



STATE PENSION CREDIT – CHILD ADDITION

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INTRODUCTION

- 1 This memo provides guidance on amendments to the State Pension Credit Regulations 2002, in particular those regulations which provide for the amount of guarantee credit.



- 2 These amendments are made by the State Pension Credit (Additional Amount for Child or Qualifying Young Person) (Amendment) Regulations 2018 (SI 2018/676) and come into force on 1.2.19¹.

1 The State Pension Credit (Additional Amount for Child or Qualifying Young Person) (Amendment) Regulations 2018, reg 1

BACKGROUND

- 3 Under current legislation, the amount of the guarantee credit does not include any amount for a child or qualifying young person. Support for pensioners with such responsibility is provided by tax credits, which are being abolished upon completion of the UC timetable¹. These amendments provide for the payment of an additional amount to a pension credit claimant where that claimant is responsible for a child or qualifying young person and does not have an award, or is not treated as having an award of, tax credits.

Note: A tax credits award includes CTC or WTC, or a combination of both².

1 WR Act 12; s.33 & Sch 6, para 6; 2 SPC Regs, reg 6 (17)

ADDITIONAL AMOUNT FOR CHILD OR QUALIFYING YOUNG PERSON

- 4 Subject to paragraphs 5 – 10, from 1.2.19, when considering a new claim to SPC, the claimant's maximum amount shall include an amount for any

1. child or
2. qualifying young person

for whom the claimant is responsible¹.

1 SPC Regs, reg 6(6)(d) & Sch IIA, para 3

Claimant with an ongoing award of tax credits

- 5 If a claimant has an ongoing award of, or is treated as having an ongoing award of tax credits, that award will continue until they have a change of circumstance that ends their award or they are migrated to SPC as part of the phased process ahead of the abolition of tax credits.¹ They can not be awarded a child addition in SPC if they have an ongoing award, or are treated as having an ongoing award, of tax credits.

1 WR Act 12, s.33



Treated as having an award of tax credits

- 6 A person is treated as having a tax credits award¹ at the start of the current tax year even if a decision has not yet been made on a claim for the current tax year.
- 7 This applies where they've been awarded tax credits for the previous tax year and
1. they have not been given a final notice in respect of that previous tax year, **or**
 2. a final notice has been given which includes specified dates by which they must provide details of their income and circumstances, **and**
 - 2.1 those dates have not yet passed and no current claim for a tax credit has been made, or treated as made; **or**
 - 2.2 a claim for a tax credits has been made, or treated as made before the date in paragraph 2.1 above, but no decision has been made on that claim; **or**
 3. a final notice has been given, no claim for tax credits has been made or treated as made for the current year and no decision has been made in respect of an award for the previous tax year².

1 SPC Regs 2002, reg 6(12); 2 reg 6(13)

When the additional amount ceases

- 8 Where an additional amount outlined in paragraph 4 has been awarded, that amount ceases¹ where either paragraph 9 or 10 applies.
- 1 SPC Regs 2002, reg 6(14);*
- 9 This paragraph applies where the person was awarded tax credits for the previous tax year which was not terminated and a final notice has been given in accordance with paragraph 7.2 above and the person makes a declaration
1. during the 30 days after tax credits ceases **or**
 2. after the 30 day period, but before the 31st January of the following tax year **and** where HMRC accept there was good cause throughout the period for them not doing so by the date specified.¹

1 SPC Regs 2002, reg 6(15)



- 10 This paragraph applies where a decision on the claimant's award of tax credits is revised in favour of the claimant following
1. a revision on the grounds of official error; **or**
 2. a request to review by the claimant; **or**
 3. an appeal; **or**
 4. a revision, under any other circumstances, under specified legislation.³

ISPC Regs, reg 6(16), TC Act 02

WHO IS THE RESPONSIBLE PERSON?

- 11 The responsible person is
1. the person with whom the child or qualifying young person normally lives¹ **or**
 2. where the child or qualifying young person normally lives with two or more persons who are not a couple, the person who has main responsibility².

1 SPC Regs, Sch IIA para 3(1); 2 Sch IIA, para 3(3)

Normally lives

- 12 "Normally lives" is not defined in legislation, and should be applied with a focus on the normal pattern of living, rather than the amount of time spent with a particular person, or in a particular place. "Normally lives with" can include both minority and majority carers.

Note: Which person gets CHB is not taken into account when determining where a child or qualifying young person normally lives

Example 1

Alan and Frances have a daughter, Gail, who lives from Monday to Friday with her grandmother. She spends the majority of weekends and all school holidays with her mother and father. This arrangement has been in place for some time and is Gail's normal pattern of living. She therefore normally lives with her parents **and** normally lives with her grandmother. The DM will need to determine who has main responsibility for Gail.

