STATUTORY INSTRUMENTS

2009 No. 3229

SOCIAL SECURITY

The Social Security (Miscellaneous Amendments) (No. 6) Regulations 2009

Made - - - -	*7th December 2009*
Laid before Parliament	*14th December 2009*
Coming into force - -	*6th April 2010*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 5(1)(i), (k) and (l), 189(1) and (4) to (6) and 191 of the Social Security Administration Act 1992(**a**), section 175(1) and (4) of the Social Security Contributions and Benefits Act 1992(**b**) and section 17(1) of, and paragraph 13(1) of Schedule 1 to, the State Pension Credit Act 2002(**c**).

In accordance with section 173(1)(b) of the Social Security Administration Act 1992, the Secretary of State has obtained the agreement of the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it.

Citation and commencement

1. These Regulations may be cited as the Social Security (Miscellaneous Amendments) (No. 6) Regulations 2009 and shall come into force on 6th April 2010.

Amendment of the Social Security (Claims and Payments) Regulations 1987

2.—(1) The Social Security (Claims and Payments) Regulations 1987(**d**) are amended as follows.

(2) In regulation 2(1)(**e**) (interpretation) after the definition of "widowed parent's allowance" insert—

""working age benefit" means any of the following—

(a) bereavement allowance;

(**a**) 1992 c.5. Section 189(1) was amended by the Social Security Act 1998 (c. 14), Schedule 7, paragraph 109(a) and Schedule 8, by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Schedule 3, paragraph 57(1) and (2) and by the Tax Credits Act 2002 (c. 21), Schedule 6. Section 189(4) to (6) were amended by the Social Security Act 1998, Schedule 7, paragraph 109(c) to (e) and Schedule 8. Section 191 is cited for the definition of "prescribe" and was amended by the Welfare Reform Act 2007 (c. 5), Schedule 5, paragraph 10.

(**b**) 1992 c.4. Section 175(1) and (4) are applied to provisions of the State Pension Credit Act 2002 (c. 16) by section 19(1) of that Act. Section 175(1) and (4) were amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

(**c**) 2002 c.16. Section 17(1) is cited for the definitions of "prescribed" and "regulations".

(**d**) S.I. 1987/1968.

(**e**) The definition of "long term benefits" was amended by S.I. 1991/2741, S.I. 1999/2358, S.I. 2000/1483, S.I. 2002/2497, S.I. 2005/1551 and S.I. 2005/2877. Other relevant amending instruments are S.I. 1995/2303, S.I. 1996/1460, S.I. 2002/3019 and S.I. 2006/3188.

(b) an employment and support allowance;

(c) incapacity benefit;

(d) income support;

(e) a jobseeker's allowance;

(f) widowed mother's allowance;

(g) widowed parent's allowance;

(h) widow's pension."

(3) In regulation 16 (date of entitlement under an award for the purpose of payability of benefit and effective date of change of rate)—

(a) after paragraph (1C)(**a**) insert—

"(1D) Except in a case where regulation 22D(1) or (2) applies, for the purpose only of determining the day from which retirement pension payable in arrears under regulation 22C is to become payable, where entitlement would otherwise begin on a day which is not the first day of the benefit week, entitlement shall begin on the first day of the benefit week next following.";

(b) after paragraph (2C)(**b**) insert—

"(2D) Where a retirement pension is paid in arrears under regulation 22C and the award is terminated due to the death of the beneficiary, the termination shall take effect on the first day of the benefit week next following the date of death.

(2E) Except in a case where regulation 22D(2) applies, where a retirement pension is paid in arrears under regulation 22C and there is a change in the rate of that benefit, the change, if it would otherwise take effect on a day which is not the first day of the benefit week, shall take effect from the start of the benefit week in which the change occurs.";

(c) in paragraph (3)(c)(ii)(**c**) for "regulation 22 or 22A" substitute "regulation 22, 22A or 22C";

(d) in paragraph (4)(**d**) after "widowed parent's allowance" insert ", retirement pension payable in arrears under regulation 22C".

(4) In regulation 22(1)(**e**) (long term benefits) for "regulations 22A and 25(1)" substitute "regulations 22A, 22C and 25(1)".

(5) After regulation 22B(**f**) insert—

"**Retirement pension**

22C.—(1) This regulation applies in relation to payment of a retirement pension to persons who reach pensionable age on or after 6th April 2010, other than to a person to whom paragraph (7) applies.

(2) Subject to paragraphs (4) to (6), a retirement pension shall be paid weekly, fortnightly or four weekly (as the Secretary of State may in any case determine) in arrears on the day of the week specified in paragraph (3).

