

Chapter 80 - Transitional provisions

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Chapter 80 - Transitional provisions

General

Scope of this Chapter

- 80001 This Chapter contains guidance on transitional provisions¹ for SPC. SPC replaces IS for claimants who have reached the qualifying age of 60² (see DMG 77032) on or before the appointed day.

1 SPC Act 02, s 13; 2 s 1

Meaning of the appointed day

- 80002 The appointed day means such day as the Secretary of State may appoint¹. The appointed day is 6.10.03.

1 SPC Cql Regs, reg 1(3) & SPC Act 02, s 13(3)

When do transitional provisions apply

- 80003 Transitional provisions apply to
1. a person who
 - 1.1 is entitled to IS immediately before 6.10.03 **and**
 - 1.2 reaches or has reached the qualifying age of 60 on or before 6.10.03¹(see DMG 80011 et seq)
 2. claims for SPC made before 6.10.03 and certain claims made within the period of 12 months beginning on that day² (see DMG 80051 et seq)
 3. the AIP if SPC is awarded from 6.10.03³ (see DMG 80071 et seq).

1 SPC Cql Regs, reg 36(1); 2 reg 38(1) & 38(4); 3 reg 37

Meaning of transferee

- 80004 In this Chapter, transferee¹ means any person who is entitled to IS immediately before 6.10.03 and who reaches or has reached the qualifying age of 60 on or before 6.10.03. A transferee is a person who transfers from IS to SPC.

1 reg 36(1)

Note: A person in receipt of JSA(IB) does not automatically transfer to SPC. Therefore men aged 60 - 64 can decide to continue receiving JSA(IB) rather than make a claim for SPC. See DMG 80051 et seq if a person receiving JSA(IB) makes a claim for SPC before 6.10.03. See DMG 80064 et seq if a man aged 60 - 64 continues to receive JSA(IB) and then makes a claim for SPC on or after 6.10.03.

80005 - 80010

Transferees

Transferee treated as making claim for SPC

80011 A transferee will be treated as having made a claim for SPC in the period of six months immediately preceding 6.10.03¹. Where a transferee has been treated as having made a claim for SPC before 6.10.03 the DM should try to decide as far as practicable the claim before that date². See DMG 80013 - 80015 if this is not possible.

1 SPC Cql Regs, reg 36(2); 2 reg 36(3)

80012 Where DMG 80011 applies, the DM may revise a decision upon application by the claimant or a person acting on his behalf. This can happen at any time within the period of 13 months beginning on the date on which that decision was notified to the claimant¹.

1 reg 36(4)

80013 From 6.10.03 people aged 60 or over can no longer receive IS. However, if before that date the DM is unable to decide a claim for SPC which a transferee is treated as having made, payments may be made as if they were IS. In DMG 80014 - 80015 such payments are called "IS".

80014 If the DM is unable to decide a claim for SPC treated as made by a transferee as in DMG 80011¹, any payment made to the transferee

1. in respect of a period falling on or after 6.10.03 **and**
2. which would have been payable under an award of IS but for the introduction of SPC

should be offset against any SPC payable under an award on or after 6.10.03² on a claim treated as made as in DMG 80011.

1 reg 36(10); 2 reg 36(9)

Example

Sabrina is 63. She was in receipt of IS immediately before 6.10.03. She is treated as having made a claim for SPC but the DM is unable to decide that claim. Sabrina continues to receive payments of "IS". On 20.10.03 the DM decides that Sabrina is entitled to SPC. The DM also decides that the amount of "IS" Sabrina has received since 6.10.03 is to be offset against the SPC to which she is entitled.

80015 Where a transferee continues to receive payments of "IS" because

1. the DM has been unable to decide a claim for SPC **and**
2. the DM then decides that
 - 2.1 no SPC is payable **or**

2.2 the amount of SPC payable is less than the amount of "IS" received the DM should work out the amount of the overpayment¹. The Secretary of State can recover the amount overpaid where the conditions in DMG 09004 are satisfied².

1 SPC Cql Regs, reg 36(11); 2 reg 36(12)

Example

Jackie is 70. She was in receipt of IS immediately before 6.10.03. She is treated as having made a claim for SPC but the DM was unable to decide that claim. Jackie continues to receive payments of "IS". On 20.10.03 the DM decides that Jackie is entitled to SPC but at a lower amount than the "IS" she received. This is because the amount of benefit Jackie received was incorrect. The SPC is offset and the DM also considers whether the additional "IS" Jackie has received should be recovered.

