
STATUTORY INSTRUMENTS

2002 No. 3019

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

PART V

MISCELLANEOUS AMENDMENTS

**Amendment of the Social Security (Payments on account, Overpayments and Recovery)
Regulations 1988**

24.—(1) The Social Security (Payments on account, Overpayments and Recovery) Regulations 1988⁽¹⁾ shall be amended in accordance with the following provisions of this regulation.

- (2) In regulation 1 (citation, commencement and interpretation), in paragraph (2)—
- (a) in the entry relating to “benefit” for the words “jobseeker’s allowance and”, substitute “jobseeker’s allowance, state pension credit and”; and
 - (b) after the entry relating to “severe disablement allowance” insert the following entries—
“state pension credit” means the benefit payable under the State Pension Credit Act 2002;
“the State Pension Credit Regulations” means the State Pension Credit Regulations 2002⁽²⁾”.
- (3) In regulation 7 (duplication and prescribed income), in paragraph (1)—
- (a) for the words “income support and”, substitute “income support, state pension credit and”;
 - (b) in sub-paragraph (a), after the words “Allowance Regulations” insert “or Part III of the State Pension Credit Regulations”.
- (4) In regulation 16 (limitation on deductions from prescribed benefits)—
- (a) in paragraph 4A⁽³⁾, at the end insert—
“(d) state pension credit.”;
 - (b) in paragraph (6), at the end of sub-paragraph (b), insert—
“or
(c) in the calculation of the income of a person to whom state pension credit is payable, the amount of earnings or other income falling to be taken into account is reduced in accordance with paragraph 1 of Schedule 4 (sums to be disregarded in the calculation of income other than capital), or Schedule 6 (sums disregarded from claimant’s earnings) to the State Pension Credit Regulations,”;
 - (c) in paragraph (8)—

⁽¹⁾ S.I.1988/664; the relevant amending Instruments are S.I. 1993/650 and 846 and 1996/1345.

⁽²⁾ S.I. 2002/1792.

⁽³⁾ Paragraph (4A) was inserted by S.I. 1996/2519.

(i) for the definition of “personal allowance for a single claimant aged not less than 25” substitute—

““personal allowance for a single claimant aged not less than 25” means—

- (a) in the case of a person who is entitled to either income support or state pension credit, the amount for the time being specified in paragraph 1(1)(e) of column (2) of Schedule 2 to the Income Support Regulations; or
- (b) in the case of a person who is entitled to income-based jobseeker’s allowance, the amount for the time being specified in paragraph 1(1)(e) of column (2) of Schedule 1 to the Jobseeker’s Allowance Regulations;”;

(ii) for the definition of “specified benefit”, substitute—

““specified benefit” means—

- (a) a jobseeker’s allowance;
- (b) income support when paid alone or together with any incapacity benefit, retirement pension or severe disablement allowance in a combined payment in respect of any period;
- (c) if incapacity benefit, retirement pension or severe disablement allowance is paid concurrently with income support in respect of any period but not in a combined payment, income support and such of those benefits as are paid concurrently;
- (d) state pension credit when paid alone or together with any retirement pension, incapacity benefit or severe disablement allowance in a combined payment in respect of any period; and
- (e) if retirement pension, incapacity benefit or severe disablement allowance is paid concurrently with state pension credit in respect of any period but not in a combined payment, state pension credit and such of those benefits as are paid concurrently,

but does not include any sum payable by way of child maintenance bonus in accordance with section 10 of the Child Support Act 1995(4) and the Social Security (Child Maintenance Bonus) Regulations 1996(5).”.

(5) In the provisions listed in paragraph (6), after the words “income support” in each place where they occur there shall be inserted the words “,or state pension credit”.

(6) The provisions referred to in paragraph (5) are—

- (a) regulation 5(3) (offsetting prior payment against subsequent award);
- (b) regulation 8(2) (duplication and prescribed payments);
- (c) regulation 13(1)(b) (sums to be deducted in calculating recoverable amounts);
- (d) regulation 14(1) (quarterly diminution of capital);
- (e) regulation 15(2)(d) (recovery by deduction from prescribed benefits); and
- (f) regulation 17 (recovery from couples).