(3) The day specified for the purposes of paragraph (2) is the day in column (2) which corresponds to the series of numbers in column (1) which includes the last 2 digits of the person's national insurance number—

(1)	*(2)*
00 to 19	Monday

(**a**) Paragraph (1C) was inserted by S.I. 1991/2741 and was amended by S.I. 1999/2572.
(**b**) Paragraph (2C) was inserted by S.I. 2009/604.
(**c**) Paragraph (3)(c) was substituted by S.I. 2009/604.
(**d**) Paragraph (4) was amended by S.I. 1988/522, S.I. 1994/2943, S.I. 1996/1460, S.I. 2002/3019, S.I. 2008/1554 and S.I. 2009/604.
(**e**) Regulation 22(1) was substituted by S.I. 2002/2441 and amended by S.I. 2008/2667 and S.I. 2009/604.
(**f**) Regulation 22B was inserted by S.I. 2009/604.

20 to 39	Tuesday
40 to 59	Wednesday
60 to 79	Thursday
80 to 99	Friday

(4) The Secretary of State may, in any particular case or class of case, arrange that retirement pension be paid on any other day of the week.

(5) The Secretary of State may, in any particular case or class of case, arrange that the beneficiary be paid in arrears at intervals of 13 weeks where the beneficiary agrees.

(6) Where the amount of a retirement pension payable is less than £5.00 per week the Secretary of State may direct that it shall be paid in arrears at such intervals, not exceeding 12 months, as may be specified in the direction.

(7) This paragraph applies to a man who—

(a) was in receipt of state pension credit in respect of any day in the period beginning with the day 4 months and 4 days before the day on which he reaches pensionable age and ending on 5th April 2010; or

(b) was in continuous receipt of state pension credit from 5th April 2010 until a day no earlier than the day 4 months and 4 days before the day on which he reaches pensionable age.

Payment of retirement pension at a daily rate

22D.—(1) Where the entitlement of a person (B) to a retirement pension begins on a day which is not the first day of the benefit week in the circumstances specified in paragraph (3), it shall be paid at a daily rate in respect of the period beginning with the day on which entitlement begins and ending on the day before the first day of the following benefit week.

(2) Where in respect of a retirement pension—

(a) the circumstances specified in paragraph (3) apply,

(b) B's entitlement to that benefit begins on a day which is not the first day of the benefit week, and

(c) a change in the rate of that benefit takes effect under an order made under section 150A of the 1992 Act (annual up-rating of basic pension etc.)(**a**) on a day, in the same benefit week, subsequent to the day on which B's entitlement arose,

it shall be paid at a daily rate in respect of the period beginning with the day on which entitlement begins and ending on the day before the first day of the following benefit week.

(3) The circumstances referred to in paragraphs (1) and (2) are where—

(a) the retirement pension is paid in arrears,

(b) B has not opted to defer entitlement to a retirement pension under section 55 of the Contributions and Benefits Act(**b**), and

(c) B—

(i) was in receipt of a working age benefit in respect of any day in the period beginning with the day 8 weeks and a day before B reaches pensionable age and ending immediately before the day B reaches such age, or

(ii) has reached pensionable age and is a dependent spouse of a person who is in receipt of an increase for an adult dependant under section 83 or 84 of the Contributions and Benefits Act(**c**).

(**a**) Section 150A of the 1992 Act was inserted by section 5(1) of the Pensions Act 2007 (c. 22).

(**b**) Section 55 was substituted by the Pensions Act 2004 (c. 35), section 297(1) and amended by the Pensions Act 2007 (c. 22), paragraph 7 of Schedule 1 and by S.I. 2005/2053.

(**c**) Sections 83 and 84 were substituted by the Pensions Act 1995 (c. 26), Schedule 4, paragraph 2 and repealed by the Pensions Act 2007 (c. 22), section 4(1) and Part 2 of Schedule 7 with effect from 6th April 2010 (except in relation to a qualifying person at any time falling on or after that date but before the appropriate date: *see* section 4(5) to (7)).

(4) Where benefit is payable at a daily rate in the circumstances mentioned in this regulation, the daily rate which shall apply in respect of a particular day in the relevant period shall be 1/7th of the weekly rate which, if entitlement had begun on the first day of the benefit week, would have had effect on that particular day.

(5) In this regulation, "benefit week" means the period of 7 days which ends on the day on which, in B's case, the benefit is payable in accordance with regulation 22C. ".

(6) In regulation 26B(**a**) (state pension credit)—

(a) in paragraph (1) for "paragraph (2)" substitute "paragraph (2) or regulation 26BA";

(b) in paragraph (4) for "State pension credit" substitute "Subject to regulation 26BA, state pension credit".

