STATUTORY RULES OF NORTHERN IRELAND

2003 No. 191

SOCIAL SECURITY

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

Made - - - -	*24th March 2003*
Coming into operation	
for the purpose of Parts I, II, III and VI	*7th April 2003*
for all other purposes	*6th October 2003*

The Department for Social Development, in exercise of the powers conferred by sections 134(1)(a) and 171(3) to (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), sections 5(1)(a) to (e), (g), (h), (hh), (j), (k), (m), (q), (t), 5(2A), 5A(**2**), 13A, 69(8), 72(1) and (2), 139B(1)(**3**), 165(4) to (6) of the Social Security Administration (Northern Ireland) Act 1992(**4**), Articles 28(1) and (4)(a) of the Jobseeker's (Northern Ireland) Order 1995(**5**), Articles 4(1) and (5)(a) and 19(1) of the Child Support (Northern Ireland) Order 1995(**6**), Articles 11(3) and (6), 18(1) and 74(3)(**7**) of the Social Security (Northern Ireland) Order 1998(**8**) and now vested in it(**9**), and sections 1(5)(b), 2(3)(b) and (6), 3(5), 7(4), 12(2), 13, 15(1)(j), (3), (6)(a) and (b), 17(2)(a) and 19(2) of, and paragraph 13 of Schedule 1 to, the State Pension Credit Act (Northern Ireland) 2002(**10**), and of all other powers enabling it in that behalf, by this statutory rule, which contains only regulations made by virtue of, or consequential upon, provisions of the State Pension Credit Act (Northern Ireland) 2002 and which is made before the end of the period of six months beginning with the operation of those provisions(**11**), hereby makes the following Regulations:

(**1**) 1992 c. 7
(**2**) Section 5A was inserted by Article 68 of the Welfare Reform and Pensions (NI) Order 1999, (S.I. 1999/3147 (N.I. 11))
(**3**) Section 139B(1) was inserted by paragraph 15 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002
(**4**) 1992 c. 8; section 13A was inserted by paragraph 1 of the Schedule to, the Social Security (Mortgage Interest Payments) (Northern Ireland) Order 1992 (S.I.1992/1309 (N.I. 9)) and is applied to state pension credit by subsections (1A) and (2)(aa) of that section, inserted by paragraph 9 of Schedule 2 to, the State Pension Credit Act (Northern Ireland) 2002. Section 165(6) was amended by paragraph 86 of Schedule 6 to, the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10))
(**5**) 1995 No. 2705 (N.I. 15)
(**6**) 1995 No. 2702 (N.I. 13)
(**7**) Chapter II of Part II is applied to State Pension Credit by Article 9(3)(bb) and (4) as inserted and amended by paragraph 6 of Schedule 1 to the State Pension Credit Act (N.I.) 2002
(**8**) S.I. 1998/1506 (N.I. 10)
(**9**) *See* Article 8(b) of S.R. 1999 No. 481
(**10**) 2002 c. 14 (N.I.)
(**11**) *See* section 150(5)(b) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations (Northern Ireland) 2003.

(2) These Regulations shall come into operation –

(a) for the purposes of this Part and Parts II, III and VI on 7th April 2003;

(b) for all other purposes on 6th October 2003.

(3) In these Regulations –

"the Act" means the State Pension Credit Act (Northern Ireland) 2002;

"the Administration Act" means the Social Security Administration (Northern Ireland) Act 1992;

"the 1998 Order" means the Social Security (Northern Ireland) Order 1998;

"the appointed day" means the day appointed under section 13(3) of the Act;

"the Claims and Payments Regulations" means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**12**);

"the Decisions and Appeals Regulations" means the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(**13**);

"the State Pension Credit Regulations" means the State Pension Credit Regulations (Northern Ireland) 2003.

(4) The Interpretation Act (Northern Ireland) 1954(**14**) shall apply to these Regulations as it applies to an Act of the Assembly.

PART II

AMENDMENTS TO THE CLAIMS AND PAYMENTS REGULATIONS

Interpretation of Part II

2. The Claims and Payments Regulations shall be amended in accordance with regulations 3 to 14 of this Part. In this Part any reference to a regulation or a Schedule is to the regulation or Schedule bearing that number in the Claims and Payments Regulations.

