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SCHEDULES

SCHEDULE 2

Section 14.

MINOR AND CONSEQUENTIAL AMENDMENTS

PART I

AMENDMENTS OF CONTRIBUTIONS AND BENEFITS ACT

Introductory

1. The Contributions and Benefits Act is amended as follows.

Income support

2. In section 123(1) (entitlement to income support)—
 - (a) after paragraph (a) (claimant must be 16 or over) insert—

“(aa) he has not attained the qualifying age for state pension credit;”;
 - (b) after paragraph (f) (claimant must not be entitled to jobseeker’s allowance etc.) add “; and
 - (g) if he is a member of a married or unmarried couple, the other member of the couple is not entitled to state pension credit.”.

Effect of attaining qualifying age for state pension credit

3. After section 132 (income and capital) insert—

“132A Effect of attaining qualifying age for state pension credit

(1) Subsections (2) and (3) below apply in relation to housing benefit in the case of any person who has attained the qualifying age for state pension credit.

(2) Regulations may make provision for section 130(1) above or any provision of section 132 above not to have effect in relation to that benefit in the case of any such person.

(3) In relation to that benefit, regulations may make provision for the determination of the income and capital of any such person, and any such

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regulations may include provision applying (with such modifications as the Department thinks fit)—

- (a) section 5 of the State Pension Credit Act (Northern Ireland) 2002 (provision for treating income of spouse as income of claimant, etc.); and
 - (b) section 15 of that Act (determination of income and capital for purposes of state pension credit).
- (4) Regulations under subsection (3) above may also include provision—
- (a) authorising or requiring the use of any calculation or estimate of a person’s income or capital made by the Department for the purposes of the State Pension Credit Act (Northern Ireland) 2002; or
 - (b) requiring that, if and so long as an assessed income period is in force under section 6 of that Act in respect of a person falling within subsection (1) above,—
 - (i) the assessed amount of any element of his retirement provision shall be treated as the amount of that element for the purposes of housing benefit; and
 - (ii) his income shall be taken for those purposes not to include any element of retirement provision which it is taken not to include for the purposes of state pension credit by virtue of a determination under subsection (5) of that section.
- (5) In subsection (4) above “assessed amount”, “element” and “retirement provision” have the same meaning as in the State Pension Credit Act (Northern Ireland) 2002.
- (6) The Department may by regulations make provision for the provisions of this section to apply with modifications in cases to which section 12 of the State Pension Credit Act (Northern Ireland) 2002 (polygamous marriages) applies.”.

Interpretation of Part VII and supplementary provisions

4. In section 133, in subsection (1), insert the following definitions at the appropriate places—

““pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995;

“the qualifying age for state pension credit” is (in accordance with section 1(2) (b) and (6) of the State Pension Credit Act (Northern Ireland) 2002)—

- (a) in the case of a woman, pensionable age; or

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(b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;

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

Entitlement of pensioners to Christmas bonus

5. In section 144—

(a) in subsection (2) (conditions for entitlement in case of couples), in paragraph (c)(ii) (condition that person be in receipt of income support only) for “income support” substitute “state pension credit”;

(b) after that subsection insert—

“(2A) In a case falling within paragraph (c)(ii) of subsection (2) above, paragraph (a) of that subsection has effect with the substitution of “qualifying age for state pension credit” for “pensionable age”.”;

(c) omit subsection (4) (persons receiving income support only entitled to bonus if attaining pensionable age by end of relevant week).

Entitlement to Christmas bonus: supplementary

6. In section 145, in subsection (2) (circumstances in which a person is treated as entitled to qualifying benefit)—

(a) in paragraph (a), for “other than income support” substitute “other than state pension credit”;

(b) in paragraph (b), for “income support”, in both places where it occurs, substitute “state pension credit”.

