
STATUTORY INSTRUMENTS

2016 No. 624

**The Housing Benefit and State Pension Credit
(Temporary Absence) (Amendment) Regulations 2016**

Amendments to the State Pension Credit Regulations 2002

- 4.—(1) The State Pension Credit Regulations 2002^{M1} are amended as follows.
(2) For regulation 3 (persons temporarily absent from Great Britain) substitute—

“Persons temporarily absent from Great Britain

3.—(1) A claimant's entitlement to state pension credit while the claimant is temporarily absent from Great Britain is to continue but for no longer than—

- (a) 4 weeks, provided the absence is not expected to exceed 4 weeks;
- (b) 8 weeks, where paragraph (2) applies; or
- (c) 26 weeks, where paragraph (3) applies,

provided the claimant continues to satisfy the other conditions of entitlement.

(2) This paragraph applies where the absence is not expected to exceed 8 weeks and is in connection with the death of—

- (a) the claimant's partner or a child or qualifying young person normally living with the claimant; or
- (b) a close relative of—
 - (i) the claimant;
 - (ii) the claimant's partner; or
 - (iii) a child or qualifying young person normally living with the claimant,

and the Secretary of State considers that it would be unreasonable to expect the claimant to return to Great Britain within 4 weeks.

(3) This paragraph applies where the absence is not expected to exceed 26 weeks and is solely in connection with—

- (a) the claimant undergoing—
 - (i) treatment for an illness or physical or mental impairment by, or under the supervision of, a qualified practitioner; or
 - (ii) medically approved convalescence or care as a result of treatment for an illness or physical or mental impairment, where the claimant had that illness or impairment before leaving Great Britain; or
- (b) the claimant accompanying his or her partner or a child or qualifying young person normally living with the claimant for treatment or convalescence or care as mentioned in sub-paragraph (a).

(4) In this regulation and in regulation 5—

“medically approved” means certified by a registered medical practitioner;

“qualified practitioner” means a person qualified to provide medical treatment, physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment.”.

- (3) Omit regulation 3A (persons temporarily absent from Great Britain on 6th October 2008).
- (4) Omit regulation 4 (persons receiving treatment outside Great Britain).
- (5) After regulation 3, insert—

“Meaning of “qualifying young person”

4A.—(1) A person who has reached the age of 16 but not the age of 20 is a qualifying young person for the purposes of these Regulations—

- (a) up to, but not including, the 1st September following the person's 16th birthday; and
- (b) up to, but not including, the 1st September following the person's 19th birthday, if the person is enrolled on, or accepted for, approved training or a course of education—
 - (i) which is not a course of advanced education within the meaning of regulation 12(3) of the Universal Credit Regulations 2013 ^{M2};
 - (ii) which is provided at a school or college or provided elsewhere but approved by the Secretary of State for the purposes of regulation 5 of the Universal Credit Regulations 2013; and
 - (iii) where the average time spent during term time in receiving tuition, engaging in practical work or supervised study or taking examinations exceeds 12 hours per week.

(2) Where the young person is aged 19, he or she must have started the education or training or been enrolled on or accepted for it before reaching that age.

(3) The education or training referred to in paragraph (1) does not include education or training provided by means of a contract of employment.

(4) “Approved training” means training in pursuance of arrangements made under section 2(1) of the Employment and Training Act 1973 ^{M3} or section 2(3) of the Enterprise and New Towns (Scotland) Act 1990 ^{M4} which is approved by the Secretary of State for the purposes of regulation 5 of the Universal Credit Regulations 2013.

(5) A person who is receiving universal credit, a contributory employment and support allowance, a contribution-based jobseeker's allowance, an income-related employment and support allowance, an income-based jobseeker's allowance or income support is not a qualifying young person.”.

- (6) In regulation 5 (persons treated as being or not being members of the same household)—
 - (a) in paragraph (1)(d) for “temporary” substitute “ temporarily ”;
 - (b) for paragraph (1)(f), substitute—
 - “(f) except in circumstances where paragraph (1A) applies, he is absent from Great Britain;”;
 - (c) for paragraph (1A), substitute—
 - “(1A) A person is to be treated as being a member of the same household as the claimant while he is absent from Great Britain but for no longer than—
 - (a) 4 weeks, provided the absence is not expected to exceed 4 weeks;
 - (b) 8 weeks, where paragraph (1B) applies; or
 - (c) 26 weeks, where paragraph (1C) applies.

(1B) This paragraph applies where the absence is not expected to exceed 8 weeks and is in connection with the death of—

- (a) a child or qualifying young person normally living with the person; or
- (b) a close relative of—
 - (i) the person;
 - (ii) the person's partner; or
 - (iii) a child or qualifying young person normally living with the person,

and the Secretary of State considers that it would be unreasonable to expect the person to return to Great Britain within 4 weeks.

(1C) This paragraph applies where the absence is not expected to exceed 26 weeks and is solely in connection with—

- (a) the person undergoing—
 - (i) treatment for an illness or physical or mental impairment by, or under the supervision of, a qualified practitioner; or
 - (ii) medically approved convalescence or care as a result of treatment for an illness or physical or mental impairment, where the person had that illness or impairment before leaving Great Britain; or
- (b) the person accompanying his partner or a child or qualifying young person normally living with the person for treatment or convalescence or care as mentioned in sub-paragraph (a).”.

(7) In paragraph 2(2)(f) of Schedule I (circumstances in which persons are treated as being or not being severely disabled) after “qualifying young person” insert “ within the meaning of regulation 4A ” and for “for the purposes of Part IX of the 1992 Act” substitute “ as defined in section 40 of the 2012 Act ”.

(8) In paragraph 1(8) of Schedule III (special groups), after “In regulations” insert “ 3, ”.

(9) In Schedule V (income from capital)—

- (a) in paragraph 6(2)(c) after “qualifying young person” insert “ within the meaning of regulation 4A ” and for “for the purposes of Part IX of the 1992 Act” substitute “ as defined in section 40 of the 2012 Act ”;
- (b) in paragraph 15(8) in the definition of “child”, after “qualifying young person” insert “ within the meaning of regulation 4A ” and for “for the purposes of Part IX of the Contributions and Benefits Act (child benefit)” substitute “ as defined in section 40 of the 2012 Act ”.

(10) In paragraph 1(2)(b) of Schedule VI (sums disregarded from claimant's earnings), after “qualifying young person” insert “ within the meaning of regulation 4A ” and for “for the purposes of Part IX of the 1992 Act” substitute “ as defined in section 40 of the 2012 Act ”.

Marginal Citations

- M1** [S.I. 2002/1792](#). Relevant amendments were made by [S.I. 2002/3019](#), [2003/2274](#), [2006/718](#) and [2378](#) and [2008/2424](#) and [2767](#).
- M2** [S.I. 2013/376](#).
- M3** [1973 c.50](#). Section 2 of the Act was substituted by section 25(1) of the [Employment Act 1989 \(c.19\)](#).
- M4** [1990 c.35](#). Section 2(3) of the Act was amended by section 47(4)(a) of, and paragraph 1 of Schedule 10 to, the [Trade Union Reform and Employment Rights Act 1993 \(c.19\)](#).

Changes to legislation:

There are currently no known outstanding effects for the The Housing Benefit and State Pension Credit (Temporary Absence) (Amendment) Regulations 2016, Section 4.