(4) 1995 c. 34.

(5) S.I. 1996/3195.

Amendment of the Social Security (Attendance Allowance) Regulations 1991

25. In regulation 8(6)(a) of the Social Security (Attendance Allowance) Regulations 1991(6) (exemption from regulations 6 and 7) after the words “income support”, in both places where they occur, insert “, state pension credit”.

Amendment of the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations 1992

26.—(1) The Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations 1992(7) shall be further amended in accordance with the following provisions of this regulation.

(2) In regulation 1 (citation, commencement and interpretation), in paragraph (2), at the end, add—

““state pension credit” means the social security benefit of that name payable under the State Pension Credit Act 2002(8).”.

(3) In both regulation 10A (reimbursement of a repayment of overpaid child maintenance) and regulation 10B (repayment of a reimbursement of a voluntary payment), after the words “income support” insert “, state pension credit”.

Amendment of the Child Support (Maintenance Calculations and Special Cases) Regulations 2000

27.—(1) The Child Support (Maintenance Calculations and Special Cases) Regulations 2000(9) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 1 (citation, commencement and interpretation), in paragraph (2), after the definition of “self-employed earner” insert the following definition—

““state pension credit” means the social security benefit of that name payable under the State Pension Credit Act 2002;”.

(3) In regulation 4 (flat rate), in paragraph (2), at the end, add—

“and

(c) state pension credit.”.

(4) In regulation 5 (nil rate), after paragraph (g), insert—

“(gg) a patient in hospital who is in receipt of state pension credit and in respect of whom paragraph 2(1) of Schedule III to the State Pension Credit Regulations(10) (patient for at least 13 but not exceeding 52 weeks) applies;”.

Amendment of the Social Security (Disability Living Allowance) Regulations 1991

28. In regulation 10(8)(a) of the Social Security (Disability Living Allowance) Regulations 1991(11) (exemption from regulations 8 and 9), after the words “income support” in each place where they occur insert “, state pension credit”.

(6) S.I. 1991/2740; the relevant amending Instrument is S.I. 1996/1345.

(7) S.I. 1992/1816; the relevant amending Instruments are S.I. 1995/3261, 1996/1345 and 2001/162.

(8) 2002 c. 16.

(9) S.I. 2001/155; the relevant amending Instrument is S.I. 2002/1204.

(10) S.I. 2002/1792.

(11) S.I. 1991/2890; the relevant amending Instrument is S.I. 1996/1345.

Amendment of the Income Support (General) Regulations 1987

29.—(1) The Income Support (General) Regulations 1987(12) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 42 (notional income), in paragraph (2C)(13), for the word “claimant” substitute “person”.

(3) In regulation 53 (calculation of tariff income from capital), in paragraph (1ZA)(14), in sub-paragraph (a), omit the words “is aged 60 or over”.

(4) In Schedule 1B(15) (prescribed categories of persons), omit paragraph 17 (persons aged 60 or over).

(5) In Schedule 2 (applicable amounts)—

(a) for paragraph 9(16) (pensioner premiums for persons under 75), substitute—

“9. The condition is that the claimant has a partner aged not less than 60 but less than 75.”;

(b) for paragraph 9A(17) (pensioner premiums for persons 75 or over), substitute—

“9A. The condition is that the claimant has a partner aged not less than 75 but less than 80.”;

(c) in paragraph 10(18) (higher pensioner premium)—

(i) for sub-paragraphs (1) and (2), substitute—

“(1) The condition is that—

(a) the claimant’s partner is aged not less than 80; or

(b) the claimant’s partner is aged less than 80 but not less than 60 and either—

(i) the additional condition specified in paragraph 12(1)(a) or (c) is satisfied; or

(ii) the claimant was entitled to, or was treated as being in receipt of, income support and—

(aa) the disability premium was or, as the case may be, would have been, applicable to him in respect of a benefit week within eight weeks of his partner’s 60th birthday; and

(bb) he has, subject to sub-paragraph (3), remained continuously entitled to income support since his partner attained the age of 60.”;

(ii) in sub-paragraph (3), in head (b), for the words “sub-paragraphs (1)(b)(ii) and (2)(b)

(ii) are” substitute “sub-paragraph (1)(b)(ii) is” and after the words “includes his” insert “partner's”;

(d) in paragraph 11 (disability premium)—

(i) in sub-paragraph (a), omit the words “he is aged less than 60 and”;

(ii) for sub-paragraph (b)(i), substitute—

(12) S.I. 1987/1967.

