.

#### **Amounts additional to the standard minimum guarantee: carer's allowance**

**18.**—(1) For the purposes of section 2(3)(b) and (8) of the 2002 Act, an additional amount prescribed in paragraph (2) is applicable if regulation 19 is satisfied.

(2) The prescribed additional amount is £30.05 per week, and in the case of partners, this amount is applicable in respect of each partner who satisfies that regulation.

**19.** For the purposes of regulation 18(1), this regulation is satisfied if a beneficiary is, or in the case of partners either partner is, or both partners are, entitled to an allowance under section 70 (carer's allowance) of the 1992 Act.

#### **Prescribed percentages and amounts in respect of savings credit**

**20.**—(1) The percentage prescribed for the purposes of determining—

- (a) “amount A” in section 3(4) of the 2002 Act is 60 per cent.;
- (b) “amount B” in section 3(4) of the 2002 Act is 40 per cent.;
- (c) the maximum savings credit in section 3(7) of the 2002 Act is 60 per cent.

(2) The amount prescribed for the savings credit threshold for the purposes of section 3 of the 2002 Act is—

- (a) £98.40 for a beneficiary who does not have a partner; and
- (b) £157.25 for a beneficiary who has a partner.

**21.** If a calculation made for the purposes of regulation 20(1)(a) or (b) results in a fraction of a penny, that fraction—

- (a) if it would be to the beneficiary's advantage, shall be treated as a penny;
- (b) if it would not be to the beneficiary's advantage, shall be disregarded.

## PART 5

### Income

#### Qualifying income for the purposes of savings credit

**22.** The following are to be treated as qualifying income for the purposes of section 3 (savings credit) of the 2002 Act—

- (a) any benefit payable under the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1983<sup>(9)</sup>;
- (b) in respect of benefit under the 1992 Act—
  - (i) widowed mother's allowance under section 37;
  - (ii) widow's pension under section 38;
  - (iii) widowed parent's allowance under section 39A;
  - (iv) bereavement allowance under section 39B;
  - (v) retirement pension under any of sections 44, 48A to 48BB and 51;
  - (vi) carer's allowance under section 70;
  - (vii) disablement pension under section 103;
  - (viii) industrial death benefit under section 106(f) and Part 6 of Schedule 7;
  - (ix) workmen's compensation under section 111 and Schedule 8;
- (c) a pension from an occupational pension scheme, within the meaning given by section 1 of the Pension Schemes Act 1993<sup>(10)</sup>;
- (d) earnings, within the meaning given by Parts 1 to 5 of the 1992 Act (see sections 3(1) and 112, and the definition of "employment" in section 122, of that Act);
- (e) income deemed to be yielded from capital in accordance with regulation 28.

#### Income for the purposes of the 2002 Act

**23.** For the purposes of section 15(1)(j) of the 2002 Act, the following descriptions of income are prescribed—

- (a) any benefit payable under the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1983;
- (b) in respect of benefit under the 1992 Act—
  - (i) incapacity benefit under section 30A;
  - (ii) widowed mother's allowance under section 37;
  - (iii) widow's pension under section 38;
  - (iv) widowed parent's allowance under section 39A;
  - (v) bereavement allowance under section 39B;
  - (vi) retirement pension under any of sections 44, 48A to 48BB and 51;
  - (vii) severe disablement allowance under section 68;
  - (viii) carer's allowance under section 70;
  - (ix) disablement pension under section 103;

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<sup>(9)</sup> S.I. 1983/136.

<sup>(10)</sup> 1993 c. 48.

- (x) industrial death benefit under section 106(f) and Part 6 of Schedule 7;
- (xi) workmen’s compensation under section 111 and Schedule 8;
- (xii) income support under section 124;
- (c) a pension from an occupational pension scheme, within the meaning given by section 1 of the Pension Schemes Act 1993;
- (d) jobseeker’s allowance under the Jobseekers Act 1995<sup>(11)</sup>;
- (e) a tax credit under the Tax Credits Act 2002<sup>(12)</sup>;
- (f) employment and support allowance under Part 1 of the Welfare Reform Act 2007<sup>(13)</sup>;
- (g) earnings, within the meaning given by Parts 1 to 5 of the 1992 Act (see sections 3(1) and 112, and the definition of “employment” in section 122, of that Act);
- (h) income deemed to be yielded from capital in accordance with regulation 28.

