
STATUTORY INSTRUMENTS

2003 No. 2274

The State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003

Amendment of the State Pension Credit Regulations 2002

2.—(1) The State Pension Credit Regulations 2002(1) shall be amended in accordance with the following paragraphs.

(2) In regulation 1(2) (definitions) at the appropriate place in the alphabetical order insert—

““adoption leave” means a period of absence from work on ordinary or additional adoption leave in accordance with section 75A or 75B of the Employment Rights Act 1996(2);

“paternity leave” means a period of absence from work on leave in accordance with section 80A or 80B of the Employment Rights Act 1996(3);”.

(3) In regulation 2 (persons not in Great Britain) after paragraph (d) add—

“(e) a person in Great Britain who left the territory of Montserrat after 1st November 1995 because of the effect on that territory of a volcanic eruption.”.

(4) In regulation 3(1)(persons temporarily absent from Great Britain) for “person's”, substitute “claimant's”.

(5) In regulation 5 (persons treated as being or not being members of the same household)—

(a) in paragraph (1)(c)(i) for the words after “under” until the end, substitute “the provisions of the Mental Health Act 1983(4), the Mental Health (Scotland) Act 1984(5), or the Criminal Procedure (Scotland) Act 1995(6); or”;

(b) in paragraph (1)(d) omit the words “either of the circumstances specified in paragraph (2) or in paragraph (3) of”;

(c) for paragraph (1)(f)(7) there shall be substituted the following—

“(f) he is absent from Great Britain—

(i) for more than 8 weeks where he is accompanying a young person solely in connection with arrangements made for the treatment of that person for a disease or bodily or mental disablement, and those arrangements relate to treatment outside Great Britain by, or under the supervision of, a person appropriately qualified to carry out the treatment, during the period whilst he is temporarily absent from Great Britain; or

(ii) for more than 4 weeks in all other cases.”;

(d) after paragraph (2) insert—

(1) S.I.2002/1792.

(2) 1996 c. 18. Sections 75A and 75B were inserted by section 3 of the Employment Act 2002 (c. 22).

(3) Sections 80A and 80B were inserted by section 1 of the Employment Act 2002.

(4) 1983 c. 20.

(5) 1984 c. 36.

(6) 1995 c. 40.

(7) Paragraph (1)(f) was added by regulation 23(c) of S.I. 2002/3019.

“(3) in paragraph (1)(f) “young person” and “appropriately qualified” shall have the meaning given to them in regulation 3(4).”;

(e) omit paragraph (1)(g).

(6) In regulation 10(1)(assessed income period) after sub-paragraph (b) add—

“(c) that—

(i) the Secretary of State has sent the claimant the notification required by regulation 32(6)(a) of the Claims and Payments Regulations; and

(ii) the claimant has not provided sufficient information to enable the Secretary of State to determine whether there will be any variation in the claimant’s retirement provision throughout the period of 12 months beginning with the day following the day on which the previous assessed income period ends.”.

(7) In regulation 15(5)(prescribed income for the purposes of section 15 of the Act)—

(a) at the end of sub-paragraph (f) omit “and”;

(b) at the end of sub-paragraph (g) add—

“(h) any income in lieu of that specified in—

(i) paragraphs (a) to (i) of section 15(1) of the Act, or

(ii) in this regulation;

(i) any payment of rent made to a claimant who—

(i) owns the freehold or leasehold interest in any property or is a tenant of any property;

(ii) occupies part of that property; and

(iii) has an agreement with another person allowing that person to occupy that property on payment of rent.”.

(8) In Schedule I (circumstances in which persons are treated as being severely disabled), in—

(a) paragraph 1(1)(a)(iii); and

(b) paragraph 4(2),

for the words “invalid care allowance” substitute “carer’s allowance”.

(9) In Schedule II (Housing Costs)—

(a) in paragraph 2(7) after “maternity leave” insert “, paternity leave or adoption leave,”;

(b) in paragraph 14(2)—

(i) in paragraphs (a) and (b) for “£88.00” substitute “£92.00”;

(ii) in paragraphs (b) and (c) for “£131.00” substitute “£137.00”;

(iii) in paragraphs (c) and (d) for “£170.00” substitute “£177.00”;

(iv) in paragraphs (d) and (e) for “£225.00” substitute “£235.00”;

(v) in paragraph (e) for “£281.00” substitute “£293.00”.

(10) In Schedule III (Special Groups) in paragraph 1(8) for “6(5)(b)(iv)” substitute “6(5)(b)(v)”.

