2019 No. 4 (C. 1)

SOCIAL SECURITY

The Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 13 and Savings and Transitional Provisions and Commencement No. 8 and Transitional and Transitory Provisions (Amendment)) Order 2019

Made - - - - 14th January 2019

The Secretary of State for Work and Pensions makes the following Order in exercise of the powers conferred by Article 2(2), (3)(a) and (4) of the Welfare Reform (Northern Ireland) Order 2015(**a**).

Those powers are exercisable by the Secretary of State by virtue of Article 4(1)(a) and (b) of the Welfare Reform (Northern Ireland) Order 2015.

Citation

1. This Order may be cited as the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 13 and Savings and Transitional Provisions and Commencement No. 8 and Transitional and Transitory Provisions (Amendment)) Order 2019.

Interpretation

2.—(1) In this Order—

"the 2002 Act" means the State Pension Credit Act (Northern Ireland) 2002(**b**);

"the appointed day" means the day referred to in Article 3;

"couple" has the same meaning as in the 2002 Act(**c**);

"the Housing Benefit SPC Regulations" means the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(**d**);

"the No. 8 Order" means the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 8 and Transitional and Transitory Provisions) Order 2017(**e**);

"polygamous marriage" has the same meaning as in regulation 3(4) of the Universal Credit Regulations (Northern Ireland) 2016(**f**);

"the qualifying age for state pension credit" has the same meaning as in the 2002 Act(**g**);

(**a**) S.I. 2015/2006 (N.I. 1).
(**b**) 2002 c. 14 (N.I.).
(**c**) *See* section 17(1). The definition of "couple" was inserted by 2004 c. 33.
(**d**) S.R. 2006 No. 406.
(**e**) S.R. 2017 No. 190 (C. 11).
(**f**) S.R. 2016 No. 216.
(**g**) *See* section 1(2)(b) and (6).

"secondary legislation" means an instrument made under—

(a) an Act of Parliament, including an Order in Council made under the Northern Ireland (Welfare Reform) Act 2015(**a**);

(b) Northern Ireland legislation within the meaning of section 24 of the Interpretation Act 1978(**b**);

"state pension credit" has the same meaning as in the 2002 Act(**c**).

(2) In this Order—

(a) "mixed-age couple" means a couple, one member of which has attained the qualifying age for state pension credit and the other of which has not; and

(b) the definition in sub-paragraph (a) includes a polygamous marriage where at least one party to the marriage has attained the qualifying age for state pension credit and at least one has not.

(3) Save as stated to the contrary in Article 6(2), all references in this Order to claims or entitlement to housing benefit are to claims or entitlement under the Housing Benefit SPC Regulations.

(4) In this Order—

(a) a person is entitled to state pension credit or housing benefit on any day where the person has made a claim for that benefit and the conditions of entitlement are met in relation to that person, regardless of whether, respectively, entitlement begins on a later day under—

(i) regulation 16A (date of entitlement under an award of state pension credit for the purpose of payability and effective date of change of rate)(**d**) of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987, or

(ii) regulation 55 (date on which entitlement is to commence) of the Housing Benefit SPC Regulations, and

(b) a reference to claiming or entitlement to state pension credit or housing benefit as part of a couple is a reference to the claim being made, or the person being so entitled, on the basis that a person is a member of a couple or (save in Article 7(3)) a member of a polygamous marriage.

Appointed day

3. 15th May 2019 is the appointed day for the coming into force of paragraph 53 (universal credit amendments: insertion of section 4(1A) into the 2002 Act) of Schedule 2 to the Welfare Reform (Northern Ireland) Order 2015, and Article 37 of that Order in so far as it relates to that paragraph.

Savings

4.—(1) Subject to paragraph (2), the 2002 Act shall have effect as though section 4(1A) (exclusion of mixed-age couples from state pension credit)(**e**) had not come into force in relation to a member of a mixed-age couple who, on the day before the appointed day and as part of that couple, is entitled to—

(a) state pension credit;

(b) housing benefit; or

(c) state pension credit and housing benefit.

