Draft Regulations laid before Parliament under section 80(1)(a) of the Social Security Act 1998 and section 43(5) of the Welfare Reform Act 2012 for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2018 No.

SOCIAL SECURITY

The Universal Credit (Managed Migration) Regulations 2018

Made - - - - ***

Coming into force in accordance with regulation 1

CONTENTS

1. Citation and commencement
2. Amendment of the Universal Credit (Transitional Provisions) Regulations 2014: managed migration (including provision for persons with a severe disability premium)
3. Amendments consequential on restriction on claims by persons with a severe disability premium
4. Two week run-on of income support, income-based JSA and income-related ESA: amendment of the Universal Credit (Transitional Provisions) Regulations 2014
5. Two week run-on of income-based JSA and income-related ESA: day appointed for abolition
6. 12 month exemption from the minimum income floor for new claimants

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by section 12(2)(a) of the Social Security Act 1998(**a**), section 4(2) and 42(1), (2) and (3) of, and paragraph 4(1), (3)(a) and (4) of Schedule 1 to, and paragraph 1(1), 3(1)(a), 4(1), (2)(a), (c) and (d) and (3) and 6(a) of Schedule 6 to, the Welfare Reform Act 2012(**b**).

In accordance with section 80(1)(a) of the Social Security Act 1998 and section 43(5) of the Welfare Reform Act 2012, a draft of this instrument was laid before Parliament and approved by resolution of each House of Parliament.

In accordance with section 172(1) of the Social Security Administration Act 1992(**c**) ("the 1992 Act"), the Secretary of State has referred the proposals in respect of these Regulations to the Social Security Advisory Committee.

(**a**) 1998 c.14. Section 12(2) has been amended by section 102(2) of the Welfare Reform Act 2012.
(**b**) 2012 c.5.
(**c**) 1992 c.5.

In accordance with section 176(1) of the 1992 Act and, in so far as these Regulations relate to housing benefit, the Secretary of State has consulted with organisations appearing to her to be representative of the authorities concerned in respect of the proposals for these Regulations.

Citation and commencement

1.—(1) These Regulations may be cited as the Universal Credit (Managed Migration) Regulations 2018.

(2) Regulations 2 and 3 and this regulation and come into force on 16th January 2019.

(3) Regulations 4 and 5 come into force on 22nd July 2020.

(4) Regulation 6 comes into force on 23rd September 2020.

Amendment of the Universal Credit (Transitional Provisions) Regulations 2014: managed migration (including provision for persons with a severe disability premium)

2.—(1) The Universal Credit (Transitional Provisions) Regulations 2014(**a**) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) insert at the appropriate places—

""childcare costs element" has the meaning in the Universal Credit Regulations;"

""deadline day" has the meaning in regulation 44;"

""earned income" has the meaning in Chapter 2 of Part 6 of the Universal Credit Regulations;"

""final deadline" has the meaning in regulation 46;"

""HMRC" means Her Majesty's Revenue and Customs;"

""indicative UC amount" has the meaning in regulation 54;"

""migration day" has the meaning in regulation 49:"

""migration notice" has the meaning in regulation 44;"

""notified person" has the meaning in regulation 44;"

""qualifying claim" has the meaning in regulation 48;"

""total legacy amount" has the meaning in regulation 53;"

""transitional capital disregard" has the meaning in regulation 51;"

""transitional element" has the meaning in regulation 52;"

(ii) in the definition of "existing benefit", before "regulation 25(2)" insert "paragraph (3) and";

(b) after paragraph (2) insert—

"(3) In these Regulations—

(a) references to an award of income-based jobseeker's allowance are to an award of old style JSA where the claimant is, or joint claimants are, entitled to the income-based allowance; and

(b) references to an award of income-related employment and support allowance are to an award of old style ESA where the claimant is entitled to the income-related allowance.

(4) In regulation 46 (termination of existing benefits if no claim before the deadline) and regulation 47 (notified persons who claim as a different benefit unit) "terminate" in relation

---

(**a**) S.I. 2014/1230. Relevant amending instruments are S.I. 2014/1626, 2017/376 and 2018/65.

to an award of income-based jobseeker's allowance or income-related employment and support allowance means treating that award as if the following provisions had come into force (including where a saving provision has ceased to apply) in relation to that award—

(a) section 33(1)(a) and (b) and (2) of the Act (abolition of benefits);

(b) paragraphs 22 to 26 of Schedule 3 to the Act (abolition of benefits: consequential amendments) and section 33(3) of the Act in so far as it relates to those paragraphs; and

(c) the repeals in Part 1 of Schedule 14 to the Act (abolition of benefits superseded by universal credit) that come into force if a claim is made for universal credit.".

(3) In regulation 5(2)(a) (exclusion of entitlement to certain benefits) after "8(2A)" insert ", 46(1) or 47(2)".

(4) In regulation 8A (transitional housing payment)(**a**)—

(a) after "regulation 8" insert ", 46 or 47";

(b) in paragraphs (a) and (b) after "8(2A)" insert ", 46(1) or 47(2)"; and

(c) at the end of paragraph (a) omit "and", and at the end of paragraph (b) insert—

"; and

(c) if a claim for universal credit is made by a notified person then, notwithstanding anything in the Housing Benefit Regulations 2006(**b**), the weekly amount of housing benefit to which the person is entitled for that period of two weeks is the same as the weekly amount they were entitled to on the first day of that period.".

(5) In regulation 11(1) for "regulations 7(7) and 8(4)" substitute "these Regulations" and after sub-paragraph (b) add the following words—

"and references to an award of a tax credit are to be read accordingly"".

(6) After regulation 43(**c**) insert—

"PART 4

MANAGED MIGRATION TO UNIVERSAL CREDIT

The Migration Process

Migration notice

44.—(1) The Secretary of State may, at any time, issue a notice ("a migration notice") to a person who is entitled to an award of an existing benefit—

(a) informing the person that all awards of any existing benefits to which they are entitled are to terminate and that they will need to make a claim for universal credit; and

(b) specifying a day ("the deadline day") by which a claim for universal credit must be made.

