

## MIXED AGE COUPLES IN STATE PENSION CREDIT

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### INTRODUCTION

- 1 This memo provides guidance on changes to the categories of person who are excluded from entitlement to State Pension Credit and pension age Housing Benefit under 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 (SR. 2019 No.4)<sup>1</sup>.

*1 WR (NI) Order 15 (Commencement No.13 etc.) Order 2019*

### THE CHANGES

- 2 From 15.5.19, where a new claim to State Pension Credit or pension age Housing Benefit is made, a claimant is not entitled if they are a member of a couple and the other member has not reached the qualifying age<sup>1</sup> (a mixed-age couple<sup>2</sup>). These changes are subject to certain savings provisions as detailed in paragraphs 5 - 8 below.

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

**Note 2 :** Such mixed-age couples may be eligible for Universal Credit instead or if they were entitled to Income Support, income-related Employment and Support Allowance or income-based Jobseeker's Allowance, they may be able to retain that entitlement. Alternatively, the younger member of the couple may be eligible for Income Support, income-related Employment and Support Allowance or income-based Jobseeker's Allowance for both members of the couple. All subject of course to the relevant entitlement conditions being satisfied.

*1 SPC Act (NI) 02, sec 1(6) & 4(1A); 2 WR (NI) Order 15 (Commencement No.13 etc.) Order 2019, art 2(2)(a)*

- 3 The definition of mixed-age couples includes a polygamous marriage where at least one party to the polygamous marriage has reached the State Pension Credit qualifying age and at least one party has not<sup>1</sup>.

*1 WR (NI) Order 15 (Commencement No.13 etc.) Order 2019, art 2(2)(b); UC Regs (NI), reg 3(4)*

- 4 For the purposes of these changes

1. the period for which an individual is entitled to State Pension Credit or pension age Housing Benefit is a period beginning with any day that the conditions of entitlement to the benefit are met (including the requirement to make a valid claim), regardless of whether entitlement for payability purposes begins at a later date, until the day before entitlement ends **and**
2. any reference to claiming or entitlement to State Pension Credit or pension age Housing Benefit as part of a couple is a reference to the claim being made or the person being entitled on the basis that a person is a member of a couple or a member of a polygamous marriage<sup>1</sup>.

*1 WR (NI) Order 15 (Commencement No.13 etc.) Order 2019, art 2(4)*

## **Example**

The claimant made a claim for State Pension Credit on 14.5.19 as part of a mixed-age couple. He is a Tuesday payday and is paid in arrears meaning that his first benefit week is 15.5.19 to 21.5.19. Although no payment is due before 15.5.19, the conditions of entitlement were met on 14.5.19 and so the claimant is entitled to State Pension Credit as part of a mixed-age couple.

## **SAVINGS**

- 5 Savings provisions have effect as though the exclusion of mixed-age couples from State Pension Credit has not come into force so that a member of a mixed-age couple who was entitled to

1. State Pension Credit **or**

2. pension age Housing Benefit **or**

3. both

on 14.5.19, continues to be so entitled on or after 15.5.19<sup>1</sup>.

*1 WR (NI) Order 15 (Commencement No.13 etc.) Order 2019, art 4(1)*

6 These savings will cease to have effect in relation to the member of the mixed-age couple on any day after 15.5.19 when that person is not entitled to either State Pension Credit or pension age Housing Benefit as part of a mixed-age couple<sup>1</sup>.

*1 WR (NI) Order 15 (Commencement No.13 etc.) Order 2019, art 4(2)*

7 These savings provisions apply to parties to a polygamous marriage in the same way as other mixed-age couples<sup>1</sup>.

*1 WR (NI) Order 15 (Commencement No.13 etc.) Order 2019, art 7(1)*

### **Example 1 - New claim from a mixed-age couple**

The claimant and partner have been continuously entitled to pension age Housing Benefit since December 2018. The claimant is receiving an adult dependency increase with his State Pension for his wife, which is removed in April 2020. Following the drop in income he makes a new claim for State Pension Credit. As they are still entitled to pension age Housing Benefit on the date their claim is made/treated as made, they are able to make a claim for State Pension Credit.

### **Example 2 - Repeat claim from a mixed-age couple**

The claimant and partner have been continuously entitled to both State Pension Credit and pension age Housing Benefit since November 2018. In June 2019 the partner starts part time work. The partner's earnings, in combination with the couple's other income, take them off State Pension Credit but are not high enough to end entitlement to pension age Housing Benefit.

The part time job ends in January 2020 and the claimant reapplies for State Pension Credit. As they are still entitled to pension age Housing Benefit on the date their claim is made/treated as made, they are able to make a repeat claim for State Pension Credit.

### **Example 3 - No longer entitled to either State Pension Credit or pension age Housing Benefit as part of the same mixed-age couple**

The claimant and partner have been continuously entitled to State Pension Credit and pension age Housing Benefit since November 2016. In October 2019 the partner starts a temporary job. Their total income takes them off both State Pension Credit and pension age Housing Benefit. When the partner's job ends they reapply for State Pension Credit and pension age Housing Benefit.

However, as they have not been continuously entitled to one or other benefit since 14.5.19, they are not able to re-qualify and would need to make a claim for Universal Credit.

