
STATUTORY INSTRUMENTS

2002 No. 3019

The State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations 2002

PART II

AMENDMENTS TO THE CLAIMS AND PAYMENTS REGULATIONS

Interpretation of Part II

2. The Claims and Payments Regulations shall be amended in accordance with the following provisions of this Part; and in this Part, unless the context otherwise requires, any reference to a regulation or a Schedule is to the regulation or Schedule bearing that number in the Claims and Payments Regulations.

Amendment of regulation 2

3. In regulation 2—

(a) in paragraph (1)—

(i) immediately before the definition of “appropriate office” insert—

““the 2002 Act” means the State Pension Credit Act 2002;

“advance period” means the period specified in regulation 4E(2);”;

(ii) immediately before the definition of “instrument for benefit payment” insert—

““guarantee credit” is to be construed in accordance with sections 1 and 2 of the 2002 Act;”;

(iii) after the definition of “personal pension scheme”^{M1} insert—

““qualifying age” has the same meaning as in the 2002 Act by virtue of section 1(6) of that Act;”;

(iv) after the definition of “retirement annuity contract”^{M2}, insert—

““state pension credit” means state pension credit under the 2002 Act;

“State Pension Credit Regulations” means the State Pension Credit Regulations 2002^{M3}.”;

(b) in paragraph (2), in sub-paragraph (b), after the words “income support”, insert “ , state pension credit ”;

(c) after paragraph (3), insert—

“(4) In these Regulations, references to “beneficiary” include any person entitled to state pension credit.”.

Marginal Citations

- M1** Inserted by [S.I. 1995/2303](#).
M2 Inserted by [S.I. 1995/2303](#).
M3 [S.I. 2002/1792](#).

Marginal Citations

- M1** Inserted by [S.I. 1995/2303](#).
M2 Inserted by [S.I. 1995/2303](#).
M3 [S.I. 2002/1792](#).

Claims for state pension credit

4.—(1) In regulation 4 (making a claim for benefit), at the end, insert—

“(10) This regulation shall not apply to a claim for state pension credit.”.

(2) In regulation 4B ^{M4} (forwarding claims and information), in paragraph (1), in subparagraph (b), after the word “applies” insert “ or for state pension credit ”.

(3) After regulation 4C, insert—

“ Making a claim for state pension credit

4D.—(1) A claim for state pension credit need only be made in writing if the Secretary of State so directs in any particular case.

(2) A claim is made in writing either—

- (a) by completing and returning in accordance with the instructions printed on it a form approved or provided by the Secretary of State for the purpose; or
- (b) in such other written form as the Secretary of State accepts as sufficient in the circumstances of the case.

(3) A claim for state pension credit may be made in writing whether or not a direction is issued under paragraph (1) and may also be made by telephone to, or in person at, an appropriate office or other office designated by the Secretary of State for accepting claims for state pension credit.

(4) A claim made in writing may also be made at the offices of—

- (a) a local authority administering housing benefit or council tax benefit;
- (b) a person providing services to such an authority; or
- (c) a person authorised to exercise any function of a local authority relating to housing benefit or council tax benefit.

(5) Any claim made in accordance with paragraph (4), together with any information and evidence supplied in connection with making the claim, shall be forwarded as soon as reasonably practicable to the Secretary of State by the person who received the claim.

(6) A claim for state pension credit made in person or by telephone is not a valid claim unless a written statement of the claimant’s circumstances, provided for the purpose by the Secretary of State, is approved by the person making the claim.

(7) A married or unmarried couple may agree between them as to which partner is to make a claim for state pension credit, but in the absence of an agreement, the Secretary of State shall decide which of them is to make the claim.

(8) Where one member of a married or unmarried couple (“the former claimant”) is entitled to state pension credit under an award but a claim for state pension credit is made by the other member of the couple, then, if both members of the couple confirm in writing that they wish the claimant to be the other member, the former claimant’s entitlement shall terminate on the last day of the benefit week specified in paragraph (9).