(2) The migration notice may contain such other information as the Secretary of State considers appropriate.

(3) The deadline day must not be within the period of three months beginning with the day on which the migration notice is issued.

(4) If the person who is entitled to an award of an existing benefit is, for the purposes of that award, a member of a couple or a member of a polygamous marriage, the Secretary of State must also issue the migration notice to the other member (or members).

(**a**) Regulation 8A was inserted by S.I. 2018/65.
(**b**) S.I. 2006/213.
(**c**) Regulation 43 was inserted by S.I. 2017/376.

(5) The Secretary of State may cancel a migration notice issued to any person—

(a) if it has been issued in error;

(b) if the Secretary of State has made a determination in accordance with regulation 4 (discretion to determine that claims for universal credit may not be made) that would affect a claim by that person; or

(c) in any other circumstances where the Secretary State considers it necessary to do so in the interests of the person, or any class of person, or to safeguard the efficient administration of universal credit.

(6) A "notified person" is a person to whom a migration notice has been issued.

Extension of the deadline day

45.—(1) The Secretary of State may determine that the deadline day should be changed to a later day either—

(a) on the Secretary of State's own initiative; or

(b) if a notified person requests such a change before the deadline day,

where there is a good reason to do so.

(2) The Secretary of State must inform the notified person or persons of the new deadline day.

Termination of existing benefits if no claim before the deadline

46.—(1) Where a notified person has not made a claim for universal credit on or before the deadline day, all awards of any existing benefits to which the person is entitled terminate—

(a) in the case of housing benefit, on the last day of the period of two weeks beginning with the deadline day; and

(b) in the case of any other existing benefit, on the day before the deadline day.

(2) An award of housing benefit to which a claimant is entitled in respect of specified accommodation or temporary accommodation does not terminate by virtue of this regulation.

(3) Where paragraph (1) applies and the notified person makes a claim for universal credit—

(a) after the deadline day; and

(b) on or before the final deadline specified in paragraph (4),

then, notwithstanding anything in regulation 26 of the Claims and Payments Regulations (time within which a claim for universal credit is to be made)(**a**) as modified by regulation 15 of these Regulations, the award is to commence on the deadline day.

(4) The final deadline is the day that would be the last day of the first assessment period in relation to an award commencing on the deadline day.

(5) This regulation is subject to regulation 47.

Notified persons who claim as a different benefit unit

47.—(1) This regulation applies where—

(a) notified persons who were a couple for the purposes of an award of an existing benefit when the migration notice was issued are single persons or members of a different couple for the purposes of a claim for universal credit; or

---

(**a**) Regulation 26 was amended by S.I. 2014/2887.

(b) notified persons who were members of a polygamous marriage for the purposes of an award of an existing benefit when the migration notice was issued are a couple or single persons for the purposes of a claim for universal credit.

(2) If any of those notified persons makes a claim for universal credit on or before the deadline day then, notwithstanding anything in regulation 8 (termination of awards of certain existing benefits: other claimants), all awards of any existing benefits to which any of those persons is entitled terminate—

(a) in the case of housing benefit, on the last day of the period of two weeks beginning with the earliest day on which any of those persons is entitled to universal credit in connection with a claim (or, in a case where the person is not entitled to universal credit, on the day they would have been entitled if all the basic and financial conditions had been met); or

(b) in the case of any other existing benefit, on the day before the "earliest day" referred to in sub-paragraph (a).

(3) If, where paragraph (2) applies—

(a) a notified person makes a claim for universal credit—

(i) on or before the deadline day, or

(ii) after the deadline day, but before the "final deadline" referred to in regulation 46(4); and

(b) there would otherwise be a gap between the termination of existing benefits and the commencement of the award,

the award is to commence on the "earliest day" referred to in paragraph (2)(a).

(4) If none of those notified persons makes a claim for universal credit on or before the deadline day, all awards of any existing benefits to which any of them is entitled terminate in accordance with regulation 46(1), and regulation 46(3) applies in relation to any subsequent claim by any of those persons.

(5) An award of housing benefit to which a claimant is entitled in respect of specified accommodation or temporary accommodation does not terminate by virtue of this regulation.

Transitional Protection

Meaning of "qualifying claim"

48. A "qualifying claim" is a claim for universal credit by a single claimant who is a notified person or by joint claimants, both of whom are notified persons, where the claim is made before the final deadline (see regulation 46(4)).

Meaning of "migration day"

49. "Migration day", in relation to a qualifying claim, means the day before the first day on which the claimant is entitled to universal credit in connection with that claim.

Secretary of State to determine whether transitional protection applies

50.—(1) Before making a decision on a qualifying claim the Secretary of State must first determine whether—

(a) a transitional capital disregard is to apply; or

(b) a transitional element is to be included,

(or both) in the calculation of the award.

(2) But the Secretary of State is not to determine whether a transitional element is to be included in a case where regulation 47 (notified persons who claim as a different benefit unit) applies.

The transitional capital disregard

51.—(1) A transitional capital disregard is to apply where, on the migration day, the claimant—

(a) is entitled to an award of a tax credit; and

(b) has capital exceeding £16,000.

(2) Where a transitional capital disregard applies, any capital exceeding £16,000 is to be disregarded for the purposes of—

(a) determining whether the financial condition in section 5(1)(a) or 5(2)(a) of the Act (capital limit) is met; and

(b) calculating the amount of an award of universal credit (including the indicative UC amount).

(3) Where a transitional capital disregard has been applied in the calculation of an award of universal credit but, in any assessment period, the claimant no longer has (or joint claimants no longer have) capital exceeding £16,000, the transitional capital disregard is not to apply in any subsequent assessment period.

(4) A transitional capital disregard is not to apply for more than 12 assessment periods.