#### **Example 4 - Existing mixed-age couples who separate**

The claimant and partner have been continuously entitled to State Pension Credit and pension age Housing Benefit since September 2017. Due to a change of circumstances in June 2019 they are no longer treated as a couple. The claimant's State Pension Credit and pension age Housing Benefit award continues as an award for a single person. The couple subsequently re-form and the partner is still under pensionable age but the claimant ceases to be entitled to State Pension Credit/pension age Housing Benefit. This is because the exemption from the new rule excluding mixed-age couples from entitlement to State Pension Credit/pension age Housing Benefit only applies to claimants who have remained continuously entitled to either benefit since 14.5.19 as part of the same couple.

#### **Single pensioners who form a mixed-age couple**

- 8 If a single pensioner forms a couple with a person below the qualifying age on or after 15.5.19, entitlement to State Pension Credit and/or pension age Housing Benefit will end.

#### **Example**

The claimant has been in receipt of State Pension Credit and pension age Housing Benefit from November 2018. The claimant forms a couple with a person below the qualifying age on 4.6.19. This is a change of circumstances which ends the claimant's entitlement to State Pension Credit and pension age Housing Benefit.

#### **TRANSITIONAL PROVISIONS: POLYGAMOUS MARRIAGES**

- 9 Where parties to a polygamous marriage would be prevented from claiming State Pension Credit or pension age Housing Benefit because at least one party is under the qualifying age, their entitlement is to be assessed by
1. applying the Universal Credit legislation relating to the treatment of polygamous marriage<sup>1</sup> so that
    - 1.1 the two parties to the earliest marriage are treated as a couple **and**
    - 1.2 any additional party is treated as a single claimant **and**
  2. separately assessing the entitlement of
    - 2.1 the couple in paragraph 9 1.1 above **and**

**2.2** any additional party in paragraph 9 **1.2** above.

*1 UC Regs (NI), reg 3(3); WR (NI) Order 15 (Commencement No.13 etc.) Order 2019, art 7(2)(b)*

10 Where

1. both parties to the couple in paragraph 9 **1.1** above have reached the qualifying age, either of them may claim or remain entitled to State Pension Credit or pension age Housing Benefit **or**
2. one of the parties to the couple in paragraph 9 **1.1** above has reached the qualifying age but the other has not, the couple may not claim State Pension Credit or pension age Housing Benefit and will have to claim Universal Credit instead<sup>1</sup>.

**Note :** Where 10.2 applies, the mixed-age couple may either remain on Income Support/ income-based Jobseeker's Allowance, income-related Employment and Support Allowance where the younger person is the claimant, or where they are part of a income-based Jobseeker's Allowance joint claim, the younger person assumes sole responsibility for the claim. Otherwise they may claim Universal Credit instead<sup>1</sup>.

*1 WR (NI) Order 15 (Commencement No.13 etc.) Order 2019, art 7(3)(a)*

- 11 Any additional party as in 9 **1.2** above who has reached the qualifying age may claim or remain entitled to State Pension Credit and/or pension age Housing Benefit as a single person<sup>1</sup>

**Note :** If they have not reached the qualifying age and they were entitled to Income Support, income-related Employment and Support Allowance or income- based Jobseeker's Allowance, they will be able to retain that entitlement, otherwise they will have to claim Universal Credit<sup>1</sup>.

*1 WR (NI) Order 15 (Commencement No.13 etc.) Order 2019, art 7(3)(b)*

- 12 All other conditions relating to the assessment of entitlement for State Pension Credit and pension age Housing Benefit will continue to apply to

1. the parties treated as a couple, as if they are a couple **and**
2. any additional party treated as a single claimant, as if they are a single claimant<sup>1</sup>.

**Note :** Once all parties to the polygamous marriage reach the qualifying age, their entitlement to State Pension Credit is assessed as a polygamous unit in the usual way<sup>2</sup>.

*1 WR (NI) Order 15 (Commencement No.13 etc.) Order 2019, art 7(2)(b);  
2 SPC Act (NI) 02, sec 12(1); SPC Regs (NI), Sch 3, para 1*

## **Example**

Ravi, Imina and Kara are a polygamous unit, who make a claim for State Pension Credit on a date after 15.5.19. 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.

## **WHAT IS THE EFFECT OF THESE CHANGES ON ADVANCE CLAIMS FOR STATE PENSION CREDIT**

- 13 Existing legislation allows for a claim for State Pension Credit to be made up to 4 months before a person attains the qualifying age (see DMG 02565 et seq)<sup>1</sup>. Decision makers can decide State Pension Credit claims made in advance for periods starting on or after 15.5.19 based on the changes being made to the excluded groups from 15.5.19.

*1 SS (C&P) Regs (NI), reg 13D(1)*

## **WHAT IS THE EFFECT OF THESE CHANGES ON BACKDATED CLAIMS**

- 14 The normal rules on the 3 month time limit for claiming State Pension Credit<sup>1</sup> will apply (see DMG 02330 et seq). This means that claims made on or before 13.8.19 can be backdated to before the rule change applies, provided the claimant meets the entitlement conditions applicable on the earlier date.

*1 SS (C&P) Regs (NI), reg 19(2) & (3)(i)*

## **Example**

A claim is made by the older partner in a mixed-age couple on 13.8.19. The claimant satisfied the conditions of entitlement that applied on 14.5.19. Therefore the claim has been made in time for 14.5.19 onwards and State Pension Credit for a mixed-age couple can be awarded.

## **ANNOTATIONS**

Please annotate the number of this memo (DMG Memo Vol 1/116 & 13/74) against the following DMG paragraphs: 02560 et seq, 77002, 77012, 77015, 77030, 77032, 77033, 77052 and 78600.

## **CONTACTS**

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