### Estimation of income and capital

24.—(1) The income and capital of—

- (a) the beneficiary; and
- (b) any partner of the beneficiary,

shall be estimated in accordance with this regulation and regulations 25 to 28.

(2) Any reference in regulations 25 to 28 to the beneficiary shall apply equally to any partner of the beneficiary.

(3) Where any estimation under those regulations results in a fraction of a penny, that fraction—

- (a) if it would be to the beneficiary’s advantage, shall be treated as a penny;
- (b) if it would not be to the beneficiary’s advantage, shall be disregarded.

### Estimation of income

25. Income, other than income deemed to be yielded from capital under regulation 28, shall be estimated by the Secretary of State taking into account information—

- (a) held by the Secretary of State in relation to social security; and
- (b) supplied to the Secretary of State for the purposes of functions relating to social security.

26. The following sums shall be disregarded in estimating a beneficiary’s earnings—

- (a) £5 per week if a beneficiary does not have a partner;
- (b) £10 per week if a beneficiary has a partner, except where paragraph (c) applies; or
- (c) £20 per week if a beneficiary has a partner and that partner is in receipt of—
  - (i) long-term incapacity benefit under section 30A of the 1992 Act;
  - (ii) attendance allowance under section 64 of that Act;
  - (iii) severe disablement allowance under section 68 of that Act;
  - (iv) disability living allowance under sections 71 to 76 of that Act; or
  - (v) employment and support allowance under Part 1 of the Welfare Reform Act 2007.

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(11) 1995 c. 18.  
(12) 2002 c. 21.  
(13) 2007 c. 5.

**Estimation of capital and income from capital**

27. Capital shall be estimated by the Secretary of State taking into account information—
- (a) held by the Secretary of State in relation to social security; and
  - (b) supplied to the Secretary of State for the purposes of functions relating to social security.

28.—(1) A beneficiary’s capital shall be deemed to yield a weekly income of—

- (a) £1 for each £500 in excess of £10,000; and
- (b) £1 for any excess thereafter which is not a complete £500.

(2) Any actual income from capital is to be disregarded in the estimation of a beneficiary’s income.

Signed by authority of the Secretary of State

Date

*Name*  
Minister of State  
Department for Work and Pensions

We consent

Date

*Name*  
*Name*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury



## SCHEDULE

Regulation 3

### Modification of the State Pension Credit Act 2002

**1.**—(1) In sections 1 to 5(**14**) (entitlement and amount), for “claimant”, wherever that word appears, substitute “beneficiary”.

(2) In section 3, for “claimant’s”, wherever that word appears, substitute “beneficiary’s”.

**2.** In section 1(2)(b), for “the qualifying age” substitute “the age of 65 years”.

**3.** Omit section 1(6) (definition of “qualifying age”).

**4.** Omit sections 4(2) (amendment of the Immigration and Asylum Act 1999), 6 to 10 (assessed income periods), 11 (administration), 12 (polygamous marriages), 13 (transitional provisions) and 14 (minor and consequential amendments).

**5.** In section 15—

(a) omit subsections (1)(a) to (i) and (4) to (6);

(b) in subsection (7), for “(2) to (6)” substitute “(2) and (3)”.

**6.** Omit section 16 (retirement pension income).

**7.**—(1) Section 17(**15**) (other interpretation provisions) is modified as follows.

(2) In subsection (1)—

(a) after the definition of “appropriate minimum guarantee” insert—

““beneficiary” means a person selected in accordance with regulations made under section 18A(8)(c);”;

(b) for the definition of “couple” substitute—

““couple” means a man and a woman who appear to the Secretary of State to be—

(a) married to each other; and

(b) members of the same household;”;

(c) for the definition of “entitled” substitute—

““entitled”, in relation to state pension credit, shall be construed in accordance with this Act and section 1 of the Social Security Administration Act 1992 (c. 5);”;

(d) omit the definitions of “the Administration Act”, “assessed income period”, “claimant”, “earnings”, “element”, “foreign social security benefit”, “foreign war disablement pension”, “foreign war widow’s or widower’s pension”, “occupational pension scheme”, “pensionable age”, “personal pension scheme”, “PPF periodic payments”, “the qualifying age”, “retirement pension income”, “retirement provision”, “social security benefits”, “war disablement pension”, “war widow’s or widower’s pension” and “working tax credit”.