80016 - 80020

Transferee's assessed income period

80021 The decision of the DM on the duration of a transferee's AIP¹ takes effect on 6.10.03² (see DMG 80071 et seq).

1 SPC Act 02, s 9; 2 SPC Cql Regs, reg 36(5)

Payment of SPC

80022 SPC is normally paid in advance¹. However, SPC may be payable in arrears if the IS to which the transferee was entitled before 6.10.03 was paid in arrears².

1 SS (C&P) Regs, reg 26B(4); 2 SPC Cql Regs, reg 36(6)

Example

Before 6.10.03 Felix received IS which was combined with IB and was paid in arrears on a Wednesday. Felix is entitled to SPC. The DM decides that Felix's SPC is paid in arrears on a Wednesday.

Note: When Felix reaches age 65 his RP would be payable from the Monday on or after his birthday. From that Monday the DM would decide to pay Felix's SPC in advance under the normal rules (see DMG 79106 for guidance on part-week payments).

80023 Except where DMG 80024 applies, where SPC is paid in arrears any decision which

1. supersedes¹ a decision awarding SPC to a transferee **and**
2. is made on the ground that there has been a relevant change of circumstances since the decision was made or that it is anticipated that a relevant change of circumstances will occur

will take effect from the first day of the benefit week in which the change occurs or is expected to occur².

1 SS Act 98, s 10; 2 SPC Cql Regs, reg 36(7)

80024 The exception to the guidance at DMG 80023 is where the change of circumstances is that the transferee becomes a patient again in the same benefit week in which he ceased to be a patient. If this is the case, the supersession decision in respect of the transferee becoming a patient again takes effect from the first day of the benefit week following the benefit week in which the change occurs¹.

Note: See DMG 78703 for the definition of “patient”.

1 reg 36(7A)

80025 For the purposes of DMG 80023, benefit week means the period of seven days ending on the day on which SPC is payable¹.

1 reg 36(8)

Example

Callum is in receipt of SPC which is paid in arrears. His benefit week runs from Tuesday to Monday. On Friday 14.11.03 Callum reports that his wife has started work and has received a payment of wages on that day. The DM supersedes the decision awarding SPC to Callum with effect from Tuesday 11.11.03.

SPC paid by direct payment

80026 Where

1. the transferee had an award of IS payable by direct payment in accordance with prescribed legislation¹ immediately before 6.10.03 (see DMG 08033) **and**
2. SPC is payable or treated as payable from 6.10.03

SPC will continue to be paid by direct payment into the same bank or other account as the payment of IS. Any application made or treated as made and any consent given or treated as given in relation to the payment of IS will be treated as made or given in relation to the payment of SPC².

1 SS (C&P) Regs, reg 21; 2 SPC Cql Regs, reg 36(13)

Deductions from SPC

80027 Where

1. the transferee had immediately before 6.10.03 an award of IS from which deductions were made or where part of that benefit was paid to a third party in respect of

1.1 mortgage interest payments¹ **or**

1.2 deductions which may be made to third parties² **and**

2. SPC is payable or treated as payable to the transferee from 6.10.03

then from 6.10.03 the deductions or payments of part of the benefit to third parties should continue to be made from the transferee's SPC³.

1 SS (C&P) Regs, reg 34A & Sch 9A; 2 reg 35 & Sch 9B; 3 SPC Cpl Regs, reg 36(14)

80028 - 80050

Claims for SPC

Claimant not in receipt of IS before 6.10.03

80051 A claim for SPC may be made before 6.10.03 by a claimant who is not in receipt of IS when the claim is made¹.

1 SPC Cql Regs, reg 38(1)

80052 Where DMG 80051 applies and the DM is satisfied that, unless there is a change in the claimant's circumstances before 6.10.03, the claimant will satisfy the conditions of entitlement to SPC the DM may

1. treat the claim as if made for a period beginning on 6.10.03 **and**
2. award SPC¹.

1 reg 38(2)

80053 Where DMG 80052 **2.** applies, the award of SPC is subject to the condition that the claimant does actually satisfy the conditions of entitlement to SPC when it becomes payable under the award¹.

1 reg 38(2)(b)

Revision

80054 Where DMG 80052 **2.** applies, the DM may revise¹ the award of SPC if the conditions of entitlement to SPC are found not to have been satisfied on 6.10.03².