(13) Paragraph (2) was inserted by S.I. 1995/2303.

(14) Paragraph (1ZA) was inserted by S.I. 2000/2545.

(15) Schedule 1B was inserted by S.I. 1996/206.

(16) Paragraph 9 was substituted by S.I. 1989/534.

(17) Paragraph 9A was inserted by S.I. 1989/534.

(18) Paragraph 10 is amended by S.I. 1988/663, 1992/468, 1998/2231 and 2000/724.

- “(i) the claimant satisfies the additional condition specified in paragraph 12(1) (a), (b) or (c); or”;
- (e) in paragraph 12(19) (additional condition for the higher pensioner and disability premium), in sub-paragraph (1) for head (c) substitute—
- “(c) the claimant’s partner was in receipt of long-term incapacity benefit under Part II of the Contributions and Benefits Act when entitlement to that benefit ceased on account of the payment of a retirement pension under that Act and—
- (i) the claimant has since remained continuously entitled to income support;
- (ii) the higher pensioner premium or disability premium has been applicable to the claimant; and
- (iii) the partner is still alive;
- (d) except where paragraph (1)(a), (b), (c)(ii) or (d)(ii) of Schedule 7 (patients) applies, the claimant or, as the case may be, his partner was in receipt of attendance allowance or disability living allowance—
- (i) but payment of that benefit has been suspended under the Social Security (Hospital In-Patients) Regulations 1975(20) or otherwise abated as a consequence of the claimant or his partner becoming a patient within the meaning of regulation 21(3); and
- (ii) a higher pensioner premium or disability premium has been applicable to the claimant.”;
- (f) in paragraph 13A(21) (enhanced disability premium), in sub-paragraph (1) for head (b) and the words which follow that head, substitute—
- “(b) a member of the claimant’s family who is aged less than 60.”;
- (g) in paragraph 15(22) (premiums)—
- (i) in column (1)—
- (aa) for sub-paragraph (2), substitute—
- “(2) Pensioner premium for persons to whom paragraph 9 applies.”;
- (bb) for sub-paragraph (2A)(23), substitute—
- “(2A) Pensioner premium for persons to whom paragraph 9A applies.”;
- (cc) for sub-paragraph (3), substitute—
- “(3) Higher pensioner premium for persons to whom paragraph 10 applies.”;
- (ii) in column (2), in sub-paragraphs (2), (2A) and (3), the entries relating to head (a) shall in each case be omitted.
- (6) In Schedule 3 (housing costs)—
- (a) in paragraph 6, in sub-paragraph (1B)(24), after the words “jobseeker’s allowance” insert “or state pension credit”;
- (b) in paragraph 8, in sub-paragraph (1B)(25), after the words “jobseeker’s allowance” insert “or state pension credit”;

(19) The relevant amending Instruments are S.I. 1991/2742, 1994/2139 and 1995/482 and 516.

(20) S.I. 1975/555.

(21) Paragraph 13A was inserted by S.I. 2000/2629.

(22) The relevant amending Instrument is S.I. 2002/668.

(23) Sub-paragraph (2) was inserted by S.I. 1989/534.

(24) Sub-paragraph (1B) was inserted by S.I. 1997/2305.

(25) Sub-paragraph (1B) was inserted by S.I. 1997/2305.