(7) After regulation 26B insert—

"Intervals for payment of state pension credit

26BA.—(1) Where state pension credit is payable to a person who reaches pensionable age on or after 6th April 2010, other than a person to whom regulation 22C(7) applies, it shall be paid weekly, fortnightly or four weekly (as the Secretary of State may in any case determine) in arrears on the day of the week specified in paragraph (2).

(2) The day specified for the purposes of paragraph (1) is the day in column (2) which corresponds to the series of numbers in column (1) which includes the last 2 digits of the person's national insurance number—

(1)	*(2)*
00 to 19	Monday
20 to 39	Tuesday
40 to 59	Wednesday
60 to 79	Thursday
80 to 99	Friday

(3) The Secretary of State may, in any particular case or class of case, arrange that state pension credit be paid on any other day of the week.

(4) Where the amount of state pension credit payable is less than £1.00 per week the Secretary of State may direct that it shall be paid in arrears at such intervals, not exceeding 13 weeks, as may be specified in the direction.".

(8) In paragraph 5 of Schedule 6 (days for payment of long term benefits) at the beginning, for "Retirement pension" substitute "Subject to regulation 22C, retirement pension".

Amendment of the State Pension Credit Regulations 2002

3.—(1) The State Pension Credit Regulations 2002(**b**) are amended as follows.

(2) In regulation 1(2) (interpretation) for the definition of "benefit week" substitute—

""benefit week" means—

(a) where state pension credit is paid in advance, the period of 7 days beginning on the day on which, in the claimant's case, that benefit is payable;

(b) where state pension credit is paid in arrears, the period of 7 days ending on the day on which, in the claimant's case, that benefit is payable.".

(3) In regulation 13A(**c**) (part-weeks)—

(a) omit paragraph (2);

(**a**) Regulation 26B was inserted by S.I. 2002/3019 and amended by S.I. 2006/832.
(**b**) S.I. 2002/1792.
(**c**) Regulation 13A was inserted by S.I. 2002/3019 and amended by S.I. 2008/1554.

(b) in paragraph (3)(a), omit the words ", taking into account the requirements of paragraph (2),"; and

(c) in paragraph (3), omit the words from "any fraction" to the end.

(4) In regulation 13B(**a**) (date on which benefits are treated as paid) for paragraph (2) substitute—

"(2) All benefits except those mentioned in paragraph (1) shall be treated as paid—

(a) where the benefit is paid in advance, on the first day of the benefit week in which the benefit is payable;

(b) where the benefit is paid in arrears, on the last day of the benefit week in which the benefit is payable.".

Signed by authority of the Secretary of State for Work and Pensions.

Angela Eagle
Minister of State
Department for Work and Pensions

7th December 2009

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Claims and Payments) Regulations 1987 ("the Claims and Payments Regulations") and the State Pension Credit Regulations 2002 ("the State Pension Credit Regulations").

Regulation 2(5) inserts regulations 22C and 22D into the Claims and Payments Regulations. The effect of these amendments is to enable retirement pension to be paid weekly, fortnightly, 4 weekly, 13 weekly or annually in arrears and to enable a person's payday to be determined in accordance with their national insurance number. The effect of regulation 22D is to enable retirement pension to be paid at a daily rate for part-weeks where specified conditions are satisfied.

Regulation 2(7) inserts regulation 26BA into the Claims and Payments Regulations to enable state pension credit to be paid weekly, fortnightly, 4 weekly or 13 weekly in arrears and to enable a person's payday to be determined in accordance with their national insurance number.

Regulation 2(2) inserts a definition of "working age benefit" (a term used in the new regulation 22D) into the Claims and Payments Regulations. The remainder of regulation 2 adjusts other provisions of the Claims and Payments Regulations as a consequence of these changes. Regulation 3(2) and (4) make consequential changes to the State Pension Credit Regulations.

Regulation 3(3) amends regulation 13A of the State Pension Credit Regulations to enable income to be taken into account for the purposes of determining the amount of the guarantee credit payable for part-week payment of state pension credit. It also removes the words in regulation 13A(3) of those Regulations which enable any fraction of a penny to be rounded up to the nearest penny. Calculations relating to fractions of a penny in respect of state pension credit will be determined in accordance with regulation 28 of the Claims and Payments Regulations.

A full impact assessment has not been produced for this instrument as it has no impact on the private or voluntary sectors.

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(**a**) Regulation 13B was inserted by S.I. 2002/3019 and amended by S.I. 2002/3197 and S.I. 2008/1554.

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