Interpretation of provisions relating to Christmas bonus

7. In section 146—

(a) in subsection (1) (definition of “qualifying benefit”) in paragraph (k) for “income support” substitute “state pension credit”;

(b) in subsection (2) (interpretation of Part X) insert the following definitions at the appropriate places—

““the qualifying age for state pension credit” is (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act (Northern Ireland) 2002)—

(a) in the case of a woman, pensionable age; or

(b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;

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

PART II

AMENDMENTS OF ADMINISTRATION ACT

Introductory

8. The Administration Act is amended as follows.

Payment out of benefit of sums in respect of mortgage interest, etc.

9. In section 13A—

- (a) after subsection (1) (application of section to persons entitled to income support or income-based jobseeker’s allowance) insert—

“(1A) This section also applies in relation to cases where—

- (a) mortgage interest is payable to a qualifying lender by a person (also referred to as “the borrower”) who is entitled, or whose partner, former partner or qualifying associate is entitled, to state pension credit; and
- (b) a sum in respect of that mortgage interest is or was brought into account in determining the appropriate minimum guarantee for the purposes of state pension credit in the case of the borrower or the partner, former partner or qualifying associate;

and any reference in this section to “the relevant beneficiary” includes a reference to the person whose appropriate minimum guarantee for the purposes of state pension credit is or was determined as mentioned in paragraph (b) above.”;

- (b) in subsection (2) (regulations about paying benefit directly to mortgagees) in paragraph (a), after “any relevant benefits” insert “(other than state pension credit)”;

- (c) in that subsection, after paragraph (a) insert—

“(aa) authorising or requiring that, in prescribed circumstances, a prescribed part of any state pension credit to which the relevant beneficiary is entitled may (or, as the case may be, shall) be paid by the Department directly to the qualifying lender and shall be applied by that lender towards the discharge of the liability in respect of the mortgage interest;”;

- (d) in subsection (4)—

(i) before the definition of “mortgage interest” insert—

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““appropriate minimum guarantee” has the meaning given by section 2(3) of the State Pension Credit Act (Northern Ireland) 2002;”;

- (ii) in the definition of “qualifying associate”, for “or an income-based jobseeker’s allowance,” substitute “, an income-based jobseeker’s allowance or state pension credit,” and for “or (as the case may be) under the Jobseekers (Northern Ireland) Order 1995” substitute “, the Jobseekers (Northern Ireland) Order 1995 or the State Pension Credit Act (Northern Ireland) 2002, as the case may be,”;
- (iii) in the definition of “relevant benefits”, after paragraph (b) add—
 - “(c) state pension credit;”.

Overpayments: general

10. In section 69(11) (benefits to which section applies) after paragraph (aa) insert—

“(ab) state pension credit;”.

Adjustment of income support and other payments

11. In section 72—

- (a) in subsection (1)(b) (recovery of income support etc. paid because prescribed income not paid until after prescribed date) for “or an income-based jobseeker’s allowance” substitute “, an income-based jobseeker’s allowance or state pension credit”;
- (b) in subsection (2)(b) (recovery of income support etc. paid because prescribed payment from public funds not paid until after prescribed date) for “or an income-based jobseeker’s allowance” substitute “, an income-based jobseeker’s allowance or state pension credit”.

Interpretation of Part VI

12. In section 115CA(1) (definition of “the relevant social security legislation”) after paragraph (h) insert—

“(hh) the State Pension Credit Act (Northern Ireland) 2002;”.

Regulations as to notification of deaths

13. In section 118(1) (regulations as to notification of deaths by Registrar General)—

- (a) after “the Social Security (Northern Ireland) Order 1998” insert “, the State Pension Credit Act (Northern Ireland) 2002”;

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(b) for “either of those” substitute “any of those”.

*Provision of information by personal
representatives as to estate of deceased person*

14. In section 119(1) (duty to furnish information as to assets and liabilities of a person in receipt of certain benefits) after “income-based jobseeker’s allowance” insert “, state pension credit”.

