

## STATE PENSION CREDIT: UNIVERSAL CREDIT CLAIMANTS WHO REACH THE QUALIFYING AGE

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### INTRODUCTION

- 1 This memo gives guidance on the Universal Credit (Persons who have attained state pension credit qualifying age) (Amendment) Regulations (Northern Ireland) 2020 (SR 2020 No.119), in relation to State Pension Credit claimants. The regulations come into force on 25.11.20. The memo should be read with ADM Memo 24/20, which gives guidance on how the regulations affect Universal Credit claimants, including the Universal Credit run-on for claimants

who reach the qualifying age, and changes to the restrictions on entitlement to State Pension Credit and Housing Benefit during the first and last Universal Credit assessment periods.

**Note:** This memo replaces the guidance at DMG 77035 **Note 2** which is cancelled and should no longer be followed.

- 2 The memo gives guidance on the regulations which
  1. provide for the treatment of mixed-age couples in cases where a claimant who has reached the State Pension Credit qualifying age would otherwise not be entitled to State Pension Credit or Universal Credit<sup>1</sup> **and**
  2. add Universal Credit to the list of benefits disregarded as income for the purposes of State Pension Credit<sup>2</sup>.

*1 UC (SPC) (Amdt) Regs (NI), reg 2(2); 2 reg 2(3)*

## **DEFINITIONS**

### **Meaning of mixed-age**

- 3 For the purposes of this memo, mixed-age, whether for a couple or a marriage, means where one member has reached the qualifying age and the other member has not<sup>1</sup>. This includes a polygamous marriage where at least one party to the marriage has reached the State Pension Credit qualifying age and at least one party has not<sup>2</sup>.

**Note 1:** This is a different definition of mixed-age couple from that for the purposes of entitlement to the State Pension Credit savings credit which remains as it is (see DMG 77167).

**Note 2:** See DMG 77033 for the meaning of qualifying age.

*1 SPC Regs (NI), reg 5(6)(b); 2 reg 5(6)(c)*

### **Meaning of polygamous marriage**

- 4 A polygamous marriage is one
  1. during which a party to the marriage is married to more than one person **and**
  2. which took place under the laws of a country that permits polygamy<sup>1</sup>.

*1 SPC Regs (NI), reg 5(6)(d)*

## **MEMBERSHIP OF THE HOUSEHOLD**

- 5 Since 15.5.19 claimants have been excluded from claiming State Pension Credit where they are a member of a mixed-age couple<sup>1</sup> - see DMG 77031 and

77035. See also DMG 77035 **Note 1** for savings where the exclusion does not apply. The guidance at paragraphs 7 - 16 applies where<sup>2</sup> a claimant who has reached the qualifying age would otherwise not be entitled to State Pension Credit or Universal Credit because they are

1. excluded from State Pension Credit as a member of a mixed-age couple **and**
2. not entitled to Universal Credit as
  - 2.1 joint claimants with a partner **or**
  - 2.2 a single claimant

in one of the cases in paragraphs 7 or 12.

*1 SPC Act (NI) 02, sec 4(1A); 2 SPC Regs (NI), reg 5(3) & (4)*

- 6 Where the claimant falls within one of those cases, the Universal Credit rules for treatment of couples or effective dates apply, enabling the claimant who has reached the qualifying age to claim State Pension Credit from the first date from which those rules apply<sup>1</sup>.

*1 SPC Regs (NI), reg 5(5); UC Regs (NI) 16, reg 3(2), (3) & (5); UC, PIP, JSA & ESA (D&A) Regs (NI), Sch 1 para 26*

### **Universal Credit treatment of couple rules**

- 7 The first case is where the claimant is not entitled to Universal Credit because they have reached the qualifying age and under Universal Credit rules they are<sup>1</sup>
  1. a member of a couple who may only make a claim for Universal Credit as a single person due to the other member of the couple being in one or more of the following categories<sup>2</sup>
    - 1.1 under 18 (see ADM E2017) **or**
    - 1.2 not in Northern Ireland (see ADM E2017) **or**
    - 1.3 a prisoner (see ADM E2021) **or**
    - 1.4 a member of a religious order (see ADM E2021) **or**
    - 1.5 a person subject to immigration control (see ADM E2022) **or**
  2. a party to a polygamous marriage who is
    - 2.1 treated as a couple where the other party has also reached the qualifying age **or**

- 2.2** treated as a single person by virtue of not being treated as part of a couple<sup>3</sup> (see ADM E2041) **or**
- 3.** a member of a couple where the other member is temporarily absent from the claimant's household and that absence is expected to exceed or does exceed 6 months<sup>4</sup> (see ADM E2030).