Amendment of regulation 2

3. In regulation 2 (interpretation) –

(a) in paragraph (1) –

(**12**) S.R. 1987 No. 465; relevant amending rules are S.R. 1988 Nos. 141 and 369, S.R. 1989 No. 398, S.R. 1990 No. 398, S.R. 1991 No. 488, S.R. 1992 Nos. 7, 271 and 453, S.R. 1993 Nos. 146 and 149, S.R. 1994 Nos. 345 and 456, S.R. 1995 Nos. 301 and 367, S.R. 1996 Nos. 354 and 432, S.R. 1997 Nos. 165 and 435, S.I. 1999/3147 (N.I. 11), S.R. 1999 Nos. 428 (C. 32) and 472(C. 36), S.R. 2000 No. 215, S.R. 2001 Nos. 22, 78, 108 and 175 and S.R. 2002 No. 132

(**13**) S.R. 1999 No. 162; relevant amending regulations are S.R. 1999 Nos. 267, 408 and 472, S.R. 2000 Nos. 215 and 365, S.R. 2001 Nos. 23 and 176 and S.R. 2002 Nos. 67 and 80

(**14**) 1954 c. 33 (N.I.)

(i) after the definition of "the 1998 Order" there shall be inserted the following definition –

""the 2002 Act" means the State Pension Credit Act (Northern Ireland) 2002;

"advance period" means the period specified in regulation 4D(2);";

(ii) in the definition of "benefit" after "under the Order" there shall be inserted ", state pension credit under the 2002 Act";

(iii) after the definition of "employment officer" there shall be inserted the following definition –

""guarantee credit" is to be construed in accordance with sections 1 and 2 of the 2002 Act;";

(iv) after the definition of "personal pension scheme"(**15**) there shall be inserted the following definition –

""qualifying age" has the same meaning as in section 1(6) of the 2002 Act;";

(v) after the definition of "retirement annuity contract"(**16**) there shall be inserted the following definition –

""state pension credit" means state pension credit under the 2002 Act;

"State Pension Credit Regulations" means the State Pension Credit Regulations (Northern Ireland) 2003(**17**);"; and

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

"(2A) In these Regulations, references to "beneficiary" include any person entitled to state pension credit.".

Claims for state pension credit

4.—(1) In regulation 4 (making a claim for benefit), after paragraph (9), there shall be added the following paragraph –

"(10) This regulation shall not apply to a claim for state pension credit.".

(2) In regulation 4B(1)(b)(**18**) (forwarding claims and information), after "applies" there shall be inserted "or for state pension credit.".

(3) After regulation 4B there shall be inserted the following regulations –

"**Making a claim for state pension credit**

4C.—(1) A claim for state pension credit need only be made in writing if the Department so directs in any particular case.

(2) A claim shall be made in writing either –

(a) by completing and returning in accordance with the instructions printed on it a form approved or provided by the Department for the purpose; or

(b) in such other written form as the Department accepts as sufficient in the circumstances of the case.

(3) A claim for state pension credit may be made in writing whether or not a direction is issued under paragraph (1) and may also be made by telephone to, or in person at, an

(**15**) The definition of "personal pension scheme" was inserted by regulation 5(2) of S.R. 1995 No. 367
(**16**) The definition of "retirement annuity contract" was inserted by regulation 5(2) of S.R. 1995 No. 367
(**17**) S.R. 2003 No. 28
(**18**) Regulation 4B was inserted by regulation 3 of S.R. 2001 No. 175

appropriate office or other office designated by the Department for accepting claims for state pension credit.

(4) A claim made in writing may also be made at an office of –

(a) the Northern Ireland Housing Executive or the Department of Finance and Personnel administering housing benefit;

(b) a person providing services to either the Northern Ireland Housing Executive or the office of the Department of Finance and Personnel administering housing benefit; or

(c) a person authorised to exercise any function of an office of the Northern Ireland Housing Executive or the Department of Finance and Personnel relating to housing benefit.