(**a**) 2015 c. 34.
(**b**) 1978 c. 30.
(**c**) *See* section 1.
(**d**) S.R. 1987 No. 465. Regulation 16A was inserted by S.R. 2003 No. 191; there are amendments none of which are relevant to this Order.
(**e**) Section 4 was amended by 2004 c. 33

(2) The savings in the sub-paragraphs of paragraph (1) shall cease to have effect in relation to the member of the mixed-age couple referred to on any day after the appointed day when that person is not entitled to either state pension credit or housing benefit as part of the same mixed-age couple.

Amendment of the No. 8 Order: transitional provision preventing claims for housing benefit

5.—(1) The following amendments of Article 24 of the No. 8 Order(**a**) have effect from the day after the day of making of this Order.

(2) For paragraph (4)(a) substitute—

"(a) in the case of a claim for housing benefit, the claim is made by a member of a State Pension Credit Act couple who has reached the qualifying age for state pension credit, where the other member has not reached that age, and entitlement begins, or in the case of claims made in advance of entitlement is to begin—

(i) before 15th May 2019, or

(ii) on or after 15th May 2019 and one of the savings in the sub-paragraphs of Article 4(1) of the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 13 and Savings and Transitional Provisions and Commencement No. 8 and Transitional and Transitory Provisions (Amendment)) Order 2019 applies to that person and the saving has not ceased to have effect under Article 4(2) of that Order, and

entitlement to housing benefit is to be construed in accordance with Article 2 of that Order;".

(3) In paragraph (3), at the end insert "or temporary accommodation".

(4) In paragraph (11), after the definition of "Tax Credits Act couple" insert—

""temporary accommodation" means accommodation which falls within Case 1 or Case 2 under paragraph 4A of Schedule 1 to the Universal Credit Regulations;".

Transitional provision: termination of awards of housing benefit

6.—(1) The awards of housing benefit referred to in paragraph (2) are to terminate on the day referred to in paragraph (3), subject to paragraph (4).

(2) The awards are those where entitlement under the Housing Benefit SPC Regulations as part of a mixed-age couple begins on or after the appointed day and where the awards are made—

(a) at any time, under the Housing Benefit Regulations (Northern Ireland) 2006(**b**) or the Housing Benefit SPC Regulations, to a person who, after the award, becomes a member of a mixed-age couple;

(b) at any time, under the Housing Benefit Regulations (Northern Ireland) 2006, to a person who is a member of a mixed-age couple, where the award subsequently ceases to be subject to those Regulations and becomes subject to the Housing Benefit SPC Regulations; or

(c) on or before the day of making of this Order, to a person who claimed in advance of attaining the qualifying age for state pension credit.

(3) The termination takes effect—

(a) in the case of an award referred to in paragraph (2)(a) or (b), on the later of the appointed day and the day entitlement under the Housing Benefit SPC Regulations as part of a mixed-age couple takes effect on the award, as a change of circumstances, in accordance

(**a**) There are modifications to Article 24 none of which are relevant to this Order.
(**b**) S.R. 2006 No. 405.

with the Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001(**a**); or

(b) in the case of an award referred to in paragraph (2)(c), on the day after the day of making of this Order.

(4) Paragraph (1) does not apply to awards in respect of specified accommodation or temporary accommodation, as defined in Article 24(11) of the No. 8 Order(**b**).

Transitional provision: polygamous marriages

7.—(1) Paragraph (3) applies where a party to a polygamous marriage—

(a) is excluded from entitlement to state pension credit under section 4(1A) of the 2002 Act;

(b) is prevented from claiming housing benefit under Article 24 of the No. 8 Order; or

(c) has an award of housing benefit terminated under Article 6.

(2) For the purposes of paragraph (3)—

(a) the rule in regulation 3(3) of the Universal Credit Regulations (Northern Ireland) 2016 (treatment of polygamous couples) applies to establish that two of the parties to the polygamous marriage are to be treated as a couple and the remaining party (or parties) as a single person (or single persons); and

(b) all secondary legislation relevant to assessment of entitlement to state pension credit or housing benefit applies so that claims and awards may be made in respect of the party specified in paragraph (3)(a) or (b) as a part of a couple or as a single person respectively.

