STATUTORY RULES OF NORTHERN IRELAND

2003 No. 421

SOCIAL SECURITY

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

Made - - - -	*24th September 2003*
Coming into operation	*6th October 2003*

The Department for Social Development, in exercise of the powers conferred on it by sections 5(1)(h), (hh) and (2A) and 165(1), (4)(a) and (6) of the Social Security Administration (Northern Ireland) Act 1992(**1**), Articles 11(3) and (6) and 74(1) of the Social Security (Northern Ireland) Order 1998(**2**), section 115(3) and (4) of the Immigration and Asylum Act 1999(**3**) and sections 1(5), 2(6), 12(2) and (3), 13(1), 15(1)(e) and (j), 15(2), (4), (6)(b) and (d) and 17(2)(a) of the State Pension Credit Act (Northern Ireland) 2002(**4**), and now vested in it(**5**), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the State Pension Credit (Transitional and Miscellaneous Provisions) (Amendment) Regulations (Northern Ireland) 2003 and shall come into operation on 6th October 2003 immediately after the coming into operation of the State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations (Northern Ireland) 2003(**6**);

(2) The Interpretation Act (Northern Ireland) 1954(**7**) shall apply to these Regulations as it applies to an Act of the Assembly.

(**1**) 1992 c. 8; section 5(l)(hh) was inserted by Article 70 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and amended by paragraph 21 of Schedule 7 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4) and section (2A) was inserted by paragraph 3(b) of Schedule 1 to, the State Pension Credit Act (Northern Ireland) 2002 (c. 14)
(**2**) S.I. 1998/1506 (N.I. 10); Article 74(1) was amended by paragraph 17(2) of Schedule 4 to, the Tax Credits Act 2002 (c. 21)
(**3**) 1999 c. 33
(**4**) 2002 c. 14
(**5**) *See* Article 8(b) of S.R. 1999 No. 481
(**6**) S.R. 2003 No. 191
(**7**) 1954 c. 33 (N.I.)

Amendment of the State Pension Credit Regulations

2.—(1) The State Pension Credit Regulations (Northern Ireland) 2003(**8**) shall be amended in accordance with paragraphs (2) to (12).

(2) In regulation 1(2) (interpretation) at the appropriate place in the alphabetical order there shall be inserted the following definitions –

(a) after the definition of "the 1972 Order" there shall be inserted the following definition –

""adoption leave" means a period of absence from work on ordinary or additional adoption leave in accordance with Article 107A or 107B of the Employment Rights (Northern Ireland) Order 1996(**9**);";

(b) after the definition of "nursing home" there shall be inserted the following definition –

""paternity leave" means a period of absence from work on leave in accordance with Article 112A or 112B of the Employment Rights (Northern Ireland) Order 1996(**10**);".

(3) In regulation 2 (persons not in Northern Ireland) after paragraph (d) there shall be added the following paragraph –

"(e) a person in Northern Ireland 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 Northern Ireland) for "person's" there shall be substituted "claimant's".

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

(a) in paragraph (1) –

(i) in sub-paragraph (d) "either the circumstances specified in paragraph (2) or (3) of" shall be omitted;

(ii) for sub-paragraph (f) there shall be substituted the following sub-paragraph –

"(f) he is absent from Northern Ireland –

(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 Northern Ireland by, or under the supervision of, a person appropriately qualified to carry out the treatment, during the period whilst he is temporarily absent from Northern Ireland, or

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

(iii) sub-paragraph (g) shall be omitted.

(b) after paragraph (2) there shall be inserted the following paragraph –

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

(6) In regulation 10(1) (assessed income period) after sub-paragraph (b) there shall be added the following sub-paragraph –

"(c) that –

(**8**) S.R. 2003 No. 28

(**9**) S.I.1996/1919 (N.I. 16); Articles 107A and 107B were inserted by Article 3 of the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2))

(**10**) Articles 112A and 112B were inserted by Article 4 of the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2))

(i) the Department 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 Department 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) (income for the purposes of the Act) –

(a) at the end of sub-paragraph (f) for ", and" there shall be substituted ";";

(b) at the end of sub-paragraph (g) there shall be added the following sub-paragraphs –

"(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 regulation 17 (calculation of weekly income) –

(a) at the beginning of paragraph (10), there shall be inserted "Subject to regulation 17B(6)(**11**),"; and

(b) after paragraph (10), there shall be added the following paragraph –

"(11) In the case of the earnings of self-employed earners, the amounts specified in paragraph (10) shall be taken into account in accordance with paragraph (4) or, as the case may be, paragraph (10) of regulation 13 of the Computation of Earnings Regulations, as having effect in the case of state pension credit.".

(9) In Schedule 2 (Housing Costs) –

(a) in paragraph 2(7) after "maternity leave" there shall be inserted ", paternity leave or adoption leave,";

(b) in paragraph 14(2) –

(i) in heads (a) and (b) for "£88·00" there shall be substituted "£92·00";

(ii) in heads (b) and (c) for "£131·00" there shall be substituted "£137·00";

(iii) in heads (c) and (d) for "£170·00" there shall be substituted "£177·00";

(iv) in heads (d) and (e) for "£225·00" there shall be substituted "£235·00", and

(v) in head (e) for "£281·00" there shall be substituted "£293·00".

