
STATUTORY INSTRUMENTS

2002 No. 3019

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

PART III

AMENDMENTS TO THE DECISIONS AND APPEALS REGULATIONS

Interpretation of Part III

15. The Decisions and Appeals Regulations shall be amended in accordance with the following provisions of this Part; and in this Part, unless the context otherwise requires, references to regulations and Schedules are references to regulations of and Schedules to the Decisions and Appeals Regulations.

Amendment of regulation 1

16. In regulation 1(3) (interpretation)—

- (a) after the definition of “the Arrears, Interest and Adjustment of Maintenance Assessment Regulations”, insert—
““assessed income period” is to be construed in accordance with sections 6 and 9 of the State Pension Credit Act;”;
- (b) in the definition of “claimant” for the words “or section 35(1) of the Jobseekers Act”, substitute “ section 35(1) of the Jobseekers Act or section 17(1) of the State Pension Credit Act ”;
- (c) after the definition of “relevant credit”^{M1}, insert the following definitions—
““state pension credit” means the benefit payable under the State Pension Credit Act;
“State Pension Credit Act” means the State Pension Credit Act 2002 ^{M2};
“State Pension Credit Regulations” means the State Pension Credit Regulations 2002 ^{M3}.”.

Marginal Citations

- M1** Inserted by [S.I. 2000/1596](#).
M2 [2002 c. 16](#).
M3 [S.I. 2002/1792](#).

Amendment of regulation 6

17. In regulation 6 ^{M4} (supersession of decisions)—

- (a) in paragraph (2), after sub-paragraph (k), add—

“(1) is a relevant decision for the purposes of section 6 of the State Pension Credit Act and—

- (i) on making that decision, the Secretary of State specified a period as the assessed income period; and
- (ii) that period has ended or is about to end.”;

(b) after paragraph (7), add—

“(8) In relation to the assessed income period, the only change of circumstance relevant for the purposes of paragraph (2)(a) is that the assessed income period ends in accordance with section 9(4) of the State Pension Credit Act or the regulations made under section 9(5) of that Act.”.

Marginal Citations

M4 Relevant amending Instruments are: [S.I. 1999/1623](#), 2570 and 2677, 2000/897, 1596 and 1982, 2001/1711 and 2002/428 and 490.

Amendment of regulation 7

18. In regulation 7 (date from which a decision superseded under section 10 takes effect)—

- (a) in paragraph (1), for sub-paragraph (a) ^{M5}, substitute—
 - “(a) is, except for paragraphs (2)(b) and (29), subject to Schedules 3A and 3B; and”;
- (b) in paragraph (2)(b), in heads (i) and (ii), for the words “or jobseeker’s allowance”, substitute “ , jobseeker’s allowance or state pension credit ”;
- (c) in paragraph (3) at the end, add—
 - “or regulation 1(2) of the State Pension Credit Regulations.”;
- (d) in paragraph (13) at the end of sub-paragraph (a) for the word “and”, substitute—
 - “or
 - (iii) paragraph 11 or 12 of Schedule II to the State Pension Credit Regulations; and”;
- (e) after paragraph (17), insert—
 - “(17A) For the purposes of state pension credit—
 - (a) paragraph (14) shall apply as if the reference to—
 - (i) “income support and his applicable amount” was a reference to “state pension credit and his appropriate minimum guarantee”;
 - (ii) “Schedule 3 to the Income Support Regulations” was a reference to “Schedule II to the State Pension Credit Regulations”; and
 - (iii) “paragraph 15 or 16” was a reference to “paragraph 11 or 12”;
 - (b) paragraphs (15) to (17) shall not apply.”;
- (f) after paragraph (28) ^{M6}, insert—
 - “(29) A decision to which regulation 6(2)(1) (state pension credit) refers shall take effect from the day following the day on which the assessed income period ends if that day is the first day of the claimant’s benefit week, but if it is not, from the next following such day.”.

Marginal Citations

M5 Paragraph (1)(a) was amended by [S.I. 1999/3178](#) and 2000/1596.

M6 Paragraph (28) was inserted by [S.I. 2002/490](#).

