STATUTORY RULES OF NORTHERN IRELAND

2020 No. 119

SOCIAL SECURITY

The Universal Credit (Persons who have attained state pension credit qualifying age) (Amendment) Regulations (Northern Ireland) 2020

Made - - - -	*25th June 2020*
Laid before Parliament	*29th June 2020*
Coming into operation	*25th November 2020*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 122(1)(d), 132(1), (3) and (4)(b), 133(1) and (2)(l) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 [F1], sections 5(1)(m), 165(1) and (4) and 167(1) of the Social Security Administration (Northern Ireland) Act 1992 [F2], Articles 2(2), 11(6) and 74(1) and (3) of the Social Security (Northern Ireland) Order 1998 [F3], paragraphs 4(5), 20(1)(b) and 23(1) of Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 [F4], sections 5, 15(1)(e), (3) and (6)(b), 17(1) and (2)(a) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002 [F5] and Articles 5, 48(1) and (2)(a) of, and paragraphs 1 and 4(1)(a) of Schedule 6 to, the Welfare Reform (Northern Ireland) Order 2015 [F6].

Those powers are exercisable by the Secretary of State by virtue of Article 4(1) of the Welfare Reform (Northern Ireland) Order 2015 [F7].

F1 1992 c. 7. Section 133(1) is cited for the meaning of "prescribed". Section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21).

F2 1992 c. 8. Section 165(1) was amended by S.I. 1999/671 and by section 18(5) of the National Insurance Contributions Act 2014 (c. 7). Section 167(1) is cited for the meaning of "prescribed", which definition was inserted by paragraph 5 of Schedule 5 to the Welfare Reform Act (Northern Ireland) 2007 (c. 2), and of "regulations".

F3 S.I. 1998/1506 (N.I. 10). Article 2(2) is cited for the meaning of "prescribe". Article 74(1) was amended by paragraph 17(2) of Schedule 4 to the Tax Credits Act 2002.

F4 2000 c. 4 (N.I.). Paragraph 23(1) of Schedule 7 is cited for the meaning of "prescribed".

F5 2002 c. 14 (N.I.). Section 5 was amended by paragraph 148 of Schedule 24 to the Civil Partnership Act 2004 (c. 33). Section 17(1) is cited for the meaning of "prescribed" and "regulations".

F6 S.I. 2015/2006 (N.I. 1). Article 5 is cited for the meaning of "regulations".

F7 Article 4(1) was amended by Article 4(2)(a) of the Welfare Reform and Work (Northern Ireland) Order 2016 (S.I. 2016/999 (N.I. 1). Functions under or for the purposes of the Social Security Contributions

and Benefits (Northern Ireland) Act 1992, the Social Security Administration (Northern Ireland) Act 1992 and the Social Security (Northern Ireland) Order 1998 are vested in the Department for Communities by virtue of Article 8(b) of S.R. 1999 No. 481 and section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.)).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Universal Credit (Persons who have attained state pension credit qualifying age) (Amendment) Regulations (Northern Ireland) 2020.

(2) These Regulations come into operation on 25th November 2020.

(3) The Interpretation Act (Northern Ireland) 1954 [F8] shall apply to these Regulations as it applies to an Act of the Assembly.

F8 1954 c. 33 (N.I.).

Amendment of the State Pension Credit Regulations (Northern Ireland) 2003

2.—(1) The State Pension Credit Regulations (Northern Ireland) 2003 [F9] are amended as follows.

(2) In regulation 5 (persons treated as being or not being members of the same household) [F10]—

(a) in paragraph (2), for "paragraph (1)" substitute " paragraphs (1) and (5) ";

(b) after paragraph (2), add—

"(3) Paragraph (5) applies where a claimant ("C"), who has attained the qualifying age, would otherwise not be entitled to either state pension credit or universal credit, because—

(a) but for that paragraph, C would be a member of the same household as a partner who has not attained the qualifying age and therefore a member of a mixed-age couple excluded from state pension credit by virtue of section 4(1A) of the Act, and

(b) C is neither entitled to universal credit jointly with that partner, nor entitled to universal credit as a single person, in one of the cases set out in paragraph (4).

(4) The cases are where C is not entitled to universal credit because C has attained the qualifying age and—

(a) any of the following paragraphs of regulation 3 of the Universal Credit Regulations (Northern Ireland) 2016 [F11] (couples) applies, and in the case of paragraph (ii) below, one of the following circumstances applies—

(i) paragraph (2) (treatment of certain couples – universal credit may only be claimed as a single person);

(ii) paragraph (3) (treatment of polygamous marriages), so that C is not entitled to universal credit because C may only claim universal credit either as one of two parties to a polygamous marriage to be treated as a couple where the other party has also attained the qualifying age, or as a remaining party to such a marriage to be treated as single;

(iii) paragraph (5) (absence from the household – universal credit may only be claimed as a single person); or

(b) C lost joint entitlement to universal credit as part of a mixed-age couple due to one of the following changes of circumstances taking effect from a date (namely the first day of the universal credit assessment period in which

the change occurred) that is earlier than when, but for paragraph (5), the same change would take effect for the purposes of state pension credit, those changes being where—

(i) C and their partner are no longer a couple; or

(ii) C is party to a marriage that is no longer polygamous and C's remaining spouse has attained the qualifying age.