The transitional element

52.—(1) A transitional element is to be included in the calculation of an award if the total amount of any awards of existing benefits determined in accordance with regulation 53 ("the total legacy amount") is greater than the amount of an award of universal credit determined in accordance with regulation 54 ("the indicative UC amount").

(2) Where a transitional element is to be included in the calculation of an award, the amount of that element is to be treated, for the purposes of section 8 of the Act (calculation of awards), as if it were an additional amount to be included in the maximum amount under section 8(2) before the deduction of income under section 8(3).

The transitional element - total legacy amount

53.—(1) The total legacy amount is the sum of the representative monthly rates of all awards of any existing benefits to which a claimant is, or joint claimants are, entitled on the migration day.

Tax credits

(2) To calculate the representative monthly rate of an award of working tax credit or child tax credit—

(a) take the figure for the daily rate of the award on the migration day provided by HMRC and calculated on the basis of the information as to the claimant's circumstances held by HMRC on that day; and

(b) convert to a monthly figure by multiplying by 365 and dividing by 12.

(3) For the purposes of paragraph (2)(a) "the daily rate" is—

(a) in a case where section 13(1) of the 2002 Act applies (relevant income does not exceed the income threshold or the claimant is entitled to a prescribed social security benefit), the maximum rate of each element to which the claimant is entitled on the migration day divided by 365; and

(b) in any other case, the rate that would be produced by applying regulations 6 to 9 of the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002(**a**) as if the migration day were a relevant period of one day.

(**a**) S.I. 2002/2008. Relevant amending instruments are S.I. 2008/796, 2011/1035, 2012/849 and 2015/451.

(4) To calculate the representative monthly rate of an award of income support, income-based jobseeker's allowance or income-related employment and support allowance—

(a) take the weekly rate on the migration day calculated in accordance with—

(i) in the case of income support, Part VII of the Social Security Contributions and Benefits Act 1992(**a**) and the Income Support (General) Regulations 1987(**b**),

(ii) in the case of income-based jobseeker's allowance, Part 1 of the Jobseekers Act 1995(**c**) and the Jobseeker's Allowance Regulations 1996(**d**), or

(iii) in the case of income-related employment and support allowance, Part 1 of the 2007 Act, the Employment and Support Allowance Regulations 2008(**e**) and the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No.2) Regulations 2010(**f**),

on the basis of the information held by the Secretary of State on that day; and

(b) convert to a monthly figure by multiplying by 52 and dividing by 12.

(5) The amount of an award of income-related employment and support allowance or income-based jobseeker's allowance is to be calculated before any reduction for a sanction.

(6) Where—

(a) a claimant who is entitled to income-based jobseeker's allowance is also entitled to contribution-based jobseeker's allowance; or

(b) a claimant who is entitled to income-related employment and support allowance is also entitled to a contributory allowance,

then, notwithstanding section 4(8) to (11) of the Jobseekers Act 1995 and section 6(3) to (7) of the 2007 Act (excess over the contributory allowance to be treated as attributable to the income-based, or income-related, allowance) the weekly rate in paragraph (4) is to be calculated as the applicable amount(**g**) less the claimant's income (if any).

Housing benefit

(7) To calculate the representative monthly rate of an award of housing benefit—

(a) take the weekly rate on the migration day calculated in accordance with Part VII of the Social Security Contributions and Benefits Act 1992 and the Housing Benefit Regulations 2006, on the basis of the information held by the Secretary of State on that day, and convert to a monthly figure by multiplying by 52 and dividing by 12; or

(b) in a case where the claimant has rent free periods, calculate the annual rate by multiplying the weekly rate (as above) by the number of weeks in the year in respect of which the claimant is liable to pay rent, and convert to a monthly figure by dividing by 12.

(8) For the purposes of paragraph (7), if the migration day falls in a rent free period, the weekly rate of housing benefit is to be calculated by reference to the amount of rent for the last complete week that was not a rent free period.

(**a**) 1992 c.4.
(**b**) S.I. 1987/1967.
(**c**) 1995 c.18.
(**d**) S.I. 1996/207.
(**e**) S.I. 2008/794.
(**f**) S.I. 2010/1907.
(**g**) *See* section 4 of the Jobseekers Act 1995 and section 6 of the 2007 Act for the meaning of "applicable amount".

(9) In paragraphs (7) and (8) "rent free period" has the meaning in regulation 81 of the Housing Benefit Regulations 2006(**a**).

(10) In a case where regulation 8(3) (continuation of housing benefit in respect of specified accommodation or temporary accommodation) applies, no amount is to be included in the total legacy amount in respect of housing benefit.

The benefit cap

(11) Where—

(a) the existing benefits do not include an award of housing benefit, or they include an award of housing benefit that has been reduced to the minimum amount by virtue of Part 8A of the Housing Benefit Regulations 2006(**b**) (the benefit cap);

(b) Part 7 of the Universal Credit Regulations (the benefit cap) applies in the calculation of the indicative UC amount; and

(c) the claimant's total entitlement to welfare benefits (as defined in section 96(10) of the Act)(**c**) on the migration day is greater than the relevant amount,

the total legacy amount is reduced by the excess (minus the amount for childcare costs referred to regulation 54(2)(b) where applicable) over the relevant amount.

(12) For the purposes of paragraph (11)—

(a) the amount of each welfare benefit is the monthly equivalent calculated in the manner set out in regulation 73 (unearned income calculated monthly)(**d**) of the Universal Credit Regulations; and

(b) the "relevant amount" is the amount referred to in regulation 80A of those Regulations(**e**) which is applicable to the claimant.

The transitional element - indicative UC amount

54.—(1) The indicative UC amount is the amount to which a claimant would be entitled if an award of universal credit were calculated in accordance with section 8 of the Act by reference to the claimant's circumstances on the migration day, applying the assumptions in paragraph (2).