(9) That benefit week is the benefit week of the former claimant which includes the day immediately preceding the day the partner’s claim is actually made or, if earlier, is treated as made.

(10) If a claim for state pension credit is defective when first received, the Secretary of State is to provide the person making it with an opportunity to correct the defect.

(11) If that person corrects the defect so that the claim then satisfies the requirements of paragraph (2) and does so within 1 month of the date the Secretary of State last drew attention to the defect, the claim shall be treated as having been properly made on the date—

- (a) the defective claim was first received by the Secretary of State or the person acting on his behalf; or
- (b) if regulation 4F(3) applies, the person informed an appropriate office of his intention to claim state pension credit.

(12) Paragraph (11) does not apply in a case to which regulation 4E(3) applies.

(13) State pension credit is a relevant benefit for the purposes of section 7A of the Social Security Administration Act 1992 ^{M5}.

Making a claim before attaining the qualifying age

4E.—(1) A claim for state pension credit may be made, and any claim made may be determined, at any time within the advance period.

(2) The advance period begins on the date which falls 4 months before the day on which the claimant attains the qualifying age and ends on the day before he attains that age.

(3) A person who makes a claim within the advance period which is defective may correct the defect at any time before the end of the advance period.

Making a claim after attaining the qualifying age: date of claim

4F.—(1) This regulation applies in the case of a person who claims state pension credit on or after attaining the qualifying age.

(2) The date on which a claim is made shall, subject to paragraph (3), be—

- (a) where the claim is made in writing and is not defective, the date on which the claim is first received—
 - (i) by the Secretary of State or the person acting on his behalf; or
 - (ii) in a case to which regulation 4D(4) relates, in the office of a person specified therein;
- (b) where the claim is not made in writing but is otherwise made in accordance with regulation 4D(3) and is not defective, the date the claimant provides details of his circumstances by telephone to, or in person at, the appropriate office or other office designated by the Secretary of State to accept claims for state pension credit; or

- (c) where a claim is initially defective but the defect is corrected under regulation 4D(11), the date the claim is treated as having been made under that regulation.

(3) If a claimant—

- (a) informs an appropriate office of his intention to claim state pension credit; and
(b) subsequently makes the claim in accordance with regulation 4D within 1 month of complying with sub-paragraph (a), or within such longer period as the Secretary of State may allow,

the claim may, where in the circumstances of the particular case it is appropriate to do so, be treated as made on the day the claimant first informed the appropriate office of his intention to claim the credit.”.

Marginal Citations

M4 Regulations 4A and 4B were inserted by [S.I. 1999/3108](#) and regulation 4C by [S.I. 2002/1789](#).

M5 Section 7A was inserted by the [Welfare Reform and Pensions Act 1999 \(c. 30\)](#), [section 71](#).

Evidence and information

5. In regulation 7 (evidence and information)—

- (a) after paragraph (1), insert—

“(1A) A claimant shall furnish such information and evidence as the Secretary of State may require as to the likelihood of future changes in his circumstances which is needed to determine—

- (a) whether a period should be specified as an assessed income period under section 6 of the 2002 Act in relation to any decision; and
(b) if so, the length of the period to be so specified.

(1B) The information and evidence required under paragraph (1A) shall be furnished within 1 month of the Secretary of State notifying the claimant of the requirement, or within such longer period as the Secretary of State considers reasonable in the claimant’s case.

(1C) In the case of a claimant making a claim for state pension credit in the advance period, time begins to run for the purposes of paragraphs (1) and (1B) on the day following the end of that period.”;

- (b) in paragraph (4) ^{M6}, for the words “or jobseeker’s allowance”, substitute “ jobseeker’s allowance or state pension credit ”.

Marginal Citations

M6 Amended by [S.I. 1995/2303](#), 1996/1460 and 1999/2572.

Advance claims and awards of state pension credit

6.—(1) In regulation 13 (advance claims and awards), in paragraph (3) ^{M7}, after the words “disabled person’s tax credit”^{M8} insert “ state pension credit ”.