Amendment of regulation 13

19. In regulation 13 (income support and social fund determinations on incomplete evidence)—

(a) in paragraph (1), for sub-paragraph (a), substitute—

“(a) a determination falls to be made by the Secretary of State as to what housing costs are to be included in—

(i) a claimant’s applicable amount by virtue of regulation 17(1)(e) or 18(1)(f) of, and Schedule 3 to, the Income Support Regulations; or

(ii) a claimant’s appropriate minimum guarantee by virtue of regulation 6(6)(c) and Schedule II to the State Pension Credit Regulations; and”

and for the words “applicable amount are those”, substitute “ applicable amount or, as the case may be, appropriate minimum guarantee are those ”; and

(b) after paragraph (2), add—

“(3) Where, for the purposes of a decision under section 8 or 10—

(a) a determination falls to be made by the Secretary of State as to whether a claimant’s appropriate minimum guarantee includes an additional amount in accordance with regulation 6(4) of, and paragraph 1 of Schedule I to, the State Pension Credit Regulations; and

(b) it appears to the Secretary of State that he is not in possession of all the evidence or information which is relevant for the purpose of such a determination,

he shall make the determination on the assumption that the relevant evidence or information which is not in his possession is adverse to the claimant.”.

Amendment of regulation 14

20. In regulation 14 (effect of alteration of component rates of state pension credit), at the end, add—

“(5) Section 159B of the Administration Act ^{M7} (effect of alterations affecting state pension credit) shall not apply to any award of state pension credit in favour of a person where in relation to that person the appropriate minimum guarantee includes an amount determined under paragraph 6 of Part III of Schedule I to the State Pension Credit Regulations.

(6) Where section 159B of the Administration Act does not apply to an award of state pension credit by virtue of paragraph (5), a decision under section 10 may be made in respect of that award for the sole purpose of giving effect to any change made to an award under section 150 of the Administration Act.”.

Marginal Citations

M7 [Section 159B](#) was inserted by the [State Pension Credit Act 2002 \(c. 16\)](#), [section 14](#) and Schedule 2, paragraph 17.

Amendment of Schedule 2

21. In Schedule 2 (decision against which no appeal lies), after paragraph 13 (income support), insert—

“State pension credit

13A. A decision of the Secretary of State made in accordance with paragraph (1) or (3) of regulation 13 in relation to state pension credit (determination on incomplete evidence).”.

Change of circumstances

22. After Schedule 3A^{M8}, insert—

“SCHEDULE 3B

DATE ON WHICH CHANGE OF CIRCUMSTANCES TAKES EFFECT WHERE CLAIMANT ENTITLED TO STATE PENSION CREDIT

1. Where the amount of state pension credit payable under an award is changed by a superseding decision made on the ground that there has been a relevant change of circumstances, that superseding decision shall take effect from the following days—

- (a) for the purpose only of determining the day on which an assessed income period begins under section 9 of the State Pension Credit Act, from the day following the day on which the last previous assessed income period ended; and
- (b) except as provided in the following paragraphs, from the day that change occurs or is expected to occur if either of those days is the first day of a benefit week but if it is not from the next following such day.

2. Subject to paragraph 3, where the relevant change is that the claimant’s income (other than deemed income from capital) has changed, the superseding decision shall take effect on the first day of the benefit week in which that change occurs or if that is not practicable in the circumstances of the case, on the first day of the next following benefit week.

3. Paragraph 2 shall not apply where the only relevant change is that working tax credit under the Tax Credits Act 2002^{M9} becomes payable or becomes payable at a higher rate.

4. A superseding decision shall take effect from the day the change of circumstances occurs or is expected to occur if—

- (a) the person ceases to be or becomes a prisoner, and for this purpose “prisoner” has the same meaning as in regulation 1(2) of the State Pension Credit Regulations; or
- (b) whilst entitled to state pension credit a claimant is awarded another social security benefit and in consequence of that award his benefit week changes or is expected to change.

5. In a case where the relevant change of circumstances is that the claimant ceased for one or more days to be a patient, the superseding decision shall take effect from the first day of the benefit week in which the change occurred.

6. In paragraph 5, “patient” means a person (other than a prisoner) who is regarded as receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations 1975^{M10}.

Changes to legislation: *There are currently no known outstanding effects for the The State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations 2002, PART III. (See end of Document for details)*

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Marginal Citations

M8 Inserted by [S.I. 2000/1596](#).

M9 [2002 c. 21](#).

M10 [S.I. 1975/555](#).

Changes to legislation:

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