(2) The assumptions are—

(a) if the claimant is entitled to an award of child tax credit, the claimant is responsible for any child or qualifying young person in respect of whom the individual element of child tax credit is payable;

(b) if the claimant is entitled to an award of working tax credit that includes the childcare element, the indicative UC amount includes the childcare costs element and, for the purposes of calculating the amount of that element, the amount of the childcare costs is equal to the relevant weekly childcare charges included in the calculation of the daily rate referred to in regulation 53(2), converted to a monthly amount by multiplying by 52 and dividing by 12;

(c) the amount of the claimant's earned income is—

(i) if the claimant is entitled to an award of a tax credit, the annual amount of any employment income or trading income, as defined by regulation 4 or 6 respectively of the Tax Credits (Definition and Calculation of Income) Regulations 2002(**f**), by reference to which the representative monthly rate of that tax credit is calculated for the purposes of regulation 53(2) converted to a net monthly amount by—

(**a**) Regulation 81 was substituted by S.I. 2007/2868.
(**b**) Part 8A was inserted by S.I. 2012/2994.
(**c**) The definition of "welfare benefit" was amended by section 8 of the Welfare Reform and Work Act 2016 (c.7).
(**d**) Regulation 73 was amended by 2014/2887.
(**e**) Regulation 80A was inserted by S.I. 2016/909.
(**f**) S.I. 2002/2006.

(aa) dividing by 12, and

(bb) deducting such amount for income tax and national insurance contributions as the Secretary of State considers appropriate;

(ii) if paragraph (i) does not apply and the claimant is entitled to an award of income support, income-based jobseeker's allowance or income-related employment and support allowance, the amount of earnings by reference to which the representative monthly rate of that benefit was calculated for the purposes of regulation 53(4) to (6) (including nil if none were taken into account) converted to a monthly amount by multiplying by 52 and dividing by 12, or

(iii) if paragraphs (i) and (ii) do not apply, but the claimant had an award of housing benefit, the amount of earnings by reference to which the representative monthly rate of that benefit was calculated for the purposes of regulation 53(7) to (10) (including nil if none were taken into account) converted to monthly amount by multiplying by 52 and dividing by 12.

(3) If the claimant would not meet the financial condition in section 5(1)(b) of the Act (or, in the case of joint claimants, they would not meet the condition in section 5(2)(b) of the Act) the claimant is to be treated, for the purposes of calculating the indicative UC amount, as if they were entitled to an award of universal credit of a nil amount.

(4) If a transitional capital disregard is to apply, the claimant is to be treated as having met the financial condition in section 5(1)(a) or 5(2)(a) of the Act (capital limit).

(5) The indicative UC amount is to be calculated after any reduction under Part 7 of the Universal Credit Regulations (the benefit cap) but before any reduction under section 26 (higher-level sanctions) or 27 (other sanctions) of the Act.

(6) But there is to be no reduction for the benefit cap under that Part where the amount of the claimant's earned income (or, in the case of a couple their combined earned income) on the migration day, calculated in accordance with paragraph (2)(c), is equal to or exceeds the amount specified in paragraph (1)(a) of regulation 82 (exceptions – earnings)(**a**) of the Universal Credit Regulations.

(7) The calculation of the indicative UC amount is to be based on the information that is used for the purposes of calculating the total legacy amount, supplemented as necessary by such further information or evidence as the Secretary of State requires.

The transitional element – initial amount and adjustment where other elements increase

55.—(1) The initial amount of the transitional element is—

(a) if the indicative UC amount is greater than nil, the amount by which the total legacy amount exceeds the indicative UC amount; or

(b) if the indicative UC amount is nil, the total legacy amount plus any amount by which the income which fell to be deducted in accordance with section 8(3) of the Act (that is the prescribed percentage of earned and unearned income above the work allowance) exceeded the maximum amount.

(2) The amount of the transitional element to be included in the calculation of an award is—

(a) for the first assessment period, the initial amount;

(b) for the second assessment period, the initial amount reduced by the sum of any relevant increases in that assessment period;

(**a**) Regulation 82 was amended by S.I. 2017/138.

(c) for the third and each subsequent assessment period, the amount that was included for the previous assessment period reduced by the sum of any relevant increases (as in sub-paragraph (b)).

(3) If the amount of the transitional element is reduced to nil in any assessment period, a transitional element is not to apply in the calculation of the award for any subsequent assessment period.

(4) A "relevant increase" is an increase in any of the amounts that are included in the maximum amount under sections 9 to 12 of the Act (including any of those amounts that is included for the first time)(**a**), apart from the childcare costs element.

Ending of transitional protection

Circumstances in which transitional protection ceases

56.—(1) A transitional capital disregard or a transitional element does not apply in any assessment period to which paragraph (2) or (4) applies, or in any subsequent assessment period.

Cessation of employment or sustained drop in earnings

(2) This paragraph applies to an assessment period if the following condition is met—

(a) in the case of a single claimant—

(i) it is the assessment period after the third consecutive assessment period in which the claimant's earned income is less than the amount specified in regulation 99(6)(a) of the Universal Credit Regulations ("the single administrative threshold")(**b**), and

(ii) in the first assessment period of the award, the claimant's earned income was equal to or more than that threshold; or

(b) in the case of joint claimants—

(i) it is the assessment period after the third consecutive assessment period in which their combined earned income is less than the amount specified in regulation 99(6)(b) of the Universal Credit Regulations ("the couple administrative threshold"), and

(ii) in the first assessment period of the award, their combined earned income was equal to or more than that threshold.

(3) For the purposes of paragraph (2) a claimant is to be treated as having earned income that is equal to or more than the single administrative threshold (or, as the case may be, the couple administrative threshold) in any assessment period in respect of which regulation 62 (minimum income floor) of the Universal Credit Regulations applies to that claimant or would apply but for regulation 62(5) of those Regulations (minimum income floor not to apply in a start-up period)(**c**).