- (2) After regulation 13C ^{M9} (further claim for and award of disability living allowance), insert—

“ Advance claims for and awards of state pension credit

13D.—(1) Paragraph (2) applies if—

- (a) a person does not satisfy the requirements for entitlement to state pension credit on the date on which the claim is made; and
- (b) the Secretary of State is of the opinion that unless there is a change of circumstances he will satisfy those requirements—
 - (i) where the claim is made in the advance period, when he attains the qualifying age; or
 - (ii) in any other case, within 4 months of the date on which the claim is made.

(2) Where this paragraph applies, the Secretary of State may—

- (a) treat the claim as made for a period beginning on the day (“the relevant day”) the claimant—
 - (i) attains the qualifying age, where the claim is made in the advance period; or
 - (ii) is likely to satisfy the requirements for entitlement in any other case; and
- (b) if appropriate, award state pension credit accordingly, subject to the condition that the person satisfies the requirements for entitlement on the relevant day.

(3) An award under paragraph (2) may be revised under section 9 of the Social Security Act 1998 ^{M10} if the claimant fails to satisfy the conditions for entitlement to state pension credit on the relevant day.”.

Marginal Citations

- M7** Amended by [S.I. 1991/2741](#), 1994/2319 and 1999/2572.
M8 Inserted by [S.I. 1999/2572](#).
M9 [Regulations 13A to 13C](#) inserted by [S.I. 1991/2741](#).
M10 1998 c. 14.

Payability of state pension credit

7.—(1) In regulation 16 (date of entitlement under an award), in paragraph (4) after the words “income support”, insert “, state pension credit ”.

(2) After regulation 16, insert—

“ Date of entitlement under an award of state pension credit for the purpose of payability and effective date of change of rate

16A.—(1) For the purpose only of determining the day from which state pension credit is to become payable, where the credit is awarded from a day which is not the first day of the claimant’s benefit week, entitlement shall begin on the first day of the benefit week next following.

(2) In the case of a claimant who—

- (a) immediately before attaining the qualifying age was entitled to income support or income-based jobseeker’s allowance and is awarded state pension credit from the day on which he attains the qualifying age; or
- (b) was entitled to an income-based jobseeker’s allowance after attaining the qualifying age and is awarded state pension credit from the day which falls after the date that entitlement ends,

entitlement to the guarantee credit shall, notwithstanding paragraph (1), begin on the first day of the award.

(3) Where a change in the rate of state pension credit would otherwise take effect on a day which is not the first day of the claimant's benefit week, the change shall take effect from the first day of the benefit week next following.

(4) For the purpose of this regulation, "benefit week" means the period of 7 days beginning on the day on which, in the claimant's case, state pension credit is payable in accordance with regulation 26B."

Amendment of regulations 17 and 19

8.—(1) In regulation 17 (duration of awards), in paragraph (3) ^{M11}, at the beginning insert "Except in the case of claims for and awards of state pension credit,".

(2) In regulation 19 ^{M12} (time for claiming benefit), in paragraph (3), after sub-paragraph (f), insert—

"(ff) state pension credit;".

Marginal Citations

M11 Amended by [S.I. 1996/1460](#).

M12 Substituted by [S.I. 1997/793](#); paragraph (3) amended by [S.I. 2000/1483](#).

Payment

9. After regulation 26A ^{M13} (jobseeker's allowance), insert—

" State pension credit

26B.—(1) Except where paragraph (2) applies, state pension credit shall be payable on Mondays, but subject, where state pension credit is payable in accordance with paragraph (3) (a), to the provisions of regulation 21 (direct credit transfer).

(2) State pension credit shall be payable—

- (a) if retirement pension is payable to the claimant, on the same day as the retirement pension is payable; or
- (b) on such other day of the week as the Secretary of State may, in the particular circumstances of the case, determine.

(3) Payment of state pension credit shall be made either—

- (a) in accordance with regulation 21 (direct credit transfer); or
- (b) by means of an instrument of payment or an instrument for benefit payment at such place as the Secretary of State, after enquiry of the claimant, may from time to time specify.

(4) State pension credit paid in accordance with paragraph (3)(b) shall be paid weekly in advance.

