EXPLANATORY MEMORANDUM TO

THE UNIVERSAL CREDIT (LOCAL WELFARE PROVISION DISREGARD) (AMENDMENT) REGULATIONS 2022

2022 No. 448

1. Introduction

1.1 This explanatory memorandum has been prepared by the 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 amend regulations to ensure that occasional financial assistance given by a local authority to meet an immediate and exceptional short-term need does not affect entitlement to Universal Credit.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales and Scotland.

4.2 The territorial application of this instrument is England and Wales and Scotland.

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 These regulations amend the Universal Credit Regulations 2013[1] to allow certain payments made by local government for welfare purposes to be disregarded as capital and therefore not taken into account for the purposes of calculating entitlement to Universal Credit.

7. Policy background

What is being done and why?

7.1 These regulations amend the Universal Credit Regulations 2013 to include a capital disregard for payments received by a Universal Credit claimant by way of local welfare provision.

7.2 Legacy benefits[2] include a disregard for any local welfare provision. This means that where a claimant receives support in exceptional or emergency circumstances from a

[1] www.legislation.gov.uk/uksi/2013/376/contents

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

local authority, that support will be disregarded for the purposes of calculating benefit entitlement.

7.3 In February 2013, this disregard was inserted into legislation for Income Support, Jobseeker's Allowance, State Pension Credit, Housing Benefit, Employment and Support Allowance on the same day that the Universal Credit Regulations 2013 were made. The Department has therefore established that the lack of an equivalent disregard for local welfare provision in the Universal Credit Regulations is a result of the legislative timing. There is no policy intention for such payments to be taken into account as capital[3] for the purposes of Universal Credit, and there is no justification for Universal Credit treating these payments differently from how they are treated in legacy benefits.

7.4 This has become particularly apparent in light of the 'thank you' payments under the Homes for Ukraine scheme[4] and the extension of the Household Support Fund[5]. Introducing a local welfare provision disregard to the Universal Credit Regulations will ensure that payments from either of these schemes will not impact a recipient's Universal Credit entitlement.

Homes for Ukraine 'thank you' payments

7.5 The Homes for Ukraine scheme was launched on 14 March 2022 by the Secretary of State for Levelling Up, Housing and Communities[6].

7.6 Under this scheme, sponsors must provide accommodation for a minimum of six months. Sponsors can also receive an optional 'thank you' payment of £350 per month for up to the first 12 months of sponsorship. This payment is limited to one monthly payment per residential address, regardless of the number of individuals sponsored. Payments will stop when the sponsorship ends.

7.7 The 'thank you' payment, though disregarded as unearned income in Universal Credit, could be treated as capital if paid as a lump sum or if it is not spent during the period for which it was intended. The Universal Credit regulations 2013 do not contain a disregard for this type of capital payment.

Current Universal Credit capital rules

7.8 Universal Credit has a lower capital limit of £6,000. Where the total amount of capital held by a claimant exceeds this lower capital limit, it 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 per month.

7.9 A Universal Credit claimant who already has for example £5,800 in capital could therefore see their benefit reduced as a result of having received the £350 'thank you' payment under the Homes for Ukraine scheme.

7.10 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

[3] Such payments would not be considered income as they are not specified within the Universal Credit Regulations 2013: www.legislation.gov.uk/uksi/2013/376/regulation/66

[4] apply-to-offer-homes-for-ukraine.service.gov.uk

[5] www.gov.uk/government/publications/government-support-for-the-cost-of-living-factsheet/government-support-for-the-cost-of-living-factsheet

[6] www.gov.uk/register-interest-homes-ukraine

that receipt of local welfare provision payment could carry them over the £16,000 limit and remove their Universal Credit entitlement.

Number affected

7.11 Departmental data indicates that 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 local welfare provision payments would spend the money before it could affect their Universal Credit Universal entitlement.

7.12 Nonetheless, because there is no guarantee that in all cases Universal Credit entitlement would be unaffected by local welfare provision payments, the department has decided to make these regulations to put the position beyond doubt.

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 30 March 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.

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, David Rutley MP, can confirm that this Explanatory Memorandum meets the required standard.