Couple separating or forming

(4) This paragraph applies to an assessment period in which—

(a) joint claimants cease to be a couple or become members of a different couple; or

(b) a single claimant becomes a member of a couple, unless it is a case where the person may, by virtue of regulation 3(3) of the Universal Credit Regulations (claimant with an ineligible partner)(**d**), claim as a single person.

(**a**) Section 10 was amended by section 14 of the Welfare Reform Act 2016 (c.7).
(**b**) Paragraph (6) was substituted by S.I. 2015/89 and then by S.I. 2015/1754.
(**c**) Regulation 62 was substituted by S.I. 2014/2888 and amended by S.I. 2015/345 and 1754.
(**d**) Regulation 3(3) was amended by S.I. 2013/630.

Application of transitional protection to a subsequent award

57.—(1) Where—

(a) a transitional capital disregard is applied, or a transitional element is included, in the calculation of an award, and that award terminates; or

(b) the Secretary State determines (in accordance with regulation 50) that a transitional capital disregard is to apply, or a transitional element is to be included in the calculation of an award, but the decision on the qualifying claim is that there is no entitlement to an award,

no transitional capital disregard is to apply and no transitional element is to be included in the calculation of any subsequent award unless paragraph (2) applies.

(2) This paragraph applies if—

(a) the reason for the previous award terminating or, as the case may be, there being no entitlement to an award, was that the claimant (or joint claimants) had earned income on account of which the financial condition in section 5(1)(b) or 5(2)(b) of the Act (income is such that the amount payable is at least 1p) was not met; and

(b) the claimant becomes entitled to an award within the period of three months beginning with—

(i) where paragraph (1)(a) applies, the last day of the month that would have been the final assessment period of the previous award (had it not terminated), or

(ii) where paragraph (1)(b) applies, the day that would have been the last day of the first assessment period had there been entitlement to an award.

(3) Where paragraph (2) applies in a case where a previous award has terminated, the new award is to be treated for the purposes of regulation 51 (transitional capital disregard), 55 (transitional element – initial amount and adjustment where other elements increase) and 56 (circumstances in which transitional protection ceases) as if it were a continuation of that award.

Miscellaneous

Qualifying claim – Secretary of State may set later commencement day

58. Where the Secretary of State decides a qualifying claim, and it is not a case where the award is to commence before the date of claim by virtue of regulation 46(3) or 47(4) (claim made by the final deadline) or regulation 26 of the Claims and Payments Regulations (time within which a claim for universal credit is to be made) as modified by regulation 15 of these Regulations, the Secretary of State may determine a day on which the award of universal credit is to commence that is after, but no more than one month after, the date of claim.

Minimum income floor not to apply for first 12 months

59. Where universal credit is awarded to a claimant who is a notified person, regulation 63 of the Universal Credit Regulations (start-up period) is to apply as if paragraph (1)(a) (requirement that the claimant has begun to carry on the trade, profession or vocation within the past 12 months) were omitted.

Protection for full-time students until course completed

60. Where a notified person does not meet the basic condition in section 4(1)(d) of the Act (not receiving education) on the day on which all awards of any existing benefit are to terminate as a consequence of a claim for universal credit because the person is undertaking

a full-time course (see regulation 12(2) and 13 of the Universal Credit Regulations(**a**)), that condition is not to apply in relation to the notified person while they are continuing to undertake that course.

Rounding

61. Regulation 6 of the Universal Credit Regulations (rounding)(**b**) applies for the purposes of calculating any amount under this Part.

Effect of revision, appeal etc. of an award of an existing benefit

62.—(1) Nothing in regulation 53 (total legacy amount) or 54 (indicative UC amount) requiring a calculation in relation to the transitional element to be made on the basis of information held on the migration day prevents the Secretary of State from revising or superseding a decision in relation to a claim for, or an award of, universal credit where—

(a) in the opinion of the Secretary of State, the information held on that day was inaccurate or incomplete in some material respect because of—

(i) a misrepresentation by a claimant,

(ii) a failure to report information that a claimant was required to report where that failure was advantageous to the claimant, or

(iii) an official error; or

(b) a decision has been made on or after the migration day on—

(i) an application made before migration day to revise or supersede a decision in relation to an award of an existing benefit (including the report of a change of circumstances), or

(ii) an appeal in relation to such an application.

(2) In this regulation "official error" means an error that—

(a) was made by an officer of, or an employee of a body acting on behalf of, the Department for Work and Pensions, HMRC or a local authority that administers housing benefit; and

(b) was not caused, or materially contributed to, by any person outside that body or outside the Department, HMRC or local authority,

but excludes any error of law which is shown to have been such by a subsequent decision of the Upper Tribunal or of a court as defined in section 27(7) of the Social Security Act 1998(**c**).

Appeal in relation to migration notice

63. The following decisions are prescribed for the purposes of section 12(2)(a) (no right of appeal against a prescribed decision or prescribed determination embodied in or necessary to a decision) of the Social Security Act 1998—

(a) a decision under regulation 44 (migration notice) whether to issue or cancel a migration notice;

(b) a decision under regulation 45 (extension of the deadline day).

Claimants in receipt of a severe disability premium

64. Schedule 2 contains provision in respect of certain claimants who are, or have been, in receipt of a severe disability premium.

(**a**) Regulation 12(2) was amended by S.I. 2015/336 and regulation 13 was amended by S.I. 2013/630.
(**b**) Regulation 6 was amended by S.I. 2015/1754, 2017/138 and 2017/252.
(**c**) The definition of "court" was amended by S.I. 2009/1604 and 2011/1043.

Discretionary hardship payments

65. The Secretary of State may, in such circumstances and subject to such conditions as the Secretary of State considers appropriate, make payments to notified persons who appear to be in hardship as a result of the termination of an existing benefit in accordance with these Regulations or otherwise as a result of the provisions in this Part.".