(5) Where the amount of state pension credit payable is less than £1.00 per week, the Secretary of State may direct that it shall be paid at such intervals, not exceeding 13 weeks, as may be specified in the direction.

(6) Where state pension credit is—

- (a) paid by means of a book of serial orders; and
 - (b) increased or reduced by an amount which, when added to any previous such increase, is less than 50 pence per week,
- the Secretary of State may defer payment of that increase or disregard the reduction until either—
- (i) the termination of entitlement; or, if earlier,
 - (ii) the expiration of one week from the date specified for payment of the last order in that book.
- (7) Where state pension credit is—
- (a) paid by means of a book of serial orders; and
 - (b) the amount of state pension credit payable to a third party under Schedule 9 is increased so that the amount of the credit payable to the claimant is reduced by an amount which, with any previous reduction, is less than 50 pence per week,
- the Secretary of State may make the payment to the third party and disregard the reduction in the claimant's state pension credit for the remainder of the period to which the book relates.”.

Marginal Citations

M13 Regulation 26A was inserted by S.I. 1996/1460.

Amendment of regulation 30

10. In regulation 30 (payments on death), in paragraph (5), after the words “income support” insert “, state pension credit”.

Amendment of regulation 32

- 11.** In regulation 32 ^{M14} (information to be given when obtaining payment of benefit)—
- (a) in paragraph (3), after the words “income support”, insert “, state pension credit”; and
 - (b) at the end add—
 - “(6) This regulation shall apply in the case of state pension credit subject to the following modifications—
 - (a) at the end of an assessed income period, the information and evidence required to be notified in accordance with this regulation includes information and evidence as to the likelihood of future changes in the claimant's circumstances needed to determine—
 - (i) whether a period should be specified as an assessed income period under section 6 of the 2002 Act in relation to any decision; and
 - (ii) if so, the length of the period to be so specified; and
 - (b) except to the extent that sub-paragraph (a) applies, changes to an element of the claimant's retirement provision need not be notified if an assessed income period is current in his case.”.

Marginal Citations

M14 Amended by [S.I. 1992/2595](#), 1995/2303, 1996/1460 and 1999/2572.

Amendment of regulation 34A

12. In regulation 34A ^{M15} (deduction of mortgage interest which shall be made from benefit and paid to qualifying lenders), in paragraph (1), for the words “In relation to cases to which section 51C(1) of the Social Security Act 1986”, substitute “ In relation to cases to which section 15A(1) or (1A) of the Social Security Administration Act 1992 ^{M16} ”.

Marginal Citations

M15 [Regulation 34A](#) was inserted by [S.I. 1992/1026](#).

M16 [Section 15A\(1A\)](#) was inserted by the [State Pension Credit Act 2002 \(c. 16\)](#), [Schedule 2](#), paragraph 9(2).

Amendment of regulation 35A

13. In regulation 35A ^{M17} (transitional provisions for persons in hostels or certain residential accommodation), in paragraph (1), in the definition of “specified benefit”, after the words “paragraph 1”, insert “ except that it does not include state pension credit ”.

Marginal Citations

M17 Inserted by [S.I. 1989/1686](#).

Amendment of Schedules 9 to 9B

14.—(1) In Schedule 9 (deductions from benefit and direct payment to third parties)—

(a) in sub-paragraph (1) ^{M18}—

(i) in the definition of “family”, at the end, add “ and for the purposes of state pension credit “a family” comprises the claimant, his partner, any additional partner to whom section 12(1)(c) of the 2002 Act applies and any person who has not attained the age of 19, is treated as a child for the purposes of section 142 of the Contributions and Benefits Act and lives with the claimant or the claimant’s partner; ”;

(ii) in the definition of “housing costs”, at the end, add—

“(c) Schedule II to the State Pension Credit Regulations but—

(i) excludes costs under paragraph 13(1)(f) of that Schedule (tents and sites); and