1 SS Act 98 s 9; 2 SPC Cql Regs, reg 38(3)

Claimant entitled to IS prior to 6.10.03 but not entitled to IS on 5.10.03

80055 A claimant who

1. on 6.10.03 has reached the qualifying age of 60 (see DMG 77032) **and**
2. was entitled to IS within the period of 6 months prior to 6.10.03 **and**
3. was not entitled to IS on 5.10.03

should be treated as having made a claim for SPC for a period beginning on 6.10.03¹.

1 reg 38(8)

Example

Rabina is aged 65. She is entitled to IS. On 26.8.03 she reports that she has received an inheritance of £15,000. The DM supersedes the decision awarding IS and decides that Rabina is not entitled to IS. Rabina does not make a further claim for IS before 6.10.03. She is treated as having made a claim for SPC for a period beginning on 6.10.03.

80056 - 80060

Claim for IS made before 6.10.03 treated as a claim for SPC

80061 Where a claim for IS is made in the period of six months before 6.10.03 the DM may treat it also as a claim for SPC if the claimant

1. is not entitled to IS **and**
2. is aged 60 or over when the claim is made or will be age 60 on 6.10.03¹.

1 SPC Cql Regs, reg 38(6)

Example

Jason makes a claim for IS on 7.7.03. The DM decides that Jason is not entitled to IS because he has capital of £12,500. Jason is age 60 on 1.9.03. The DM also treats Jason's claim for IS as a claim for SPC.

80062 Where DMG 80061 applies and the DM is satisfied that, unless there is a change in the claimant's circumstances before 6.10.03, the claimant will satisfy the conditions of entitlement to SPC the DM may

1. treat the claim as if made for a period beginning on 6.10.03 **and**
2. award SPC

An award of SPC will be subject to the condition that the claimant does actually satisfy the conditions of entitlement to SPC when it becomes payable under the award. The DM may revise the award of SPC if the conditions of entitlement to SPC are found not to have been satisfied on 6.10.03¹.

1 reg 38(7)

Claim for SPC treated as a claim for IS

80063 The DM may treat a claim for SPC made before 6.10.03 by a claimant who is not in receipt of IS as also a claim for IS made on the same day¹.

1 reg 38(9)

Example

Dawn makes a claim for SPC on 16.6.03. The DM decides that Dawn is entitled to SPC from 6.10.03. The DM also considers the conditions of entitlement to IS. Dawn satisfies those conditions so the DM decides she would have been entitled to IS if she had claimed it. The DM therefore treats Dawn's claim for SPC as a claim for IS made on 16.6.03.

Claim for SPC made on or after 6.10.03

Claim treated as made on 6.10.03

80064 Where a claim for SPC is made in the period of 12 months beginning on 6.10.03 the DM may treat it as made on 6.10.03 if the claimant satisfied the conditions of entitlement to SPC on that day¹.

1 SPC Cpl Regs, reg 38(4)

Example

Lisa makes a claim for SPC on 5.5.04. She satisfied the conditions for entitlement to SPC on 6.10.03. The DM treats Lisa's claim for SPC as having been made on 6.10.03.

Claim treated as made on a day other than 6.10.03

80065 Where

1. DMG 80064 does not apply only because the claimant does not satisfy the conditions of entitlement to SPC on 6.10.03 **and**
2. the claimant does satisfy those conditions on a day after 6.10.03 but before the date on which the claim is received by the Secretary of State

the DM should treat the claim as having been made on the day the conditions of entitlement to SPC were first satisfied¹.

1 reg 38(5)

Example

Christopher also makes a claim for SPC on 5.5.04. He was born on 2.2.44. He did not satisfy the conditions of entitlement to SPC on 6.10.03 but did satisfy the conditions of entitlement on 2.2.04. The DM treats Christopher's claim for SPC as having been made on 2.2.04.

80066 - 80070

The assessed income period

When transitional provisions apply

80071 The following guidance explains the effects of the transitional provisions on the AIP. See DMG Chapter 83 for full guidance on the AIP. Transitional provisions apply to the first AIP specified in respect of a person who

1. reaches or has reached the age of 65 or whose partner reaches or has reached that age on or before 6.10.03 **and**
2. is awarded SPC with effect from 6.10.03¹.

1 SPC Cql Regs, regs 37(2)

80072 Where DMG 80071 applies the DM should set an AIP of at least five years but not exceeding seven years beginning on 6.10.03¹.

1 reg 37(1)

Note: The period of the first AIP allotted to a transferee will be decided by reference to their national insurance number.

80073 - 80999

The content of the examples in this document (including use of imagery) is for illustrative purposes only