Example 2

Alan's 14 year old son Eric has recently left LA care. He spends Monday to Thursday nights with his mother, Frances, and Friday to Sunday nights with his grandparents,



Arthur and Janice. Eric normally lives with Frances for part of each week and normally lives with Arthur and Janice for the balance of each week. The DM will need to determine who has main responsibility for Eric.

Main responsibility

- 13 Where a child or qualifying young person normally lives with two or more persons who are not a couple, the deciding factor will be the person who has main responsibility. Who has that main responsibility¹ should be decided between the persons with whom the child or qualifying young person normally lives.

1 SPC Regs, Sch IIA, para 3(3)

- 14 If

1. joint agreement cannot be reached as to which person has main responsibility **or**
2. in the opinion of the DM the choice of person with main responsibility does not reflect the actual arrangements

the DM may determine which person has main responsibility¹

1 SPC Regs, Sch IIA, para 3(4)

Who has main responsibility?

- 15 If the DM is required to determine who has main responsibility they should note that main responsibility is not defined in regulations and should be given the meaning of the person who is normally answerable for, or called to account for the child or young person. In determining who has the main responsibility for a child or young person consideration should be given to:

1. Who makes day to day decisions about the child's welfare including, for example, arranging and taking them to visits to the doctor or dentist or enrolling and taking the child to and from school?
2. Who provides the child with clothing, shoes, toiletries and other items needed for daily use?
3. Who is the main contact for the child's school, doctor and dentist?
4. Who cares for the child when the child is ill?

This list should not be considered exhaustive.



Example

Toby, 8, has always lived with his single mother at his Grandparents' home. A year ago his mother, Steph, received a promotion at work which involves considerable travelling and prolonged absences. His grandparents, Neil and Hannah, are in receipt of SPC and claim an additional amount for Toby. The DM determines that Toby can be said to normally live with his mother and his grandparents. However, for around 60% of the time over the previous year, Neil and Hannah have been in sole charge of Toby in his mother's absence, have taken Toby to school every day, organised his after school and weekend activities, taken him to doctors and dentists appointments and cared for him when he is ill. That pattern is likely to continue and the DM determines they have main responsibility for Toby.

- 16 A person cannot be responsible for a qualifying young person with whom they live as part of a couple¹.

1 SPC Regs, Sch IIA, para 3(2)

- 17 A claimant is not to be treated as responsible for a child or qualifying young person during any period that child or qualifying young person is

1. in prison¹ or
2. except in certain cases, looked after by a local authority².

1 SPC Regs, Sch IIA, para 5; 2 para 4

Looked after by an LA

- 18 A looked after child is one who is in the care of the LA or provided with accommodation by the LA in exercise of its social services functions.¹ The child may be placed with a foster parent, another family member, their parent or a person who has parental responsibility. In Scotland, it includes a child who is subject to relevant court orders regarding their supervision and care by the LA.

1 Children Act 89 s 22; Children (Scotland) Act 95 s 17(6); Social Services and Wellbeing (Wales) Act 2014 s.74

- 19 Where a child or qualifying young person is in LA care for a planned short break or series of breaks to provide respite for the person who normally cares for them, or where they are placed with or continue to live with a person with parental responsibility, the child addition will still be payable.¹

1 SPC Regs, Sch IIA, para 4(3)



Prisoners

- 20 A claimant is not to be treated as responsible for a child or qualifying young person during any period the child or qualifying young person is a prisoner.¹ (see [DMG 78651](#) et seq for meaning of prisoner)

1 SPC Regs, Sch IIA, para 5

CHILD OR QUALIFYING YOUNG PERSON TEMPORARILY ABSENT

Temporary absence in GB

- 21 A claimant is not to be treated as responsible for a child or qualifying young person in GB where they are absent and living away from the responsible person if that absence is likely to exceed 52 weeks, unless there are exceptional circumstances and the absence is unlikely to be substantially more than 52 weeks.¹

1 SPC Regs, Sch IIA, para 6

Temporarily absent from GB

- 22 Do not treat the claimant as responsible for a child or qualifying young person where that child or young person is

1. absent **or**
2. expected to be absent

from GB for more than 4 weeks.¹

1 SPC Regs, Sch IIA, para 7(1)(a)

- 23 The absence period in paragraph 22 above can be extended by up to a further 4 weeks¹ if the temporary absence is in connection with the death of

1. the claimant's partner, **or**
2. a child or qualifying young person normally living with the claimant, **or**
3. a close relative of
 - 3.1 the claimant, **or**
 - 3.2 the claimant's partner, **or**
 - 3.3 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 child or qualifying young person to return to GB within 4 weeks.