(11) In Schedule IV (amounts to be disregarded in the calculation of income other than earnings)

(a) in paragraph 1(c) after “widow” insert the words “or widower⁽⁸⁾”;

⁽⁸⁾ Such payments were extended to widowers by the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Amendment Order 2002 (S.I. [2002/792](#)).

- (b) in paragraph 4 after the word “widows” insert the words “or widowers”;
- (c) in paragraph 5 after the word “widows” insert the words “or widowers”;
- (d) in paragraph 6(1)(a) after “widow” insert the words “or widower”;
- (e) in paragraph 6(1)(b) after “widows” insert the words “and widowers”;
- (f) after paragraph 16 add—

“17. Any special war widows payment made under—

- (a) the Naval and Marine Pay and Pensions (Special War Widows Payment) Order 1990 made under section 3 of the Naval and Marine Pay and Pensions Act 1865(9);
- (b) the Royal Warrant dated 19th February 1990 amending the Schedule to the Army Pensions Warrant 1977(10);
- (c) the Queen’s Order dated 26th February 1990 made under section 2 of the Air Force (Constitution) Act 1917(11);
- (d) the Home Guard War Widows Special Payments Regulations 1990 made under section 151 of the Reserve Forces Act 1980(12);
- (e) the Orders dated 19th February 1990 amending Orders made on 12th December 1980 concerning the Ulster Defence Regiment made in each case under section 140 of the Reserve Forces Act 1980(13),

and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under the provisions mentioned in sub-paragraphs (a) to (e) of this paragraph.

18. Except in the case of income from capital specified in Part II of Schedule V, any actual income from capital.”.

(12) In Schedule V, Part I (capital disregarded for the purposes of calculating income)—

(a) after paragraph 1 add—

“1A. The dwelling occupied by the claimant as his home but only one home shall be disregarded under this paragraph.”;

(b) in paragraph 9A(14) omit the words from “for a period” to the end;

(c) in paragraph 13—

- (i) in sub-paragraph (1), for the words “where one of the partners” substitute the words “who is”;
- (ii) in sub-paragraph (1)(a), omit the word “is”;
- (iii) in sub-paragraph (1)(b), immediately before the word “was” insert the words “a diagnosed person’s partner or”;
- (iv) in sub-paragraph (1)(c), omit the word “is”;
- (v) in sub-paragraph (2), after the word “Where” insert the words “a trust payment is made to”;

(9) 1865 c. 73. Copies of the Order are available from the Ministry of Defence, Veterans Agency, Policy Section, Norcross, Blackpool, FY5 3WP.

(10) Army code no. 13045 published by the Stationery Office.

(11) 1917 c. 51. Queen’s Regulations for the Royal Air Force are available from the Stationery Office.

(12) 1980 c. 9. Copies of the Regulations are available from the Ministry of Defence at the address given in footnote (b) above.

(13) Army code no. 60589 published by the Stationery Office.

(14) Paragraph 9A was inserted into the principal regulations by regulation 23(o)(i) of S.I. 2002/3019.

- (vi) in sub-paragraph (2)(a), for the words “sub-paragraph (1)(a) or (b) applies, it” substitute “a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph” and for the words “the partner” substitute “that person”;
- (vii) in sub-paragraph (2)(b), for the words “sub-paragraph (1)(c) applies, it” substitute “a person referred to in sub-paragraph (1)(c), that sub-paragraph”;
- (viii) in sub-paragraph (3), for the words “where one of the partners” substitute the words “who is”;
- (ix) in sub-paragraph (3)(a), omit the word “is”;
- (x) in sub-paragraph (3)(b), immediately before the word “was” insert the words “a diagnosed person’s partner or”;
- (xi) in sub-paragraph (3)(c), omit the word “is”;
- (xii) in sub-paragraph (4), immediately after the word “Where”, insert the words “a payment referred to in sub-paragraph (3) is made to”;
- (xiii) in sub-paragraph (4)(a), for the words “sub-paragraph (3)(a) or (b) applies, it” substitute “a person referred to in sub-paragraph (3)(a) or (b), that sub-paragraph” and for the words “the partner” substitute “that person”;
- (xiv) in sub-paragraph (4)(b), for the words “sub-paragraph (3)(c) applies, it” substitute “a person referred to in sub-paragraph (3)(c), that sub-paragraph”;
- (xv) in sub-paragraph (6), for “Creutzfeld”, wherever it appears, substitute “Creutzfeldt”;
- (d) for paragraph 20(1)(d)**(15)** substitute—
 - “(d) any payment made by a local authority (including in England a county council), or by the National Assembly for Wales, to or on behalf of the claimant or his partner relating to a service which is provided to develop or sustain the capacity of the claimant or his partner to live independently in his accommodation.”;
- (e) in paragraph 20(2)—
 - (i) paragraph (g) shall be omitted;
 - (ii) for paragraph (h) substitute—
 - “an increase of a disablement pension under section 104 of the Contributions and Benefits Act (increase where constant attendance needed), and any further increase of such a pension under section 105 of that Act (increase for exceptionally severe disablement);”;
 - (iii) in paragraph (i) after “severe disablement” insert “or need for constant attendance,”;
 - (iv) paragraph (m)**(16)** shall be omitted;
- (f) for paragraph 20A**(17)** substitute—
 - “**20A.**—(1) Subject to sub-paragraph (3), any payment of £5,000 or more to which paragraph 20(1)(a), (b) or (c) applies, which has been made to rectify, or to compensate for, an official error relating to a relevant benefit and has been received by the claimant in full on or after the day on which he became entitled to benefit under these Regulations.
 - (2) Subject to sub-paragraph (3), the total amount of any payment disregarded under—