(10) In Schedule 4 (amounts to be disregarded in the calculation of income other than earnings) –

(a) in paragraph 1(c) after "widow" there shall be inserted "or widower(**12**)";

(b) in paragraph 4 after the word "widows" there shall be inserted "or widowers";

(c) in paragraph 5 after the word "widows" there shall be inserted "or widowers";

(d) in paragraph 6(1)(a) after "widow" there shall be inserted "or widower";

(**11**) Regulation 17B was inserted by regulation 5 of S.I. 2003/2175

(**12**) 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)

(e) in paragraph 6(1)(b) after "widows" there shall be inserted "and widowers";

(f) after paragraph 16 there shall be added the following paragraphs –

"**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(**13**);

(b) the Royal Warrant dated 19th February 1990 amending the Schedule to the Army Pensions Warrant 1977(**14**);

(c) the Queen's Order dated 26th February 1990 made under section 2 of the Air Force (Constitution) Act 1917(**15**);

(d) the Home Guard War Widows Special Payments Regulations 1990 made under section 151 of the Reserve Forces Act 1980(**16**);

(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(**17**),

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).

18. Except in the case of income from capital specified in Part II of Schedule 5, any actual income from capital.".

(11) In Schedule 5 (income from capital) –

(a) after paragraph 1 there shall be added the following paragraph –

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

(b) in paragraph 9A(**18**) from "for a period" to the end shall be omitted;

(c) in paragraph 13 –

(i) in sub-paragraph (1), for "where one of the partners" there shall be substituted "who is";

(ii) in sub-paragraph (1)(a), "is" shall be omitted;

(iii) in sub-paragraph (1)(b), immediately before "was" there shall be inserted "a diagnosed person's partner or";

(iv) in sub-paragraph (1)(c), "is" shall be omitted;

(v) in sub-paragraph (2), after "Where" there shall be inserted "a trust payment is made to";

(vi) in sub-paragraph (2)(a), for "sub-paragraph (1)(a) or (b) applies, it" there shall be substituted "a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph" and for "the partner" there shall be substituted "that person";

(vii) in sub-paragraph (2)(b), for "sub-paragraph (1)(c) applies, it" there shall be substituted "a person referred to in sub-paragraph (1)(c), that sub-paragraph";

(**13**) 1865 c. 73; Copies of the Order are available from the Ministry of Defence, Veterans Agency, Policy Section, Norcross, Blackpool, FY5 3WP
(**14**) Army Code No. 13045 published by the Stationery Office
(**15**) 1917 c. 51; Queen's regulations for the Royal Air Force are available from the Stationery Office
(**16**) 1980 c. 9; Copies of the Regulations are available from Ministry of Defence, Veterans Agency, Policy Section, Norcross, Blackpool, FY5 3WP
(**17**) Army Code No. 60589 published by the Stationery Office
(**18**) Paragraph 9A was inserted by regulation 23(9)(a) of S.R. 2003 No. 191

(viii) in sub-paragraph (3), for "where one of the partners" there shall be substituted "who is";

(ix) in sub-paragraph (3)(a), "is" shall be omitted;

(x) in sub-paragraph (3)(b), immediately before "was" there shall be inserted "a diagnosed person's partner or";

(xi) in sub-paragraph (3)(c), "is" shall be omitted;

(xii) in sub-paragraph (4), immediately after "Where" there shall be inserted "a payment referred to in sub-paragraph (3) is made to";

(xiii) in sub-paragraph (4)(a), for "sub-paragraph (3)(a) or (b) applies, it" there shall be substituted "a person referred to in sub-paragraph (3)(a) or (b), that sub-paragraph" and for "the partner" there shall be substituted "that person";

(xiv) in sub-paragraph (4)(b), for "sub-paragraph (3)(c) applies, it" there shall be substituted "a person referred to in sub-paragraph (3)(c), that sub-paragraph";

(xv) in sub-paragraph (6), for "Creutzfeld", in each place where it appears, there shall be substituted "Creutzfeldt";

(d) in paragraph 20(1), for head (d) there shall be substituted the following head –

"(d) by way of any payment made by the Northern Ireland Housing Executive 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) head (g) shall be omitted;

(ii) for head (h) there shall be substituted the following head –

"(h) 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 head (i) after "severe disablement" there shall be inserted "or need for constant attendance,";

(iv) head (m) shall be omitted;

(f) for paragraph 20A(**19**) there shall be substituted the following paragraph –

"**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 –

(a) paragraph 7(2) of Schedule 10 to the Income Support Regulations(**20**);

(b) paragraph 12(2) of Schedule 7 to the Jobseeker's Allowance Regulations(**21**), or

(**19**) Paragraph 20A was inserted by regulation 23(9)(b) of S.R. 2003 No. 191
(**20**) Paragraph 7(2) was inserted by regulation 2(b) of S.R. 2002 No. 295
(**21**) Paragraph 12(2) was inserted by regulation 4 of S.R. 2002 No. 295