(3) Where this paragraph applies and the qualifying age for state pension credit has been attained by—

(a) both the parties to be treated as a couple by virtue of paragraph (2)(a), one of them may claim or remain entitled to state pension credit as part of that couple and one of them may claim or remain entitled to housing benefit as part of that couple;

(b) a party to be treated as a single person by virtue of paragraph (2)(a), that party may claim or remain entitled to state pension credit or housing benefit as a single person.

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

Guy Opperman
Parliamentary Under Secretary of State
Department for Work and Pensions

14th January 2019

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force paragraph 53 of Schedule 2 to the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I. 1)), which amends the State Pension Credit Act (Northern Ireland) 2002 (c.14 (N.I.)) by inserting section 4(1A), which excludes mixed-age couples from entitlement to state pension credit. (For the definition of "mixed-age couple" see Article 2(2)(a).) Section 4(1A) comes into force on 15th May 2019 ("the appointed day", see Article 3), except in the savings cases in Article 4.

Under Article 4(1), if a member of a mixed-age couple has entitlement to state pension credit or housing benefit for those of state pension credit qualifying age on the day before the appointed

(**a**) S.R. 2001 No. 213.
(**b**) The definition of "temporary accommodation" is inserted by Article 4(2) of this Order.

day, entitlement as part of that couple may continue after the appointed day. For the definition of entitlement, and entitlement as part of a couple, see Article 2(4).

Under Article 4(2), the savings continue to apply until such time as there is neither entitlement as part of the couple to state pension credit, nor housing benefit for those of state pension credit qualifying age. Provided that there is continuity of entitlement to either benefit, the savings continue. So entitlement to state pension credit, provided as part of the same couple, may arise (or arise again) after the appointed day, so long as there is entitlement on the part of the couple to housing benefit for those of state pension credit qualifying age and there was such entitlement, or entitlement to state pension credit, on the day before the appointed day. Mixed-age couples who do not, or no longer, fall within the savings cases and require income-related benefit may claim universal credit instead.

Articles 5 and 6 make complementary provision to section 4(1A) and the savings in Article 4 in respect of claims to, and awards of, housing benefit for those of state pension credit qualifying age.

Article 5 amends Article 24 of the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 8 and Transitional and Transitory Provisions) Order 2017 (S.R. 2017 No. 190 (C. 11)) to prevent claims to housing benefit by a member of a mixed-age couple of state pension credit qualifying age. Claims are prevented in the same cases as that member is excluded from entitlement to state pension credit, allowing for the savings cases in Article 4(1) whilst they continue under Article 4(2). Further amendment is made to allow claims for housing benefit in respect of temporary accommodation.

Article 6 provides for termination of awards of housing benefit made to a person who has become a member of a mixed-age couple, awards made to a mixed-age couple where the award becomes subject to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006 (S.R. 2006 No. 406), and advance awards made to a member of a mixed-age couple before the making of this Order. Awards must terminate where entitlement to housing benefit for those of state pension credit qualifying age, as part of a mixed-age couple, would otherwise have begun on or after the appointed day.

Where a party to a polygamous marriage is excluded from state pension credit under section 4(1A) – for the extension of the definition in this Order of "mixed-age couple" to certain polygamous marriages, see Article 2(2)(b) – and may not become or remain entitled to housing benefit for those of state pension credit qualifying age, further to Article 5 or 6 respectively, Article 7(2) provides that the parties to the marriage are to be treated as a couple or as a single person (or persons) as under the Universal Credit Regulations (Northern Ireland) 2016 (S.R. 2016 No. 216). Where each of the parties treated as a couple, or a party treated as single, has attained the qualifying age for state pension credit, Article 7(3) provides that they be treated in that capacity for claims to or awards of state pension credit and housing benefit for those of state pension credit qualifying age.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

