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DRAFT STATUTORY INSTRUMENTS

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**2002 No.**

**The State Pension Credit Regulations 2002**

**PART III**

*Income*

**Income for the purposes of the Act**

**15.**—(1) For the purposes of section 15(1)(e) (income), all social security benefits are prescribed except—

- (a) disability living allowance;
- (b) attendance allowance payable under section 64 of the 1992 Act;
- (c) an increase of disablement pension under section 104 or 105 of the 1992 Act;
- (d) a payment under regulations made in exercise of the power conferred by paragraph 7(2)(b) of Part II of Schedule 8 to the 1992 Act<sup>(1)</sup>;
- (e) an increase of an allowance payable in respect of constant attendance under paragraph 4 of Part I of Schedule 8 to the 1992 Act;
- (f) any child special allowance payable under section 56 of the 1992 Act;
- (g) any guardian's allowance payable under section 77 of the 1992 Act;
- (h) any increase for a dependant, other than the claimant's partner, payable in accordance with Part IV of the 1992 Act;
- (i) any social fund payment made under Part VIII of the 1992 Act;
- (j) child benefit payable in accordance with Part IX of the 1992 Act;
- (k) Christmas bonus payable under Part X of the 1992 Act;
- (l) any benefit similar to those mentioned in the preceding provisions of this paragraph payable under legislation having effect in Northern Ireland.

(2) For the purposes of section 15(1)(f) (foreign social security benefits), income includes all foreign social security benefits which are similar to the social security benefits prescribed under paragraph (1).

(3) Where the payment of any social security benefit prescribed under paragraph (1) is subject to any deduction (other than an adjustment specified in paragraph (4)) the amount to be taken into account under paragraph (1) shall be the amount before the deduction is made.

(4) The adjustments specified in this paragraph are those made in accordance with—

- (a) the Social Security (Overlapping Benefits) Regulations 1979<sup>(2)</sup>;
- (b) the Social Security (Hospital In-Patients) Regulations 1975<sup>(3)</sup>;

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<sup>(1)</sup> See in particular paragraph 7(2)(b) of Schedule 8.

<sup>(2)</sup> S.I.1979/597.

<sup>(3)</sup> S.I.1975/555.

- (c) section 30DD or section 30E of the 1992 Act<sup>(4)</sup> (reductions in incapacity benefit in respect of pensions and councillor’s allowances).
- (5) For the purposes of section 15(1)(j) (income to include income of prescribed descriptions), income of the following descriptions is prescribed—
- (a) any payment made under article 37 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983<sup>(5)</sup>;
  - (b) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria;
  - (c) payments under a scheme made under the Pneumoconiosis etc. (Worker’s Compensation) Act 1979<sup>(6)</sup>;
  - (d) payments made towards the maintenance of the claimant by his spouse or former spouse or towards the maintenance of the claimant’s partner by his spouse or former spouse, including payments made—
    - (i) under a court order;
    - (ii) under an agreement for maintenance; or
    - (iii) voluntarily;
  - (e) payments due from any person in respect of board and lodging accommodation provided by the claimant, and for this purpose “board and lodging accommodation” has the same meaning as in paragraph 8(2) of Schedule IV;
  - (f) payments consisting of royalties or other sums received as a consideration for the use of, or the right to use, any copyright, patent or trade mark; and
  - (g) any payment made to the claimant in respect of any book registered under the Public Lending Right Scheme 1982<sup>(7)</sup>.
- (6) For the purposes of section 15(2), a claimant’s capital, other than capital disregarded under Schedule V, shall be deemed to yield a weekly income—
- (a) in the case of a claimant residing permanently in accommodation to which paragraph (7) applies, of £1 for each £500 in excess of £10,000 and £1 for any excess which is not a complete £500;
  - (b) in any other case, of £1 for each £500 in excess of £6,000 and £1 for any excess which is not a complete £500.
- (7) This paragraph applies to accommodation provided—
- (a) in a care home;
  - (b) in an establishment run by the Abbeyfield Society (including all bodies corporate or incorporate which are affiliated to the Society);
  - (c) under section 3 of, and Part II of the Schedule to, the Polish Resettlement Act 1947<sup>(8)</sup> (provision of accommodation) where the claimant requires personal care;
  - (d) under sections 21 to 24 of the National Assistance Act 1948<sup>(9)</sup> (provision of accommodation), or, in Scotland, under section 13B or 59 of the Social Work (Scotland)

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(4) Sections 30DD and 30E were inserted by section 3(1) of the Social Security (Incapacity for Work) Act 1994 (c. 18).

(5) S.I.1983/883.

(6) 1979 c. 41; amended by section 24 of the Social Security Act 1985 (c. 53).

(7) The Scheme is set out in the Appendix to S.I. 1982/719.

(8) 1947 c. 19.

(9) 1948 c. 29; section 21 is amended by the National Health Services and Community Care Act 1990 (c. 19), section 42(1).

Act 1968 or section 7 of the Mental Health (Scotland) Act 1984<sup>(10)</sup> (functions of local authorities) where—

- (i) the home in which the accommodation is provided is either owned and managed or owned or managed by a local authority; and
- (ii) the claimant occupies the accommodation other than on a temporary basis.

(8) For the purposes of paragraph (6), a person shall be treated as residing permanently in the accommodation—

- (a) except where sub-paragraph (b) applies, notwithstanding that he is absent from it for a period not exceeding 52 weeks;
- (b) if it is accommodation to which paragraph (7)(c) applies—
  - (i) notwithstanding that he is absent from it for a period not exceeding 13 weeks; and
  - (ii) if he, with the agreement of the manager of the home, intends to return to it in due course.

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<sup>(10)</sup> 1984 c. 36.