(5) Where this paragraph applies—

(a) C and their partner, who are to be treated as a non-polygamous couple in accordance with sub-paragraph (a)(ii) of paragraph (4), or who are no longer parties to a polygamous marriage in accordance with sub-paragraph (b)(ii), are to be treated as members of the same household as each other but not of that of any party (or parties) with whom they are not part of a couple in accordance with those provisions; or

(b) C, who is to be treated as single in accordance with sub-paragraph (a)(i) to (iii) of paragraph (4), or is single in accordance with sub-paragraph (b)(i), is to be treated as though C is not a member of the same household as any party (or parties) with whom C is not part of a couple in accordance with those provisions,

where paragraph (4)(a) applies, with effect from the date on which the relevant paragraph of regulation 3 of the Universal Credit Regulations (Northern Ireland) 2016 first applies to C, or, where paragraph (4)(b) applies, with effect from the date referred to in paragraph (4)(b) on which C lost entitlement to universal credit.

(6) In this regulation—

(a) in relation to universal credit entitlement, "assessment period" has the meaning prescribed by regulation 22 of the Universal Credit Regulations (Northern Ireland) 2016;

(b) "mixed-age", in respect of a couple or a marriage, means where one member has attained the qualifying age and the other has not;

(c) the definition in sub-paragraph (b) includes a polygamous marriage where at least one party to the marriage has attained the qualifying age and at least one has not; and

(d) "polygamous marriage" means a marriage during which a party to it is married to more than one person and which took place under the laws of a country that permits polygamy.".

(3) In regulation 15(1) (income for the purposes of the Act) [F12], before sub-paragraph (a) insert—

"(za) universal credit;".

F9 S.R. 2003 No. 28.

F10 Paragraph (3) of regulation 5 was omitted by regulation 3(3)(b) of S.R. 2008 No. 410 and the regulation was modified by S.R. 2020 No. 63. There have been other amendments that are not relevant here.

F11 S.R. 2016 No. 216.

F12 Regulation 15(1) was amended by S.R. 2012 No. 121, **S.I**. 2013/3021, S.R. 2015 No. 146, S.R. 2016 No. 228, S.R. 2017 No. 66, S.R. 2018 No. 192, S.R. 2019 No. 23 and S.I. 2019/1060.

Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006

3. In regulation 27 (meaning of "income") of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006 [F13], before head (i) of paragraph (1)(h) insert—

"(zi) universal credit;".

F13 S.R. 2006 No. 406.

Amendment of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016

4. In regulation 42 (payment of universal credit) of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016 [F14], omit paragraph (7).

F14 S.R. 2016 No. 220.

Amendment of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations (Northern Ireland) 2016

5. In Schedule 1 (effective dates for superseding decisions made on the ground of a change of circumstances) to the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations (Northern Ireland) 2016 [F15], for paragraph 26 substitute—

"**26.** Where, in any assessment period, a claimant reaches the qualifying age for state pension credit under the State Pension Credit Act (Northern Ireland) 2002, where claiming as a single person, or as a member of a couple to whom regulation 3(1)(a) of the Universal Credit Regulations applies, a superseding decision made in consequence of the person reaching that age takes effect on the first day of the assessment period following that in which the change of circumstances occurs or is expected to occur.".

F15 S.R. 2016 No. 221.

Amendment of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016

6.—(1) The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 [F16] are amended as follows.

(2) In regulation 2(1) (interpretation), at the appropriate places insert—

""the Decisions and Appeals Regulations" means the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations (Northern Ireland) 2016;";

""qualifying age for state pension credit" has the meaning given by section 1(6) of the State Pension Credit Act (Northern Ireland) 2002;"; and

""state pension credit" means state pension credit under the State Pension Credit Act (Northern Ireland) 2002;".

(3) In regulation 3 (exclusion of entitlement to certain benefits) [F17]—

(a) in paragraph (1)(d) omit "under the State Pension Credit Act (Northern Ireland) 2002";

(b) in paragraph (2)(a), at the end omit "or";

(c) in paragraph (2)(b)(ii)—

(i) after "regulation 5(5)(b)" insert " or (c) ";

(ii) at the end omit "or";

(d) at the end of paragraph (2)(b)(iii) add—

"; or

(iv) state pension credit, where an award to which the new claimant partner is entitled terminates after the first date of entitlement to universal credit; or

(c) during the last assessment period for universal credit, where the claimant reaches the qualifying age for state pension credit and paragraph 26 of Schedule 1 to the Decisions and Appeals Regulations applies, to housing benefit or state pension credit from the date the claimant reaches that age.".

(4) In regulation 4 (exclusion of claims for certain existing benefits) [F18], after paragraph (8) insert—

"(8A) A universal credit claimant is not precluded from making a claim for housing benefit under the Housing Benefit (State Pension Credit) Regulations during the last assessment period for universal credit, where the claimant reaches the qualifying age for state pension credit and paragraph 26 of Schedule 1 to the Decisions and Appeals Regulations applies, in respect of entitlement arising from the date the claimant reaches that age.".

(5) In regulation 5(5) (termination of awards of certain existing benefits: new claimant partners) [F19]—

(a) at the end of sub-paragraph (a) omit "or";

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

"; or

(c) the new claimant partner has reached the qualifying age for state pension credit and the award is made in accordance with the Housing Benefit (State Pension Credit) Regulations.".

F16 S.R. 2016 No. 226.
F17 Regulation 3 was amended by S.R. 2018 No. 92 and 2019 No. 152.
F18 Regulation 4 was amended by S.R. 2018 No. 92.
F19 Regulation 5 was amended by S.R. 2018 No. 92.

Amendment of the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 13 and Savings and Transitional Provisions and Commencement No. 8 and Transitional Provisions (Amendment)) Order 2019

7.—(1) The Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 13 and Savings and Transitional Provisions and Commencement No. 8 and Transitional Provisions (Amendment) Order 2019 [F20] is amended as follows.

(2) In Article 2 (interpretation)—