Provision	*Date of Commencement*	*S.R. number*
Article 6 (partially)	27th September 2017	2017 No. 190
Article 6 (partially)	15th November 2017	2017 No. 216
Article 6 (partially)	13th December 2017	2017 No. 216
Article 6 (partially)	17th January 2018	2018 No. 1
Article 6 (partially)	7th February 2018	2018 No. 1
Article 6 (partially)	21st February 2018	2018 No. 1
Article 6 (partially)	7th March 2018	2018 No. 1
Article 6 (partially)	16th May 2018	2018 No. 97

Provision	*Date of Commencement*	*S.R. number*
Article 6 (partially)	30th May 2018	2018 No. 97
Article 6 (partially)	13th June 2018	2018 No. 97
Article 6 (partially)	27th June 2018	2018 No. 97
Article 6 (partially)	5th September 2018	2018 No. 138
Article 6 (partially)	19th September 2018	2018 No. 138
Article 6 (partially)	3rd October 2018	2018 No. 138
Article 6 (partially)	17th October 2018	2018 No. 138
Article 6 (partially)	31st October 2018	2018 No. 138
Article 6 (partially)	14th November 2018	2018 No. 138
Article 6 (partially)	5th December 2018	2018 No. 138
Article 7 (partially)	2nd May 2016	2016 No. 215
Article 7 to 29 (partially)	As Article 6	As Article 6
Articles 9 to 17 (partially)	2nd May 2016	2016 No. 215
Articles 18 to 27 (partially)	2nd May 2016	2016 No. 215
Article 29 (partially)	2nd May 2016	2016 No. 215
Article 30	2nd May 2016	2016 No. 215
Articles 31 and 32 (partially)	2nd May 2016	2016 No. 215
Articles 31 and 32 (partially)	As Article 6	As Article 6
Article 33	2nd May 2016	2016 No. 215
Article 34 and 35	27th September 2017	2017 No. 190
Articles 36 to 38	2nd May 2016	2016 No. 215
Article 39 (partially)	2nd May 2016	2016 No. 215
Article 39 (partially)	As Article 6	As Article 6
Articles 41 and 42	2nd May 2016	2016 No. 215
Article 43 (partially)	2nd May 2016	2016 No.215
Article 43 (remaining)	27th September 2017	2017 No. 190
Article 44	27th September 2017	2017 No. 190
Articles 45 to 47 (partially)	2nd May 2016	2016 No. 215
Articles 45 and 46 (remaining)	27th September 2017	2017 No. 190
Articles 48 and 49	2nd May 2016	2016 No. 215
Article 50 (partially)	2nd May 2016	2016 No. 215
Article 50 (partially)	27th September 2017	2017 No. 190
Article 51 and 52 (partially)	1st June 2016	2016 No. 234
Article 51 and 52 (remaining)	27th September 2017	2017 No. 190
Article 53	17th February 2016	2016 No. 46
Article 54	2nd May 2016	2016 No. 215
Article 55 (partially)	2nd May 2016	2016 No. 215
Article 55 (partially)	27th September 2017	2017 No. 190
Article 56	17th February 2016	2016 No. 46
Article 57 (partially)	17th March 2016	2016 No. 46
Article 57 (remaining)	28th November 2016	2016 No. 46
Article 58	28th November 2016	2016 No. 46
Article 59	17th February 2016	2016 No. 46
Article 60 (partially)	2nd May 2016	2016 No 215
Article 60 (partially)	27th September 2017	2017 No. 190
Article 61	27th September 2017	2017 No. 190
Article 62	1st June 2016	2016 No. 234
Article 63 (partially)	2nd May 2016	2016 No. 215
Article 63 (partially)	27th September 2017	2017 No. 190
Article 64	16th January 2017	2016 No. 46
Article 70 (partially)	1st June 2016	2016 No. 234
Article 70 (remaining)	31st October 2016	2016 No. 234