(15) Paragraph (d) was added by regulation 23(o)(iii)(aa) of S.I. [2002/3019](#).

(16) Sub-paragraph (m) was inserted by regulation 23(o)(iii)(bb) of S.I. [2002/3019](#).

(17) Paragraph 20A was inserted into the principal regulations by paragraph 12(d) of the Schedule to S.I. [2002/3197](#).

- (a) paragraph 7(2) of Schedule 10 to the Income Support (General) Regulations 1987⁽¹⁸⁾;
- (b) paragraph 12(2) of Schedule 8 to the Jobseeker's Allowance Regulations 1996⁽¹⁹⁾;
- (c) paragraph 8(2) of Schedule 5 or paragraph 21A of Schedule 5ZA to the Housing Benefit (General) Regulations 1987⁽²⁰⁾; or
- (d) paragraph 8(2) of Schedule 5 or paragraph 21A of Schedule 5ZA to the Council Tax Benefit (General) Regulations 1992⁽²¹⁾,

where the award during which the disregard last applied in respect of the relevant sum either terminated immediately before the relevant date or is still in existence at that date.

(3) Any disregard which applies under sub-paragraph (1) or (2) shall have effect until the award comes to an end.

(4) In this paragraph—

“the award”, except in sub-paragraph (2), means—

- (a) the award of State Pension Credit under these Regulations during which the relevant sum or, where it is received in more than one instalment, the first instalment of that sum is received; or
- (b) where that award is followed immediately by one or more further awards which begins immediately after the previous award ends, such further awards until the end of the last award, provided that, for such further awards, the claimant—
 - (i) is the person who received the relevant sum;
 - (ii) is the partner of that person; or
 - (iii) was the partner of that person at the date of his death;

“official error”—

- (a) where the error relates to housing benefit or council tax benefit, has the meaning given by regulation 1(2) of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001⁽²²⁾;

and

- (b) where the error relates to any other relevant benefit, has the meaning given by regulation 1(3) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999;

“the relevant date” means the date on which the claimant became entitled to benefit under the Act;

“relevant benefit” means any benefit specified in paragraph 20(2); and

“the relevant sum” means the total payment referred to in sub-paragraph (1) or, as the case may be, the total amount referred to in sub-paragraph (2).”;

(g) omit paragraph 27.

(13) In Schedule VI (sums disregarded from claimant's earnings) after paragraph 2A⁽²³⁾ add—

⁽¹⁸⁾ S.I. 1987/1967. The relevant amending instrument is S.I. 2002/2380.

⁽¹⁹⁾ S.I. 1996/207. The relevant amending instrument is S.I. 2002/2380.

⁽²⁰⁾ S.I. 1987/1971. The relevant amending instruments are S.I. 2002/2380 and S.I. 2003/325 and S.I. 2275.

⁽²¹⁾ S.I. 1992/1814. The relevant amending instruments are S.I. 2002/2380 and S.I. 2003/325 and S.I. 2275.

⁽²²⁾ S.I. 2001/1002.

⁽²³⁾ Paragraph 2A was inserted by paragraph 13(b) of the Schedule to S.I. 2002/3197.

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“**2B.** Where only one member of a couple is in employment specified in paragraph 2(2), so much of the earnings of the other member of the couple as would not, in aggregate with the earnings disregarded under paragraph 2, exceed £20.”.