1 SPC Regs, Sch IIA, para 7(1)(b) & 7(2)

24 The absence period can be for a duration of up to 26 weeks¹ where that absence is solely in connection with the child or qualifying young person undergoing

1. treatment for an illness or physical or mental impairment by, or under the supervision of, a qualified practitioner **or**
2. 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 disability before leaving GB, **or**

the child or qualifying young person accompanying the claimant or the claimant's partner for convalescence or care as set out in paragraph 24.1 and 24.2 above

1 SPC Regs, Sch IIA para 7(1)(c) & 7(3)

Note: "medically approved" means certified by a registered medical practitioner and "qualified practitioner" means a person qualified to provide medical treatment or physiotherapy or a form of treatment which is similar to, or related to, either of these forms of treatment.¹

1 SPC Regs, Sch IIA, para 7(4)

DEATH OF CHILD OR QUALIFYING YOUNG PERSON

25 Where a claimant's award of SPC includes an amount for a child or qualifying young person for whom they are responsible and that child or qualifying young person dies,¹ they will continue to be treated as responsible for that child or qualifying young person

1. for a period of 8 weeks from the day the child or qualifying young person dies **or**
2. in the case of a qualifying young person the earlier of
 - 2.1 8 weeks or
 - 2.2 the day of what would have been their 20th birthday,

1 SPC Regs, Sch IIA, para 8



RATES OF CHILD ADDITION

- 26 The rate of the child addition for each child or qualifying young person is £53.34¹ per week. Where the eldest child or qualifying young person for whom the claimant is responsible was born before 6.4.17, that amount is £63.84 per week in respect of that child²

1 SPC Regs, Sch IIA, para 9(1)(a), 2 para 10

Additional amount for a disabled child

- 27 An additional amount of £29.02 per week will be payable where the child or qualifying young person is

1. entitled to DLA **or**
2. entitled to PIP¹.

1 SPC Regs, Sch IIA, para 9(1)(b)(i) & 9(2)

- 28 Where the child or qualifying young person is

1. entitled to the care component of DLA at the highest rate **or**
2. entitled to the daily living component of PIP at the enhanced rate **or**
3. certified as severely sight impaired or blind by a consultant ophthalmologist

the weekly additional amount will be £88.34¹.

1 SPC Regs, Sch IIA, para (9)(1)(b)(ii) & (9)(3)

DEFINITIONS

Child

- 29 Child means¹ a person under the age of 16.

Note: There is no need for the child to be receiving education for this definition to apply.

1 SPC Regs, Sch IIA, para 2

Parental responsibility



- 30 In England and Wales, parental responsibility means all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property. In Scotland, parental responsibility means having any or all of the legal responsibilities or rights described in sections 1 or 2 of the Children (Scotland) Act 1995¹

1. Children Act 1989, s 3; Children (Scotland) Act 1995, s 1 or 2

Qualifying young person

- 31 A qualifying young person¹ is a person who has reached the age of 16 but not the age of 20 and who is

1. aged 16 years, but only for the period up to, but not including, the 1st September that next follows their 16th birthday
2. aged up to 19 years, but only for the period up to, but not including, the 1st September that next follows their 19th birthday where they are enrolled on, or accepted for

2.1 approved training² or

2.2 a course of education

2.2.a which is not advanced education, and

2.2.b at a school, college or other establishment that is approved by the Secretary of State, and

2.2.c where they spend on average more than twelve hours a week during term time in receiving tuition, taking examinations or practical work or supervised study

this must not include meal breaks or unsupervised study, including homework, whether done on or off the premises of the educational establishment³.

Note 1: Where the young person at **2.** above is aged 19, they must have started the course of education or training, or been accepted or enrolled on it before reaching that age.

Note 2: The education or training described in **2.1** and **2.2** does not include education or training that is provided through a contract of employment⁴

1 SPC Regs Sch IIA, para 2; 2 reg 4A(4); 3 reg 4A (1); 4 reg 4A(3)



ANNOTATIONS

Please annotate the number of this memo (14/18) against the following DMG paragraphs [77001](#), [77140](#), [78001](#), [78025](#)

CONTACTS

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, 3rd Floor, Zone D, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in [Memo DMG 03/13](#) - Obtaining legal advice and guidance on the Law.

DMA Leeds: October 2018

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