(7) After the Schedule (which is to become "Schedule 1") insert—

"SCHEDULE 2 Regulation 64

Claimants entitled to a severe disability premium: restriction on claims for universal credit and transitional payments

Restriction on UC Claims

1. No claim may be made for universal credit on or after 16th January 2019 by a single claimant who, or joint claimants either of whom—

(a) is, or has been within the past month, entitled to an award of an existing benefit that includes a severe disability premium;

(b) in a case where the award ended during that month, has continued to satisfy the conditions for eligibility for a severe disability premium; and

(c) is not a notified person.

Transitional payments for existing UC claimants

2. Where it comes to the attention of the Secretary of State on or after 16th January 2019 that—

(a) a claimant, or joint claimants, became entitled to an award of universal credit as a consequence of a claim made before that date and the Secretary of State is satisfied that paragraph 1 would have prevented the claim from being made if this Schedule had been in force at that time;

(b) that award has not since terminated (whether by a claimant ceasing to meet the conditions of entitlement to universal credit or becoming, or ceasing to be, a member of a couple);

(c) the claimant has not, or neither of joint claimants has, ceased to be entitled to the care component, the daily living component, armed forces independence payment or attendance allowance (all of which have the same meaning as in paragraph 6 of Schedule 4 to the Employment and Support Allowance Regulations 2008); and

(d) no person has become a carer for—

(i) in the case of a single claimant, the claimant, or

(ii) in the case of joint claimants—

(aa) if a severe disability premium was payable at the higher rate, both of them, or

(bb) if a severe disability premium was payable at the lower rate, the claimant who was the qualifying partner,

the Secretary of State must determine an additional amount of universal credit ("the transitional SDP amount") which is to be payable in respect of each assessment period that precedes that determination and then for each subsequent assessment period that begins before the conversion day.

3. The transitional SDP amount, calculated by reference to the date of the determination, is—

(a) in the case of a single claimant —

(i) £80, if the LCWRA element is included in the award; or

(ii) £280, if the LCWRA element is not included in the award;

(b) in the case of joint claimants—

(i) £360 if the higher SDP rate was payable and no person has since become a carer for either or both of them,

(ii) £80, if paragraph (i) does not apply and the LCWRA element is included in the award in respect of either or both of them, or

(iii) £280, if paragraph (i) does not apply, the LCWRA element is not included in the award in respect of either or both of them and—

(aa) the lower SDP rate was payable, or

(bb) the higher SDP rate was payable but a person has since become a carer for one of them.

4. The Secretary of State must decide the manner in which the transitional SDP amount is to be paid, which may include payment of a lump sum covering all assessment periods preceding the determination under paragraph 2 and monthly payments thereafter.

5. If the LCWRA element is not included in the award at the time of the determination under paragraph 2, but is included in a later assessment period (and paragraph 3(b)(i) does not apply), the amount for that assessment period, and each subsequent assessment period beginning before the conversion day, is to be £80 (and the Secretary of State must make a further determination).

Conversion to a transitional element

6. In the first assessment period that begins on or after the conversion day, the calculation of the award is to include the amount of the transitional SDP payment as if it were the initial amount of a transitional element calculated under regulation 55(1).

7. In respect of each subsequent assessment period, the award is to be treated, for the purposes of regulation 55(2) (adjustment where other elements increase), regulation 56 (circumstances in which transitional protection ceases) and regulation 57 (application of transitional protection to a subsequent award), as if the transitional SDP payment had been converted into a transitional element.

Capital disregard

8. Any amount paid as a lump sum as a consequence of a determination under this regulation is to be disregarded in the calculation of capital for the duration of the award or, if longer, 12 months from the date of that payment.

Interpretation

9. In this Schedule—

"the conversion day" is a day determined by the Secretary of State having regard to the efficient administration of universal credit;

"severe disability premium" means the premium in relation to an employment and support allowance under paragraph 6 of Schedule 4 to the Employment and Support Allowance Regulations 2008(**a**) or, as the case may be, the corresponding premium in relation to income support, old style JSA or housing benefit;

"the lower SDP rate" and "the higher SDP rate" are the rates specified in sub-paragraph (i) and (ii) respectively of paragraph 11(2)(b) of Schedule 4 to the Employment and Support Allowance Regulations 2008(**b**) or, as the case my be, the corresponding rates

(**a**) S.I. 2008/794. Relevant amending instruments are S.I. 2010/1160, 2011/2425, 2011/2428, 2013/388 and 591, 2014/2888 and 2015/1754.

(**b**) Paragraph 11 was amended by S.I. 2018/281.

of a severe disability premium in relation to income support, old style JSA or housing benefit;

"the qualifying partner " in relation to a couple in respect of whom the lower SDP rate was payable, is the partner who had no carer or, as the case may be, was not the partner who satisfied the qualifying conditions for a severe disability premium only by virtue of being a patient,

and references to a person being a carer for another person are to the person being entitled to, and in receipt of, a carer's allowance or having an award of universal credit which includes the carer element in respect of caring for that other person.".

Amendments consequential on restriction on claims by persons with a severe disability premium

3.—(1) In article 5A(1) of the Welfare Reform Act 2012 (Commencement No 9 and Transitional and Transitory Provision and Commencement No 8 and Savings and Transitional Provisions (Amendment)) Order 2013(**a**) after "during the interim period)" insert "or paragraph 1 of Schedule 2 (Claimants entitled to a severe disability premium: restriction on claims for universal credit and transitional payments) to those Regulations".

(2) In paragraph (11) of article 6 (transitional provision: claims for housing benefit, income support or a tax credit) of the Welfare Reform Act 2012 (Commencement No 21 and Transitional and Transitory Provisions) Order 2015(**b**) omit ", or by virtue of regulation 39," and after "2014," insert "or by virtue of regulation 39 of, or paragraph 1 of Schedule 2 (Claimants entitled to severe disability premium: restriction on claims for universal credit and transitional payments) to, those Regulations,".