Effect of alterations affecting state pension credit

15. After section 139A (effect of alteration of rates of a jobseeker’s allowance) insert—

“139B Effect of alterations affecting state pension credit

(1) Subject to such exceptions and conditions as may be prescribed, subsection (2) or (3) below shall have effect where—

- (a) an award of state pension credit is in force in favour of any person (“the recipient”); and
- (b) an alteration—
 - (i) in any component of state pension credit,
 - (ii) in the recipient’s benefit income,
 - (iii) in any component of a contribution-based jobseeker’s allowance, or
 - (iv) in the recipient’s war disablement pension or war widow’s or widower’s pension,

affects the computation of the amount of state pension credit to which he is entitled.

(2) Where, as a result of the alteration, the amount of state pension credit to which the recipient is entitled is increased or reduced, then, as from the commencing date, the amount of state pension credit payable in the case of the recipient under the award shall be the increased or reduced amount, without any further decision of the Department, and the award shall have effect accordingly.

(3) Where, notwithstanding the alteration, the recipient continues on and after the commencing date to be entitled to the same amount of state pension credit as before, the award shall continue in force accordingly.

(4) Subsection (5) below applies where a statement is made in the House of Commons by or on behalf of the Secretary of State which specifies—

- (a) in relation to any of the items referred to in subsection (1)(b)(i) to (iv) above, the amount of the alteration which he proposes to

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make by an order under section 150 or 152 of the Great Britain Administration Act or by or under any other enactment; and

(b) the date on which he proposes to bring the alteration into force (“the proposed commencing date”).

(5) If, in a case where this subsection applies, an award of state pension credit is made in favour of a person before the proposed commencing date and after the date on which the statement is made, the award—

(a) may provide for state pension credit to be paid as from the proposed commencing date at a rate determined by reference to the amounts of the items specified in subsection (1)(b)(i) to (iv) above which will be in force on that date; or

(b) may be expressed in terms of the amounts of those items in force at the date of the award.

(6) In this section—

“alteration” means—

(a) in relation to any component of state pension credit, its alteration by or under any enactment;

(b) in relation to a person’s benefit income, the alteration of any of the applicable sums by any enactment or by an order under section 132 or 133 above to the extent that any such alteration affects the amount of his benefit income;

(c) in relation to any component of a contribution-based jobseeker’s allowance, its alteration by or under any enactment; and

(d) in relation to a person’s war disablement pension or war widow’s or widower’s pension, its alteration by or under any enactment;

“benefit income”, in relation to a person, means so much of his income as consists of benefit under the Contributions and Benefits Act;

“the commencing date”, in relation to an alteration, means the date on which the alteration comes into force in relation to the recipient;

“component”—

(a) in relation to contribution-based jobseeker’s allowance, means any of the sums specified in regulations under the Jobseekers (Northern Ireland) Order 1995 which are relevant in calculating the amount payable by way of a jobseeker’s allowance;

(b) in relation to state pension credit, means any of the sums specified in regulations under section 2, 3 or 12 of the State Pension Credit Act (Northern Ireland) 2002;

“war disablement pension” means—

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- (a) any retired pay, pension or allowance granted in respect of disablement under powers conferred by or under—
 - (i) the Air Force (Constitution) Act 1917;
 - (ii) the Personal Injuries (Emergency Provisions) Act 1939;
 - (iii) the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939;
 - (iv) the Polish Resettlement Act 1947; or
 - (v) Part VII or section 151 of the Reserve Forces Act 1980; or
- (b) without prejudice to paragraph (a), any retired pay or pension to which subsection (1) of section 315 of the Income and Corporation Taxes Act 1988 (c. 1) applies;

“war widow’s or widower’s pension” means—

 - (a) any widow’s or widower’s pension or allowance granted in respect of a death due to service or war injury and payable by virtue of any enactment mentioned in paragraph (a) of the definition of “war disablement pension”; or
 - (b) a pension or allowance for a widow or widower granted under any scheme mentioned in section 315(2)(e) of the Income and Corporation Taxes Act 1988.”.