(3) Omit subsections (1A) and (2)(a).

**8.** Omit sections 18 (equal treatment for widows and widowers), 19(2) and (3) (parliamentary control of subordinate legislation), 21 (enactments repealed) and 22(2) to (5) (commencement).

**9.** In section 22(6), for “Subject to that, this” substitute “This”.

**10.** Omit Schedules 1 to 3 (amendments and repeals).

(14) Sections 2, 3, 4 and 5 were amended by paragraphs 140 and 141 of Schedule 24 to the Civil Partnership Act 2004 (c. 33).

(15) Section 17 was amended by paragraph 263 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1), by paragraphs 142 and 143 of Schedule 24 and Schedule 30 to the Civil Partnership Act 2004 (c. 33) and by S.I. 2006/343.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision for a pilot scheme for the automatic payment of State Pension Credit. These Regulations have effect for 12 months.

Regulation 3 and the Schedule apply the [State Pension Credit Act 2002 \(c. 16\)](#) with modifications to an award of state pension credit made in accordance with these Regulations.

Regulation 4 provides that the only regulations made under section 1 and 5 of the [Social Security Administration Act 1992 \(c. 5\)](#), which provide for claims for and payment of benefit, that apply to payments under the pilot scheme are those made under these Regulations.

Regulation 5 provides that the only regulations made under the [State Pension Credit Act 2002 \(c. 16\)](#) that apply to payments under the pilot scheme are those made under these Regulations.

Regulations 6 to 9 make provision in respect of those persons to whom the pilot scheme applies.

- Regulation 7 provides the conditions which those selected to take part in the pilot scheme must satisfy and regulation 8 excludes certain categories of person from selection.
- Regulation 9 provides that the Secretary of State must select persons who satisfy these conditions on a random basis from those whom it appears are entitled to, but not receiving, state pension credit under the [State Pension Credit Act 2002 \(c. 16\)](#).

Regulation 10 provides when a person is in Great Britain for the purposes of entitlement.

Regulation 11 provides that entitlement under these Regulations starts when a person selected is notified of entitlement and continues for a period of 12 weeks.

Regulations 12, 13 and 14 make provision with respect to payment of benefit.

- Regulation 12 provides that state pension credit under these Regulations will be paid every four weeks and into the same account as the recipient's state retirement pension.
- Regulation 13 provides for rounding of benefit amounts.
- Regulation 14 provides that state pension credit paid under these Regulations will not be taken into account for liability to tax, entitlement to a social security benefit or entitlement to a tax credit.

Regulations 15 to 21 make provision with respect to the amount of benefit.

- Regulation 15 prescribes the amount of the standard minimum guarantee.
- Regulations 16 to 18 prescribe amounts additional to the standard minimum guarantee for the purposes of the additional minimum guarantee.
- Regulation 20 prescribes amounts relevant to the savings credit, including the maximum savings credit percentage and the savings credit threshold.
- Regulation 21 deals with rounding of fractions.

Regulations 22 to 28 make provision with respect to the estimation of income and capital.

- Regulation 22 defines qualifying income for the purposes of savings credit.
- Regulation 23 defines income for the purposes of the [State Pension Credit Act 2002 \(c. 16\)](#).
- Regulations 24 and 25 make provision with respect to the estimation of income and regulation 26 with respect to disregards from estimated income.

- Regulation 27 makes provision with respect to the estimation of capital and regulation 28 with respect to deemed income from capital.

A full impact assessment has not been produced for this instrument as it has no impact on the private or voluntary sectors.