- (c) in paragraph 9, in sub-paragraph (1), for head (a), substitute—
“(a) the claimant’s partner has attained the qualifying age for state pension credit;”;
- (d) in paragraph 14, at the end add—
“(14) For the purpose of determining whether the linking rules set out in this paragraph apply in a case where a claimant’s former partner was entitled to state pension credit, any reference to income support in this Schedule shall be taken to include also a reference to state pension credit.”;
- (e) in paragraph 18, in sub-paragraph (1), for heads (a) and (b) substitute—
“(a) in respect of a non-dependant aged 18 or over who is engaged in any remunerative work but is not in receipt of state pension credit, £47.75;
(b) in respect of a non-dependant who is engaged in remunerative work and in receipt of state pension credit, £7.40;
(c) in respect of a non-dependant aged 18 or over to whom neither head (a) nor head (b) applies, £7.40.”
- (7) In Schedule 8 (sums to be disregarded in the calculation of earnings)—
(a) in paragraph 1, in sub-paragraph (a), omit head (i);
(b) after paragraph 1, insert—
“**1A.** If the claimant’s partner has been engaged in remunerative work as an employed earner or, had the employment been in Great Britain, would have been so engaged, any earnings paid or due to be paid on termination of that employment by way of retirement but only if the partner has attained the qualifying age for state pension credit on retirement.”;
- (c) in paragraph 4—
(i) in sub-paragraph (3), head (b) shall be omitted;
(ii) in sub-paragraph (4)—
(aa) for head (b), substitute—
“(b) the claimant’s partner has attained the qualifying age for state pension credit;”;
(bb) in head (c) omit “he or, as the case may be, he or” and “or (3)”;
(iii) in sub-paragraph (7)—
(aa) in head (a), for sub-head (i), substitute—
“(i) on or after the date on which the claimant’s partner attained the qualifying age for state pension credit during which the partner was not engaged in part-time employment or the claimant was not entitled to income support; or”;
(bb) in head (b), for the words “the claimant or, as the case may be, his partner attained the age of 60”, substitute “the claimant’s partner attains the qualifying age for state pension credit.”;
(cc) in head (c), for the words “the claimant or, if he is a member of a couple, he or his partner attained the age of 60”, substitute “the claimant’s partner, if he is a member of a couple, attained the qualifying age for state pension credit”.

Amendment of the Jobseeker’s Allowance Regulations 1996

- 30.** In Schedule 2 to the Jobseeker’s Allowance Regulations 1996(26) (housing costs)—

(26) S.I. 1996/207.

- (a) in paragraph 6, in sub-paragraph (3), after the words “income support” insert “or state pension credit”;
- (b) in paragraph 13, at the end, add—
 - “(16) For the purpose of determining whether the linking rules set out in this paragraph apply in a case where a claimant’s former partner was entitled to state pension credit, any reference to income-based jobseeker’s allowance in this Schedule shall be taken to include also a reference to state pension credit.”;
- (c) in paragraph 17, in sub-paragraph (1), for heads (a) and (b), substitute—
 - “(a) in respect of a non-dependant aged 18 or over who is engaged in any remunerative work but is not in receipt of state pension credit, £47.75;
 - (b) in respect of a non-dependant who is engaged in remunerative work and in receipt of state pension credit, £7.40;
 - (c) in respect of a non-dependant aged 18 or over to whom neither head (a) nor head (b) applies, £7.40.”.

Amendment of regulations relating to the social fund

31.—(1) The Social Fund Maternity and Funeral Expenses (General) Regulations 1987(**27**) shall be amended in accordance with paragraph (2).

(2) In both regulation 5(1)(a) and regulation 7(1)(a)(i), after “income support”, insert “state pension credit”.

(3) The Social Fund Cold Weather Payments (General) Regulations 1988(**28**) shall be amended in accordance with paragraphs (4) to (6).

(4) Regulation 1A shall be renumbered paragraph (1) of that regulation.

(5) In the renumbered paragraph (1)—

- (a) after “income support” insert “state pension credit”;
- (b) after sub-paragraph (ia), insert—

“(ib) the person is entitled to state pension credit and is not resident in a care home;”.

(6) After the renumbered paragraph (1), insert—

“(2) In paragraph (1)(ib), the expression “care home” means an establishment which is a care home for the purposes of the Care Standards Act 2000(**29**).”.

(7) In the Social Fund (Recovery by Deductions from Benefits) Regulations 1988(**30**), in regulation 3, after paragraph (a), insert—

“(aa) state pension credit under the State Pension Credit Act 2002(**31**);”.

(27) S.I. 1987/481.

(28) S.I. 1988/1724.

(29) 2000 c. 14; see section 3 of that Act.

(30) S.I. 1988/35.

(31) 2002 c. 16.