(5) Any claim made in accordance with paragraph (4), together with any information and evidence supplied in connection with making the claim, shall be forwarded as soon as reasonably practicable to the Department by the person who received the claim.

(6) A claim for state pension credit made in person or by telephone is not a valid claim unless a written statement of the claimant's circumstances, provided for the purpose by the Department, is approved by the person making the claim.

(7) A married or unmarried couple may agree between them as to which partner shall make a claim for state pension credit, but in the absence of an agreement, the Department shall decide which of them is to make the claim.

(8) Where one member of a married or unmarried couple ("the former claimant") is entitled to state pension credit under an award but a claim for state pension credit is made by the other member of the couple, then, if both members of the couple confirm in writing that they wish the claimant to be the other member, the former claimant's entitlement shall terminate on the last day of the benefit week specified in paragraph (9).

(9) That benefit week is the benefit week of the former claimant which includes the day immediately preceding the day on which the partner's claim is actually made or, if earlier, is treated as made.

(10) If a claim for state pension credit is defective when first received, the Department shall provide the person making it with an opportunity to correct the defect.

(11) If that person corrects the defect so that the claim then satisfies the requirements of paragraph (2) and does so within one month of the date the Department last drew attention to the defect, the claim shall be treated as having been properly made on the date –

(a) the defective claim was first received by the Department or the person acting on its behalf, or

(b) if regulation 4E(3) applies, the person informed an appropriate office of his intention to claim state pension credit.

(12) Paragraph (11) does not apply in a case to which regulation 4D(3) applies.

(13) State pension credit is a relevant benefit for the purposes of section 5A of the Social Security Administration (Northern Ireland) Act 1992(**19**).

Making a claim before attaining the qualifying age

4D.—(1) A claim for state pension credit may be made, and any claim made may be determined, at any time within the advance period.

(**19**) Section 5A was inserted by Article 68 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))

(2) The advance period begins on the date which falls 4 months before the day on which the claimant attains the qualifying age and ends on the day before he attains that age.

(3) A person who makes a claim within the advance period which is defective may correct the defect at any time before the end of the advance period.

Making a claim after attaining the qualifying age: date of claim

4E.—(1) This regulation applies in the case of a person who claims state pension credit on or after attaining the qualifying age.

(2) The date on which a claim is made shall, subject to paragraph (3), be –

(a) where the claim is made in writing and is not defective, the date on which the claim is first received –

(i) by the Department or the person acting on its behalf, or

(ii) in a case to which regulation 4C(4) applies, in the office of a person specified therein;

(b) where the claim is not made in writing but is otherwise made in accordance with regulation 4C(3) and is not defective, the date the claimant provides details of his circumstances by telephone to, or in person at, the appropriate office or other office designated by the Department to accept claims for state pension credit, or

(c) where a claim is initially defective but the defect is corrected under regulation 4C(11), the date the claim is treated as having been made under that regulation.

(3) If a claimant –

(a) informs an appropriate office of his intention to claim state pension credit; and

(b) subsequently makes the claim in accordance with regulation 4C within one month of complying with sub-paragraph (a), or within such longer period as the Department may allow,

the claim may, where in the circumstances of the particular case it is appropriate to do so, be treated as made on the day on which the claimant first informed the appropriate office of his intention to claim state pension credit.".

Evidence and information

5. In regulation 7 (evidence and information) –

(a) after paragraph (1), there shall be inserted the following paragraphs –

"(1A) A claimant shall furnish such information and evidence as the Department may require as to the likelihood of future changes in his circumstances which is needed to determine –

(a) whether a period should be specified as an assessed income period under section 6 of the 2002 Act in relation to any decision; and

(b) if so, the length of the period to be so specified.

(1B) The information and evidence required under paragraph (1A) shall be furnished within one month of the Department notifying the claimant of the requirement, or within such longer period as the Department considers reasonable in the claimant's case.

(1C) In the case of a claimant making a claim for state pension credit in the advance period, time begins to run for the purposes of paragraphs (1) and (1B) from the day following the end of that period."; and