EXPLANATORY MEMORANDUM FOR
THE HOUSE OF LORDS
SELECT COMMITTEE ON THE MERITS OF STATUTORY INSTRUMENTS

The Social Security (Claims and Payments) Amendment (No. 2) Regulations 2004

SI 2004 No 1821

This explanatory memorandum is laid before Parliament by Command of Her Majesty. The Department for Work and Pensions is the responsible department.

Legislative context

The Regulations use a power in the Social Security Administration Act 1992 to amend the time for claiming state pension credit, which is set out in the Social Security (Claims and Payments) Regulations 1987.

The State Pension Credit Act 2002 introduced State Pension Credit (SPC) as a new benefit payable from 6th October 2003. Transitional provision was made for claims made up to 5th October 2004 in the State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations 2002, Regulation 38(4) and (5). Under those provisions, all eligible claims received on or before 5th October 2004 may be treated as made on 6th October 2003, or the date the conditions of entitlement were first satisfied, if later.

The Regulations provide that from 6th October 2004 the time for claiming SPC will be any day on which the claimant is entitled to SPC and a period of 12 months immediately following that day. Without this amendment the prescribed time for claiming SPC would be 3 months.

The same 12 month period for claiming is planned for those of qualifying age for SPC who claim Housing Benefit or Council Tax Benefit. The draft statutory instrument[1] for the purpose has a prospective coming into force date of 6 October 2004.

[1] Draft Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) (No. 2) Regulations 2004.

Policy background

In order to facilitate a managed and gradual take on of Pension Credit applications from April 2003, the SPC (Consequential, Transitional and Miscellaneous Provisions) Regulations 2002 provided for all eligible claims received on or before 5th October 2004 to be treated as made on 6th October 2003, or the date entitlement started, if later.

In his Budget report of 17 March 2004, the Chancellor announced that from 6 October 2004, when the transitional regulations cease to apply, the period for making a claim would be extended from 3 months to 12 months[2].

Regulatory and cost impact

A full regulatory impact assessment has not been produced for the Regulations as they do not impose a charge on business or the public. Costs to the Exchequer have been estimated at:

2004/05: £5m

2005/06: £15m

2006/07: £15m

2007/08: £20m

These estimates assume that 75% of claims would not be backdated. The 25% balance would be backdated evenly between 1 to 12 months.

Applicability outside England

The Regulations will apply to Great Britain, as responsibility for social security has not been devolved to either Scotland or Wales.

The European Convention on Human Rights

The view of the Secretary of State for Work and Pensions is that the Regulations are compatible with Convention rights.

Department for Work and Pensions
21 July 2004

[2] Budget 2004, Budget Report; Prudence for a Purpose: A Britain of Stability and Strength, 5.36, page 108