(3) In paragraph (2) of article 7 (transitional provision: claims for housing benefit, income support or a tax credit) of the Welfare Reform Act 2012 (Commencement No. 23 and Transitional and Transitory Provisions) Order 2015(**c**) omit ", or by virtue of regulation 39," and after "2014," insert "or by virtue of regulation 39 of, or paragraph 1 of Schedule 2 (Claimants entitled to severe disability premium: restriction on claims for universal credit and transitional payments) to, those Regulations,".

Two week run-on of income support, income-based JSA and income-related ESA: amendment of the Universal Credit (Transitional Provisions) Regulations 2014

4.—(1) The Universal Credit (Transitional Provisions) Regulations 2014(**d**) are amended as follows.

(2) In regulation 5(2) (exclusion of entitlement to certain benefits)(**e**) for sub-paragraph (a) substitute—

"(a) to housing benefit in respect of specified accommodation or temporary accommodation;

(ab) to housing benefit or income support where regulations 8(2A), 46(1) or 47(2) apply; or".

(3) In regulation 8 (termination of awards of certain existing benefits: other claimants)—

(a) in paragraph (2) omit "income support or"; and

(b) in paragraph (2A) omit the words "income support or" where they appear before "a tax credit" and insert them before "housing benefit".

(4) After regulation 8A insert—

(**a**) S.I. 2013/983 (C.41). Relevant amending instruments are S.I. 2014/1452 and 2321and 2017/483.
(**b**) S.I.2015/33. Relevant amending instruments are S.I 2015/634 and 2017/483.
(**c**) S.I. 2015/634. Relevant amending instrument is S.I. 2017/376.
(**d**) Relevant amendments to those Regulations made by regulation 2 come into force on 16th January 2019 and further amendments made by this regulation come into force on 22nd July 2020.
(**e**) Regulation 5(2) was amended by S.I. 2014/1526 and 2018/65.

"Effect on universal credit award of two week run-on of income support, income-based JSA and income-related ESA

8B. In a case where an award of income support, income-based jobseeker's allowance or income-related employment and support allowance is to continue for two weeks after the commencement of an award of universal credit by virtue of regulation 8(2A), 46(1) or 47(2) or by virtue of regulation 5 (two week run-on of income-based JSA and income-related ESA: day appointed for abolition) of the Universal Credit (Managed Migration) Regulations 2018(**a**)—

(a) regulation 79 of the Universal Credit Regulations applies as if the benefit in question was not included in the list of welfare benefits in section 96(10) of the Act (benefit cap); and

(b) in a case where the claimant has become entitled to an award of new style JSA or new style ESA on the termination of an award of income-based jobseeker's allowance or income-related employment and support allowance, the claimant is to be treated, for the purposes of regulation 73 of the Universal Credit Regulations (unearned income calculated monthly), as if they had been entitled to that award of new style JSA or new style ESA from the first day of the award of universal credit. "

(5) In regulation 46 (termination of existing benefits if no claim before the deadline)—

(a) in paragraph (1)(a) after "housing benefit" insert "income support, income-based jobseeker's allowance or income-related employment and support allowance,"; and

(b) in paragraph (1)(b) for "any other existing benefit" substitute "a tax credit".

(6) In regulation 47 (notified persons who claim as a different benefit unit)—

(a) in paragraph (2)(a) after "housing benefit" insert "income support, income-based jobseeker's allowance or income-related employment and support allowance,"; and

(b) in paragraph (2)(b) for "any other existing benefit" substitute "a tax credit".

(7) In regulation 13(3) after "regulation 8" insert ", 46 or 47".

Two week run-on of income-based JSA and income-related ESA: day appointed for abolition

5.—(1) Subject to paragraph (2) where, in relation to any relevant claim for universal credit, an article ("the specified article") of any Order made under the powers in section 150(3) of the Welfare Reform Act 2012 provides for the coming into force of the amending provisions, the provision in that article for the day appointed is to be read as though the day appointed was the last day of the period of two weeks beginning with the day mentioned in that provision.

(2) For the purposes of paragraphs (6) and (7) of article 4 of the No. 9 Order (conversion to employment and support allowance of awards of incapacity benefit and severe disablement allowance), including as they apply for the purposes of any other Order made under section 150(3) of the Welfare Reform Act 2012, the day appointed by the specified article for the coming into force of the amending provisions shall be treated as though it was the day that applies apart from this regulation.

(3) In this regulation—

"amending provisions" has the meaning given by article 2(1) of the No. 9 Order;

"the No. 9 Order" means the Welfare Reform Act 2012 (Commencement No 9 and Transitional and Transitory Provision and Commencement No 8 and Savings and Transitional Provisions (Amendment) Order 2013;

"relevant claim for universal credit" means a claim for universal credit made on or after 22nd July 2020 including a claim where, under the article in question, the amending provisions

(**a**) S.I. 2018/

come into force despite incorrect information having been given by the claimant, but excluding any claim that is treated as made by a couple in the circumstances referred to in regulation 9(8) (claims for universal credit by members of a couple) of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013(**a**) .

12 month exemption from the minimum income floor for new claimants

6.—(1) In regulation 63(1) of the Universal Credit Regulations 2013 (start-up period)(**b**) for sub-paragraph (a) substitute—

"(a) regulation 62 (minimum income floor) has not previously applied to the claimant in relation to the trade, profession or vocation which is currently the claimant's main employment (whether in relation to the current award or a previous award); and".

(2) Regulation 59 (minimum income floor not to apply for first 12 months) of the Universal Credit (Transitional Provisions) Regulations 2014(**c**) is revoked.

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

Name
Minister of State for Employment
Date Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the moving of claimants on existing benefits to universal credit. They set out the process for moving those claimants, the circumstances in which transitional protection is given and the manner in which it is calculated. They also include provision in relation to certain claimants who are, or have been, in receipt of a severe disability premium, claimants who are self-employed and claimants who may be in hardship.

Regulation 1 provides for citation and commencement.