Adjustments between National Insurance Fund and Consolidated Fund

- 16.** In section 145—
- (a) after subsection (5) (payments from National Insurance Fund into Consolidated Fund) insert—

“(5A) There shall be excluded from the estimate under subsection (5) (a) above any expenses attributable to the carrying into effect of provisions of this Act so far as relating to state pension credit.”;
 - (b) in subsection (6)(a) (expenses excluded from Department’s estimate under subsection (5)(b)), after “relating to” insert “state pension credit or”.

Adjustments between social fund and other sources of finance

- 17.** In section 148(1) (adjustments of social fund, Consolidated Fund and National Insurance Fund in relation to repayment or offsetting of benefit or other payment) at the end add “or the State Pension Credit Act (Northern Ireland) 2002”.

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*Functions of Social Security Advisory Committee
in relation to legislation and regulations*

18. In section 149(5) (interpretation), in the definition of “the relevant enactments”, after paragraph (ag) insert—

“(ah) the provisions of the State Pension Credit Act (Northern Ireland) 2002;”.

Reciprocal agreements with countries outside the United Kingdom

19. In section 155—

(a) in subsection (3)(a) (modifications for securing that acts, omissions and events have corresponding effect for the purposes of United Kingdom legislation) after “the Social Security (Northern Ireland) Order 1998” insert “, the State Pension Credit Act (Northern Ireland) 2002”;

(b) in subsection (4) (legislation to which the section applies) after paragraph (ab) insert—

“(ac) to the State Pension Credit Act (Northern Ireland) 2002;”;

(c) in subsection (5) (regulations which may be modified) after paragraph (aa) insert—

“(ab) state pension credit;”.

Payment of travelling expenses by Department

20. In section 156—

(a) in paragraph (a) (expense of attending interview) after “the Social Security (Northern Ireland) Order 1998” insert “, the State Pension Credit Act (Northern Ireland) 2002”;

(b) in paragraph (b)(i) (expense of attending social security office) after “the Social Security (Northern Ireland) Order 1998” insert “, the State Pension Credit Act (Northern Ireland) 2002”.

Certain benefit to be inalienable

21. In section 163(1), after paragraph (aa) insert—

“(ab) state pension credit;”.

Interpretation

22. In section 167(1)—

(a) in the definition of “benefit” at the end add “and state pension credit”;

(b) after the definition of “regulations” insert—

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

PART III

AMENDMENTS OF OTHER STATUTORY PROVISIONS

The Children (Northern Ireland) Order 1995

23. In Article 24 of the [Children \(Northern Ireland\) Order 1995 \(NI 2\)](#) (recoupment of cost of providing services, etc.) after paragraph (3) (no charge for certain services if receiving certain benefits) insert—

“(3A) No person shall be liable to pay any charge under paragraph (1) for a service provided under Article 19(3) or (6) at any time when—

- (a) he is in receipt of guarantee state pension credit under section 1(3) (a) of the State Pension Credit Act (Northern Ireland) 2002; or
- (b) he is a member of a married or unmarried couple (within the meaning of that Act) the other member of which is in receipt of guarantee state pension credit.”.

The Jobseekers (Northern Ireland) Order 1995

24. The [Jobseekers \(Northern Ireland\) Order 1995 \(NI 15\)](#) is amended as follows.

25. In Article 5(1) (the income-based conditions)—

- (a) in sub-paragraph (b) (claimant must not be entitled to income support), after “income support” insert “or state pension credit”;
- (b) after sub-paragraph (d) insert—

“(dd) is not a member of a married or unmarried couple the other member of which is entitled to state pension credit;”.

26. In Article 5A(1) (conditions for claims by joint-claim couples), after sub-paragraph (c) insert—

“(cc) that neither member of the couple is entitled to state pension credit;”.