*1 SPC Regs (NI), reg 5(4)(a); 2 UC Regs (NI) 16, reg 3(2); 3 reg 3(3); 4 reg 3(5)*

- 8** For the purposes of State Pension Credit, the couple, including parties to a polygamous marriage, would be treated as members of the same household, and therefore excluded from claiming State Pension Credit<sup>1</sup>. From 25.11.20, the Universal Credit rules apply so that, from the date on which any of the circumstances in paragraph 7 apply, the claimant may claim State Pension Credit<sup>2</sup>. See paragraphs 9 - 11 for details.

**Note:** See DMG 77115 - 77131 for detailed guidance on membership of the household.

*1 SPC Regs (NI) reg 5(1)-(2); 2 reg 5(5)*

### **Polygamous marriage**

- 9** Where the claimant is treated as a member of a couple as in paragraph 7 **2.1**, they are treated as members of the same household as each other, but not as members of the same household as the other parties to the polygamous marriage<sup>1</sup>.

*1 SPC Regs (NI), reg 5(4)(a)(ii) & (5)(a); UC Regs (NI) 16, reg 3(3)*

### **Example**

Ravi, Imina and Kara are a polygamous unit, who make a claim for State Pension Credit. Ravi and Imina's marriage was the earliest and, as they are both over the qualifying age, they are able to make a claim for State Pension Credit and pension age Housing Benefit as a couple. However, as Kara has not reached the qualifying age, she has to make a claim for Universal Credit as a single claimant. Once Kara reaches the qualifying age, Ravi, Imina and Kara will be entitled to State Pension Credit as a polygamous unit.

- 10** Where the claimant is treated as single as in paragraph 7 **2.2**, they are treated as not being members of the same household as the other parties to the polygamous marriage<sup>1</sup>.

*1 SPC Regs (NI), reg 5(4)(a)(ii) & (5)(b); UC Regs (NI) 16, reg 3(3)*

### **Example**

Ravi, Imina and Kara are a polygamous unit. Ravi and Imina are both over the qualifying age, while Kara is not. Kara's marriage was the earliest, and she and Ravi are able to make a claim for Universal Credit as a mixed-age couple. As Imina has reached the qualifying age, she can make a claim for State Pension

Credit as a single claimant. Once Kara reaches the qualifying age, Ravi, Imina and Kara will be entitled to claim State Pension Credit as a polygamous unit.

### **Claimant treated as single**

- 11 Where the claimant is treated as single as in paragraph 7 **1.** or **3.**, they are treated as not being members of the same household as the other member of the couple<sup>1</sup>.

*1 SPC Regs (NI), reg 5(4)(a)(i), (iii) & (5)(b); UC Regs (NI) 16, reg 3(2) & (5)*

### **Example**

Andy and Gemma are a mixed-age couple claiming Universal Credit. Gemma moves into their daughter's home to help care for their grandchild while her daughter recovers from an operation. When it becomes clear she will be absent from her normal home for more than 6 months, they cease to be treated as a couple for Universal Credit. As Andy is over the qualifying age, he cannot remain on Universal Credit as a single claimant but can claim State Pension Credit and pension age Housing Benefit as a single person until Gemma returns home.