Provision	*Date of Commencement*	*S.R. number*
Article 71	31st October 2016	2016 No. 234
Article 72 (partially)	2nd May 2016	2016 No. 215
Article 72 (partially)	1st June 2016	2016 No. 234
Articles 73 and 74	31st October 2016	2016 No. 234
Article 76 (partially)	31st March 2017	2016 No. 411
Article 76 (partially)	28th November 2016	2016 No. 411
Article 77 to 79	17th February 2016	2016 No. 46
Articles 82 to 84 (partially)	2nd May 2016	2016 No. 215
Articles 82 to 84 (remaining)	20th June 2016	2016 No. 215
Articles 85 and 86	2nd May 2016	2016 No. 215
Article 87	20th June 2016	2016 No. 215
Article 88 (partially)	2nd May 2016	2016 No. 215
Article 88 (remaining)	20th June 2016	2016 No. 215
Articles 89 to 91	2nd May 2016	2016 No. 215
Article 92 (partially)	2nd May 2016	2016 No. 215
Article 92 (remaining)	20th June 2016	2016 No. 215
Articles 93 and 94	20th June 2016	2016 No. 215
Articles 96 to 99	2nd May 2016	2016 No. 215
Article 100 (partially)	2nd May 2016	2016 No. 215
Article 100 (remaining)	20th June 2016	2016 No. 215
Articles 101 and 102	17th February 2016	2016 No. 46
Articles 103 to 106	2nd May 2016	2016 No. 215
Article 107 (partially)	17th March 2016	2016 No. 166
Article 108	2nd May 2016	2016 No. 215
Article 109 (partially)	4th April 2016	2016 No. 46
Article 109 (partially)	2nd May 2016	2016 No. 215
Article 109 (partially)	20th June 2016	2016 lNo. 215
Article 109 (remaining)	27th September 2017	2017 No. 190
Articles 110 (partially)	2nd May 2016	2016 No. 215
Article 110 (remaining)	20th June 2016	2016 No. 215
Articles 111 to 113	17th February 2016	2016 No. 46
Articles 115 and 116	4th April 2016	2016 No. 46
Articles 117 and 118 (partially)	2nd May 2016	2016 No. 215
Articles 120 to 125	17th February 2016	2016 No. 46
Article 127 (partially)	17th February 2016	2016 No. 46
Articles 129 to 133	17th February 2016	2016 No. 46
Article 134	27th September 2017	2017 No. 190
Articles 135 to 140	17th February 2016	2016 No. 46
Schedule 1 (partially)	2nd May 2016	2016 No. 215
Schedule 2 (partially)	2nd May 2016	2016 No. 215
Schedule 2 (partially)	10th July 2017	2017 No. 118
Schedule 2 (partially)	27th September 2017	2017 No. 190
Schedule 3 (partially)	2nd May 2016	2016 No. 215
Schedule 3 (partially)	As Article 6	As Article 6
Schedule 5 (partially)	2nd May 2016	2016 No. 215
Schedule 6	2nd May 2016	2016 No. 215
Schedule 7 (partially)	2nd May 2016	2016 No. 215
Schedule 7 (partially)	1st June 2016	2016 No. 234
Schedule 7 (partially)	27th September 2017	2017 No. 190
Schedule 8 (partially)	28th November 2016	2016 No. 411
Schedule 8 (partially)	31st March 2017	2016 No. 411
Schedule 8 (remaining)	27th September 2017	2017 No. 190

Provision	*Date of Commencement*	*S.R. number*
Schedule 9 (partially)	2nd May 2016	2016 No. 215
Schedule 9 (partially)	20th June 2016	2016 No. 215
Schedule 10	2nd May 2016	2016 No. 215
Schedule 11 (partially)	17th March 2016	2016 No. 166
Schedule 12 (partially)	28th November 2016	2016 No. 411
Schedule 12 (partially)	31st March 2017	2016 No. 411
Schedule 12 (partially)	17th February 2016	2016 No. 46
Schedule 12 (partially)	31st October 2016	2016 No. 234
Schedule 12 (partially)	27th September 2017	2017 No. 190
Schedule 12 (partially)	As Article 6	As Article 6

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