Regulation 2 contains amendments to the Universal Credit (Transitional Provisions) Regulations 2014 (S.I. 2014/1230, as amended) ("the 2014 Regulations"):

paragraph (2) inserts new definitions into regulation 2;

paragraphs (3) and (5) are consequential amendments;

paragraph (4) amends regulation 8A (two week continuation of housing benefit on migration to universal credit) by providing for the amount of housing benefit to be frozen during the two week period in a case where the claimant is moved to universal credit;

paragraph (5) inserts a new Part 4 (Managed Migration to Universal Credit) in the 2014 Regulations.

New regulation 44 provides for the issue of a migration notice which informs a person that their existing benefits are to terminate and gives a deadline for claiming universal credit. A person who receives a migration notice is a "notified person".

New regulation 45 provides for the circumstances in which the deadline can be extended.

(**a**) S.I. 2013/630. Relevant amending instruments are S.I 2013/1508 and 2014/2887.
(**b**) S.I. 2013/376.
(**c**) Regulation 59 was inserted by regulation 2 of these Regulations.

New regulation 46 provides for termination of all awards of any existing benefits where a notified person does not claim universal credit by the deadline day. In the case of an income-based jobseeker's allowance or income-related employment and support allowance "terminate" means treating the award in the same way as if section 33(1)(a) or (b) (abolition of those benefits) and associated provisions had come into force. This means that any contribution-based or contributory allowance to which a claimant is entitled becomes an award of new style JSA or new style ESA (as defined in regulation 2 of the 2014 Regulations). Where the person claims universal credit by the final deadline (which is the last day of the first assessment period of an award commencing on the deadline day) the award is backdated to the deadline day.

New regulation 47 provides for cases where notified persons have been treated as a couple or members of a polygamous marriage in relation to an existing benefit, but claim universal credit as different benefit units, for example as single persons, or a different couple. If there is more than one possible date on which the existing benefits could terminate, they are to terminate on the earliest of those dates and a claim by the other notified person or persons is backdated to that date.

New regulations 48 to 57 deal with transitional protection. The Secretary of State is required to determine whether transitional protection applies where the person makes a "qualifying claim" (new regulations 48 and 49). The two types of protection are a "transitional capital disregard" (regulation 51) and a "transitional element" (regulations 52 to 55). The transitional capital disregard enables claimants entitled to a tax credit and with capital over £16,000 to be entitled to universal credit for up to 12 months. The transitional element is an additional amount of universal credit based on the difference between the total amount of existing benefits and the amount of universal credit entitlement. This is added to the award before income is deducted and erodes as other elements increase.

New regulation 56 provides for the circumstances in which transitional protection ceases. These are where there is a drop in earnings over a three month period or where an award ends (including where a couple separate or form). Transitional protection can be carried over to a subsequent award in certain circumstances under new regulation 57.

New regulations 58 to 63 deal with miscellaneous matters.

New regulation 58 enables the Secretary State to set a date for commencement of the award of universal credit up to a month after the date of a qualifying claim (provided it is not a case where the claim is to be backdated).

New regulation 59 provides for all notified persons who would otherwise be subject to the minimum income floor (under which certain self-employed claimants are to have an assumed level of earnings) to have the 12 month "start-up" period without the requirement to have started their business within the past 12 months.

New regulation 60 provides for notified persons who are students, and entitled to existing benefits, to be exempt from the exclusion of full-time students from universal credit until they complete their course.

New regulation 61 allows rounding to be applied to calculations under new Part 4.

New regulation 62 ensures that the requirement to apply the information held at the migration day when calculating transitional protection does not prevent the subsequent revision of the universal credit award in cases of misrepresentation or error or in order to give effect to an outstanding revision or appeal.

New regulation 63 prevents an appeal from decisions in relation to the issue or cancellation of a migration notice or the extension of the deadline day.

New regulation 64 introduces the new Schedule 2 (claimants entitled to a severe disability premium: restriction on claims for UC and transitional payments).

New regulation 65 makes provision for discretionary payments where notified persons are in hardship as result of the termination of an existing benefit or otherwise as a result of the migration process.

Regulation 2(6) inserts a new Schedule 2 in the 2014 Regulations. The Schedule provides that a person currently entitled to a severe disability premium as part of an existing benefit may not claim universal credit unless they are a notified person. It also provides for transitional payments in respect of claimants who were previously entitled to a severe disability premium and have claimed universal credit before the coming into force of the restriction on claims. The payments are based on a flat rate for each assessment period since the move to universal credit. The flat rate is converted into a transitional element after a date determined by the Secretary of State.

Regulation 3 makes consequential amendments that enable those claimants who are prevented from claiming universal credit by virtue of Schedule 2 to the 2014 Regulations to make a claim for an existing benefit.

Regulation 4 amends the 2014 Regulations to provide for an award of income support, income-based jobseeker's allowance and income-related employment and support allowance to continue for two weeks beyond the date on which it would otherwise have terminated as result of a claim for universal credit or, in a managed migration case, a failure to make a claim by the deadline day. This regulation comes into force on 22nd July 2020.

Regulation 5 provides for the relevant commencement orders bringing into force the abolition of income-based JSA and income-related ESA on a claim for universal credit to be read with appropriate modifications to give effect to the two week run on.

Regulation 6 amends regulation 63 of the Universal Credit Regulations (S.I. 2013/376 as amended) which provides for a 12 month start-up period during which the minimum income floor does not apply. The amendment extends the start-up period to all claimants for universal credit who are in gainful self-employment and have not previously been subject to the minimum income floor (even if they have not started their business within the past 12 months). All other conditions will apply, for example a claimant may only have one start-up period every 5 years and may not have more than one start-up period in relation to the same business. This regulation comes into force on 23rd September 2020 and revokes new regulation 59 (above).

An impact assessment has not been produced for this instrument as it has no impact on business and civil society organisations. This instrument has no impact on the public sector.

© Crown copyright 2018

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£6.90

UK201811021007 11/2018 19585

http://www.legislation.gov.uk/id/ukdsi/2018/9780111174265

ISBN 978-0-11-117426-5

9 780111 174265