### **Universal Credit entitlement as mixed-age couple ends: effective date rules**

- 12 The second case is where entitlement to Universal Credit as joint claimants who are members of a mixed-age couple ends due to a change of circumstances (see paragraphs 14-16) which for the purposes of Universal Credit takes effect from the first day of the assessment period. This is earlier than the date that change normally takes effect for the purposes of State Pension Credit, i.e. the date of the change, leaving a gap in entitlement to either Universal Credit or State Pension Credit.
- 13 From 25.11.20, for the purposes of State Pension Credit, the change takes effect from the day after Universal Credit entitlement ends rather than the date the change occurs. This allows claims for State Pension Credit to be made from the day after the last day for which Universal Credit was awarded<sup>1</sup>. See paragraphs 14-16 for further details.

*1 SPC Regs (NI) 16, reg 5(5)*

### **Separation or bereavement**

- 14 Where the claimant who has reached the qualifying age is no longer a member of a mixed-age couple due to separation, divorce or bereavement, the claimant is treated as single from the date Universal Credit entitlement ends<sup>1</sup> (see paragraph 15) rather than from the date that the couple separated or the younger member of the couple died.

*1 SPC Regs (NI) 16, reg 5(4)(b)(i) & (5)*

- 15 Universal Credit entitlement normally ends from the first day of the assessment period in which the couple separates or divorces<sup>1</sup>. In bereavement cases, the surviving member of the couple may remain entitled to Universal Credit for up to two assessment periods after the assessment period in which the partner died. This also applies to mixed-age couples where the surviving member has reached the qualifying age at the date of the bereavement. They may choose instead to relinquish entitlement to Universal Credit at any time during the three months run-on period. See ADM Memo 24/20 for further details.

<sup>1</sup> UC, PIP, JSA & ESA (D&A) Regs (NI), reg 35 & Sch 1 para 20

### **Example**

Chantel and Paschal are a mixed-age couple entitled to Universal Credit. Their assessment period begins on the 9th of the month. Chantel has already reached the qualifying age. Paschal dies on 28.11.20. Chantel can remain entitled to Universal Credit as if she were still a joint claimant until 8.2.21, and claim State Pension Credit from 9.2.21 as a single claimant. Alternatively, she can choose to give up her entitlement to Universal Credit earlier. Chantel decides to give up her Universal Credit on 3.12.21. Her award of Universal Credit terminates on 8.11.20, and she can be treated as a single claimant from 9.11.20 and claim State Pension Credit from the same date.

### **Marriage no longer polygamous**

- 16 Where
1. the claimant who has reached the qualifying age is a party to a marriage that is no longer polygamous, whether through separation, divorce or bereavement **and**
  2. the remaining spouse has reached the qualifying age

the claimant is no longer a party to a polygamous marriage, and they and their partner are treated as members of the same household as each other from the date Universal Credit entitlement ends<sup>1</sup>.

<sup>1</sup> SPC Regs (NI) 16, reg 5(4)(b)(ii) & (5)

### **INCOME DISREGARD**

- 17 Normally all social security benefits are regarded as income for the purposes of State Pension Credit<sup>1</sup> - see DMG 85003 - 85004. However, some social security benefits are disregarded as income<sup>2</sup> - see DMG 85280. From 25.11.20, Universal Credit is added to the list of benefits which are disregarded as income<sup>3</sup>.

**Note:** See ADM Memo 24/20 for guidance on where Universal Credit may be paid to a claimant entitled to State Pension Credit.

<sup>1</sup> SPC Act (NI) 02, sec 15(1)(e); <sup>2</sup> SPC Regs (NI) 16, reg 15(1); <sup>3</sup> reg 15(1)(za)

## **Example**

Leigh is entitled to Universal Credit, and his assessment period begins on the 8th day of the month. On 15.2.21 he reaches the qualifying age. Leigh's entitlement to Universal Credit terminates on 7.3.21. Leigh claims State Pension Credit from 15.2.21. His Universal Credit award for the period 15.2.21 to 7.3.21 is disregarded as income when calculating his State Pension Credit entitlement.

## **ANNOTATIONS**

Please annotate the number of this memo (DMG Memo Vol 13/121 & 14/72) against the following DMG paragraphs:

77016, 77035, 77115 main heading, 77140, 78600 heading, 78601, 78602, 85280

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