(ii) includes costs under paragraphs 13(1)(a) (ground rent and feu duty) and 13(1)(c) (rent charges) of that Schedule but only when they are paid with costs under paragraph 13(1)(b) of that Schedule (service charges);”;

(iii) in the definition of “mortgage payment”, after head (b), insert—

“or

- (c) Schedule II to the State Pension Credit Regulations in accordance with paragraph 7 of that Schedule (housing costs to be met in state pension credit) on a loan which qualifies under paragraph 11 or 12 of that Schedule, but less any amount deducted under paragraph 14 of that Schedule (non-dependant deductions);”;
 - (iv) in the definition of “personal allowance for a single claimant aged not less than 25 years”, after the words “amount specified” insert “ in connection with income support and state pension credit ” and for the words “as the case may be” substitute “ in connection with jobseeker’s allowance ”;
 - (v) in the definition of “specified benefit”, after head (c), insert—
 - “(d) state pension credit which is either paid alone or paid together with any retirement pension, incapacity benefit or severe disablement allowance in a combined payment in respect of any period;”;
- (b) in paragraph 3—
 - (i) in sub-paragraphs (1) and (2A)(a) ^{M19}, after the words “applicable amount” wherever they occur insert “ or appropriate minimum guarantee ”;
 - (ii) in sub-paragraph (2A), after the words “Jobseeker’s Allowance Regulations” in both places in which they occur, insert “ or paragraph 5(9) or (12) or paragraph 14 of Schedule II to the State Pension Credit Regulations ”;
- (c) in paragraph 5 ^{M20} after sub-paragraph (5) insert—

“(5A) In the case of state pension credit, a determination under this paragraph shall not be made without the consent of the beneficiary if the aggregate amount determined in accordance with sub-paragraphs (3) and (6) exceeds a sum equal to 25 per cent. of the appropriate minimum guarantee less any housing costs under Schedule II to the State Pension Credit Regulations which may be applicable in the particular case.”;
- (d) in paragraph 6 ^{M21}—
 - (i) in sub-paragraph (1), for the words “Subject to sub-paragraph (6)”, substitute “ Subject to sub-paragraphs (6) and (6A) ”;
 - (ii) after sub-paragraph (6), insert—

“(6A) Subject to paragraph 8, in the case of state pension credit, a determination under this paragraph shall not be made without the consent of the beneficiary if the aggregate amount calculated in accordance with sub-paragraph (2) exceeds a sum equal to 25 per cent. of the appropriate minimum guarantee less any housing costs under Schedule II to the State Pension Credit Regulations which may be applicable in the particular case.”;
- (e) in paragraph 7 ^{M22}, after sub-paragraph (8), add—

“(9) Subject to paragraph 8, in the case of state pension credit, a determination under this paragraph shall not be made without the consent of the beneficiary if the aggregate amount calculated in accordance with sub-paragraphs (3), (4), (5) and (6) exceeds a sum equal to 25 per cent. of the appropriate minimum guarantee less any housing costs under Schedule II to the State Pension Credit Regulations which may be applicable in the particular case.”;
- (f) in paragraph 8 ^{M23}, after sub-paragraph (2), insert—

“(2A) In the case of state pension credit, the maximum aggregate amount payable under paragraphs 3(2)(a), 5, 6, and 7 shall not, without the consent of the beneficiary, exceed a sum equal to 25 per cent. of the appropriate minimum guarantee less any housing costs

under Schedule II to the State Pension Credit Regulations which may be applicable in the particular case.”.

(2) In Schedule 9A ^{M24} (deductions of mortgage interest from benefit and payment to qualifying lenders)—

(a) in paragraph 1, in the definition of “relevant benefits”, at the end of sub-paragraph (c), insert—

“and

(d) state pension credit which is either paid alone or paid together with any retirement pension, incapacity benefit or severe disablement allowance in a combined payment in respect of any period;”;

(b) in paragraph 2 for the words from the beginning of sub-paragraph (a) to “is determined”, substitute—

“the amount to be met under—

(i) Schedule 3 to the Income Support Regulations; or

(ii) Schedule 2 to the Jobseeker’s Allowance Regulations; or

(iii) Schedule II to the State Pension Credit Regulations;”;

