EXPLANATORY MEMORANDUM TO

THE UNIVERSAL CREDIT (ENERGY REBATE SCHEME DISREGARD) REGULATIONS 2022

2022 No. 257

1. Introduction

1.1 This explanatory memorandum has been prepared by Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of this instrument is to ensure that payments made under the Energy Rebate scheme announced by the Government on 3 February 2022[1] and equivalent schemes in the Devolved Administrations in Scotland and Wales do not affect entitlement to Universal Credit.

3. Matters of special interest to Parliament

3.1 None.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is Great Britain.

4.2 The territorial application of this instrument is Great Britain.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 This instrument is to enable payments made under the Energy Rebate scheme to Universal Credit recipients to be disregarded when calculating the amount of that person's Universal Credit award.

7. Policy background

What is being done and why?

7.1 The regulations provide for a full capital disregard in respect of payments made under the Energy Rebate scheme. The disregard will apply for 12 months from the date the payment is received by the claimant. Without these regulations the payments, being one-off and lump sum in nature, might be treated as capital in the assessment of entitlement to Universal Credit; see the further explanations below.

[1] https://www.gov.uk/government/news/millions-to-receive-350-boost-to-help-with-rising-energy-costs

Explanations

7.2 There are three elements to the Energy Rebate scheme in England:

- a £200 rebate on domestic electricity bills;
- a £150 rebate paid to people who are in council tax bands A-D; and
- discretionary funding to support vulnerable people and individuals on low incomes that do not pay council tax, or that pay council tax for properties in Bands E-H.

7.3 As the £200 rebate will be applied directly by energy suppliers to an individual's energy bill, rather than being paid to the customer, that rebate would not be treated as capital in the assessment of Universal Credit. The council tax rebates and discretionary funding, on the other hand, could be treated as capital as they will be paid by local authorities, for example, directly into a person's bank account. Therefore, such a lump sum is considered capital and the Universal Credit regulations do not contain a capital disregard for this type of payment.

7.4 Amounts of capital held by the claimant start to affect entitlement to Universal Credit where the total amount of capital exceeds £6,000. This is because capital over that amount is assumed to provide an income yield of £4.35 a month for each £250 (or part of £250) above the £6,000 limit. For example, if a claimant had capital of £6,300 their Universal Credit would be reduced by £8.70 a month.

7.5 A Universal Credit claimant could receive the £150 or discretionary rebate, add it to their bank account that already has (say) £5,999 and this payment could then tip them into being treated as if their total capital yields income in the way described above, thus affecting their Universal Credit entitlement

7.6 Universal Credit also has an upper capital limit of £16,000 beyond which entitlement ceases. Therefore, for claimants with existing capital close to that limit, it is possible that receipt of the £150 or discretionary rebate could carry them over the £16,000 limit and remove their Universal Credit entitlement.

7.7 The 12-month limit to the disregard is regarded as being proportionate. This is because: it is considered likely that most recipients will use the payments swiftly rather than (for example) banking them; and tracking such payments given the overall levels of capital allowed in Universal Credit as described above is likely to be difficult operationally and, in any case, not justifiable.

Numbers affected

7.8 The Department estimates that around 5,000 households could be adversely affected if the rebate were to be added to their capital and cause their Universal Credit to be reduced. Only a very small proportion of Universal Credit claimants have capital of over £6,000, and it is assumed that the vast majority of Universal Credit recipients of the rebate would spend the money on energy bills as intended before it could affect their Universal Credit entitlement.

7.9 Nonetheless, because there is no guarantee that in all cases Universal Credit entitlement would be unaffected by the £150 or discretionary rebate, it has been decided to regulate to put the position beyond doubt.

7.10 From 1 April 2022, these regulations will ensure that people on Universal Credit will not experience a reduction or withdrawal of that benefit simply because they receive a payment under the Energy Rebate scheme. This disregard also applies to payments made under a comparable scheme announced by the Scottish and Welsh Governments.

7.11 For simplicity of drafting, the regulation simply refers to the Energy Rebate scheme even though it is only the £150 or discretionary rebate rather than the rebate on domestic electricity bills that could affect entitlement to Universal Credit.

7.12 Parallel provisions for legacy benefits[2] are not needed, as they have existing disregards for "local welfare provision" delivered by local authorities which will ensure that both the £150 and discretionary payments can be disregarded in the assessment of entitlement to those benefits.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 Informal consolidated text or instruments is available to the public free of charge via the 'National Archive' website: www.legislation.gov.uk.

10. Consultation outcome

10.1 The Department presented the draft regulations to the Social Security Advisory Committee (SSAC) on 25 February 2022. The Committee did not take the regulations on formal reference.

11. Guidance

11.1 Official guidance will be updated both internally and on gov.uk.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument because there is no impact on business.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

[2] That is, Housing Benefit, Income Support, income-based Jobseeker's Allowance, income-related Employment and Support Allowance and State Pension Credit.

14. Monitoring & review

14.1 There are no plans to formally review the impacts of these regulations above and beyond that which is already in place as part of the Department's routine data collection.

15. Contact

15.1 Trevor Pendergast at the Department for Work and Pensions Telephone: 0207 449 5639 or email: trevor.pendergast@dwp.gov.uk can be contacted with any queries regarding the instrument.

15.2 Graeme Connor, Deputy Director for Universal Credit Policy, at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Minister for Welfare Delivery at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.