The Road Traffic (Northern Ireland) Order 1995

27. In Article 25(2) of the [Road Traffic \(Northern Ireland\) Order 1995 \(NI 18\)](#) (payments in respect of applicants for exemption from wearing seat belts) after sub-paragraph (b) insert—

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- “(bb) those in receipt of guarantee state pension credit (under section 1(3)(a) of the State Pension Credit Act (Northern Ireland) 2002) and those persons who (within the meaning of that Act) are members of a married or unmarried couple the other member of which is in receipt of guarantee state pension credit;”.

The Pensions (Northern Ireland) Order 1995

28. In Schedule 2 to the [Pensions \(Northern Ireland\) Order 1995 \(NI 22\)](#) (equalisation of pensionable ages for men and women), in paragraph 1 (statutory provisions to which the rules for determining pensionable age apply) for “and the Pension Schemes Act” substitute “, the Pension Schemes Act and the State Pension Credit Act (Northern Ireland) 2002”.

The Deregulation and Contracting Out (Northern Ireland) Order 1996

29. In Article 17 of the [Deregulation and Contracting Out \(Northern Ireland\) Order 1996 \(NI 11\)](#) (social security: amendments following certain orders) at the end of paragraph (2) add “the State Pension Credit Act 2002”.

The 1998 Order

30. In Article 34(3) of the 1998 Order (determination of housing benefit claims and reviews) for “or to income support” substitute “, income support or state pension credit”.

The Immigration and Asylum Act 1999

31. In section 123(9)(d) of the Immigration and Asylum Act 1999 (c. 33) (back-dating of benefits where person recorded as refugee)—

- (a) after “a benefit under the Social Security Contributions and Benefits (Northern Ireland) Act 1992” insert “or state pension credit”;
- (b) for “or the Social Security Administration (Northern Ireland) Act 1992” substitute “, the Social Security Administration (Northern Ireland) Act 1992 or the State Pension Credit Act (Northern Ireland) 2002”.

The Social Security Fraud Act (Northern Ireland) 2001

32. The Social Security Fraud Act (Northern Ireland) 2001 (c. 17) is amended as follows.

33. In section 6 (loss of benefit for commission of benefit offences)—

- (a) after subsection (4) (cases where sanctionable benefit is jobseeker’s allowance) insert—

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“(4A) The Department may by regulations provide that, where the sanctionable benefit is state pension credit, the benefit shall be payable in the offender’s case for any period comprised in the disqualification period as if the rate of the benefit were reduced in such manner as may be prescribed.”;

(b) in subsection (8) (interpretation)—

(i) in the definition of “disqualifying benefit”, after paragraph (a) insert—

“(aa) any benefit under the State Pension Credit Act (Northern Ireland) 2002 or the State Pension Credit Act 2002;”;

(ii) in the definition of “sanctionable benefit”, after paragraph (a) insert—

“(aa) any benefit under the State Pension Credit Act (Northern Ireland) 2002;”.

34. In section 8 (effect of offence on benefits for members of offender’s family)

(a) in subsection (1) (benefits to which section applies) after paragraph (b) insert—

“(bb) state pension credit;”;

(b) after subsection (4) (reduction of jobseeker’s allowance) insert—

“(4A) In relation to cases in which the benefit is state pension credit, the provision that may be made by virtue of subsection (2) is provision that, in the case of the offender’s family member, the benefit shall be payable for the whole or any part of any period comprised in the relevant period as if the rate of the benefit were reduced in such manner as may be prescribed.”.

35. In section 9(3) (power to supplement and mitigate loss of benefit provisions), after paragraph (b) insert—

“(bb) any benefit under the State Pension Credit Act (Northern Ireland) 2002 or the State Pension Credit Act 2002;”.

36. In section 10(3) (loss of benefit regulations), in paragraph (c)—

(a) after “section 6(4)” insert “, (4A)”;

(b) after “or 8(4)” insert “, (4A)”.

37. In section 12 (interpretation) after the definition of “sanctionable benefit” insert—

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