(c) in paragraph 3—

(i) after sub-paragraph (1), insert—

“(1A) Subject to the following provisions of this paragraph, the part of state pension credit which, as determined by the Secretary of State in accordance with regulation 34A, shall be paid directly to the qualifying lender, is a sum equal to the amount of mortgage interest to be met under paragraph 7 of Schedule II to the State Pension Credit Regulations.”;

(ii) in sub-paragraph (3)—

(aa) after the words “or income-based jobseeker’s allowance” insert “ or a relevant beneficiary’s appropriate minimum guarantee in state pension credit ” and for the words “sub-paragraph (1)” substitute “ sub-paragraph (1) or (1A) ” ;

(bb) in head (b), after the words “as the case may be” insert “ paragraph 5(9) or (12) or paragraph 14 of Schedule II to the State Pension Credit Regulations or ”;

(cc) in the value “A”, after the words “as the case may be” insert “ paragraph 1 of Schedule II to the State Pension Credit Regulations or ”;

(dd) in the value “B”, after the words “as the case may be” insert “ paragraph 7 of Schedule II to the State Pension Credit Regulations or ”;

(ee) in the value “C”, after the words “as the case may be” insert “ paragraph 5(9) or (12) or paragraph 14 of Schedule II to the State Pension Credit Regulations or ”;

(iii) in sub-paragraph (4), at the beginning, insert “ Except where the relevant benefit is state pension credit, ”;

(iv) after sub-paragraph (9), add—

“(10) In sub-paragraph (1), the relevant benefits do not include in the case of state pension credit so much of any additional amount which is applicable in the claimant’s case under Schedule II to the State Pension Credit Regulations (housing costs) in respect of a period before the decision awarding state pension credit was made.”;

- (d) in paragraph 4, in sub-paragraph (2)(a) ^{M25}, after the words “as the case may be” insert “ paragraph 9 of Schedule II to the State Pension Credit Regulations or ”;
- (e) in paragraph 10—
- (i) for sub-paragraph (2), substitute—
- “(2) Subject to sub-paragraph (4), the information referred to in heads (a), (b), (c) and (d) of sub-paragraph (1) shall be provided at the request of the Secretary of State when a claim for—
- (a) income support or income-based jobseeker’s allowance is made and a sum in respect of mortgage interest is to be brought into account in determining the applicable amount; or
- (b) state pension credit is made and a sum in respect of housing costs is applicable in the claimant’s case in accordance with regulation 6(6)(c) of the State Pension Credit Regulations.”;
- (ii) in sub-paragraph (3), in head (a), after the words “income support” insert “ , state pension credit ”.
- (3) In Schedule 9B ^{M26}, in paragraphs 2(1), 3(1), 5(1) and 6(1), after the words “income support” insert “ , state pension credit ”.

Marginal Citations

M18 Relevant amending Instruments are [S.I. 1991/2284](#), 1996/672 and 1996/1460.

M19 Relevant amending Instruments are [S.I. 1992/1026](#), 1995/1613, 1995/2927, 1996/1460, 1999/2860 and 1999/3178.

M20 Relevant amending Instrument is [S.I. 1996/1460](#).

M21 Relevant amending Instrument is [S.I. 1996/1460](#).

M22 [Paragraph 7](#) was substituted by [S.I. 1991/2284](#) and amended by [S.I. 1992/2595](#), 1994/2319, 1996/1460 and 1999/2860 and 3178.

M23 [Paragraph 8](#) was amended by [S.I. 1990/2205](#), 1991/2284 and 1996/1460.

M24 [Schedule 9A](#) was inserted by [S.I. 1992/1026](#) and amended by [S.I. 1995/1613](#) and 1996/1460.

M25 Relevant amending Instruments are [S.I. 1995/1613](#), 1996/1460 and 1997/827.

M26 [Schedule 9B](#) was inserted by [S.I. 2001/18](#).

Changes to legislation:

There are currently no known outstanding effects for the The State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations 2002, PART II.