EXPLANATORY MEMORANDUM TO

THE UNIVERSAL CREDIT, PERSONAL INDEPENDENCE PAYMENT, JOBSEEKER'S ALLOWANCE AND EMPLOYMENT AND SUPPORT ALLOWANCE (CLAIMS AND PAYMENTS) (MODIFICATION) REGULATIONS 2025

2025 No. 387

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 His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Sir Stephen Timms, Minister for Social Security and Disability at the Department for Work and Pensions confirms that this Explanatory Memorandum meets the required standard.

2.2 Graeme Connor, Deputy Director for UC Policy Division at the Department for Work and Pensions confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Zaidah Chisty at the Department of Work and Pensions email: Zaidah.Chisty1@dwp.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 In Universal Credit there is a regulated priority order (referred to in the regulations as, "priority between certain debts") which determines the order in which certain third-party debts and certain benefit debts are taken from a claimant's Universal Credit award. This instrument will move the child support maintenance deduction to first place in the regulated priority order, meaning that it will be the first named provision in the regulated priority order.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales and Scotland.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales and Scotland.

5. Policy Context

What is being done and why?

5.1 The Chancellor announced, in the Autumn Budget 2024[1], that they will reduce the level of debt repayments that can be taken from a household's Universal Credit payment each month. This will be done by reducing the overall deductions cap from 25% to 15% of a claimant's Universal Credit standard allowance. This will be known as the "Fair Repayment Rate" measure and will be introduced from 30 April 2025. The "Fair Repayment Rate" will enable approximately 1.2 million Universal Credit households, with deductions, to retain more of their award, on average by £420 a year or £35 per month. Therefore, some Universal Credit households, with deductions, will have more of their award to meet their day-to-day needs.

5.2 The Secretary of State for Work and Pensions has the power to set an overall deductions cap percentage rate - the deduction rate which Universal Credit operates with - as long as it is no greater than the regulated "maximum amount" of up to 40% of a claimant's Universal Credit standard allowance (see paragraph 5.13).Therefore, the "Fair Repayment Rate" does not require a legislative change.

5.3 In addition to the "Fair Repayment Rate" measure, the Government made a commitment to move the child support maintenance deduction higher up the regulated priority order. This commitment was published on 11 November 2024, in, "Estimated number and type of GB families and individuals in families benefitting from the uprating of benefits in financial year 2025 to 2026 and the "Fair Repayment Rate"[2]. This commitment will align with the date the "Fair Repayment Rate" will be introduced, meaning that it will also come into force on 30 April 2025.

5.4 The current regulated priority order is set out at paragraph 5(2) of Schedule 6 of *The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013*[3].

5.5 This instrument will move the child support maintenance deduction from its current position at (h) (effectively the seventh deduction in the regulated priority order because the provision named at (g) has been omitted by virtue of, *The Child Support (Miscellaneous Amendments) Regulations 2019*)[4] to become the first named provision to be deducted in the regulated priority order by inserting a new paragraph (za), from 30 April 2025. This modification will also mean that paragraph (h) is omitted. Furthermore, this instrument will also modify paragraph 5(4) of Schedule 6 of *The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013* so that the Secretary of State must give priority to any such deductions in the order in which they are listed in paragraph 5(2) of Schedule 6 of these regulation, with deductions under Schedule 7 (deductions from benefit in respect of child support maintenance and payment to persons with care) to these regulations having priority.

[1] https://www.gov.uk/government/speeches/autumn-budget-2024-speech
[2] https://www.gov.uk/government/statistics/benefit-uprating-estimated-number-and-type-of-families-and-individuals-in-families-benefitting-from-the-uprating-of-benefits-in-2025-to-2026/estimated-number-and-type-of-gb-families-and-individuals-in-families-benefitting-from-the-uprating-of-benefits-in-2025-to-2026-and-the-fair-repayment#impact-of-fair-repayment-rate
[3] https://www.legislation.gov.uk/uksi/2013/380/schedule/6
[4] https://www.legislation.gov.uk/uksi/2019/1084/regulation/7/made

5.6 Details of the child support maintenance deduction is set out under Schedule 7 of *The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) regulations 2013*[5].

5.7 If the "Fair Repayment Rate" measure was implemented without the legislative change to move the child support maintenance deduction higher up the regulated priority order, this would lead to a reduction in the number child support maintenance deductions made per month. This is because currently the child support maintenance deduction is positioned lower down the regulated priority order.

5.8 Moving the child support maintenance deduction higher up the regulated priority order, will help, in part, to ensure that the number of child support maintenance deductions made per month will not decrease when the overall deductions cap is set at 15% of a claimant's Universal Credit standard allowance, from 30 April 2025.

5.9 Moving the child support maintenance deduction to be the first named provision in the regulated priority order, would not, in itself, fully protect the current number of child support maintenance deductions being made per month. This is because deductions, such as, fraud penalties, conditionality sanctions and repayment of Universal Credit Advances, are taken before the regulated priority order is applied. Therefore, for some Universal Credit households, the overall deductions cap of 15% will have already been reached prior to making the child support maintenance deduction that needs to be made.

5.10 In the light of paragraph 5.9, the Department has deemed it necessary, where applicable, to also allow for the child support maintenance deduction to be made, even if this would result in the overall deductions cap of 15% being exceeded. This approach will ensure that, at least, the current number of child support maintenance deductions made per month is fully maintained.

5.11 A legislative change is not required to give the Secretary of State the power to exceed the overall deductions for when a child support maintenance deduction results in the overall deductions cap of 15% being exceeded. The reason for this is, in cases where a deduction for child support maintenance results in the overall deduction cap of 15% being exceeded, the regulated "maximum amount" of up to 40% of a claimant's Universal Credit standard allowance (see paragraph 5.13) will not be exceeded when the child support maintenance deduction is taken and is the first named provision in the regulated priority order.

5.12 The amount to be deducted, per month, from a Universal Credit award, in respect of child support maintenance is a flat rate of £36.40[6]. This amount, expressed in percentage terms, ranges from 5.80% (for a single person under 25 years) to 11.48% (a couple, joint claimants, where one or both are 25 years old and over) of a Universal Credit standard allowance. These percentages are based on the Universal Credit standard allowance rates for 2025/26. Therefore, in a case scenario where the highest possible percentage rate of 11.48% is applied to a claimant, whose deductions already total 15% (see paragraph 5.9), their effective deduction rate will be 26.48% of their Universal Credit standard allowance, at the point at which the child support maintenance is deducted.

[5] https://www.legislation.gov.uk/uksi/2013/380/schedule/7

[6] https://www.gov.uk/government/publications/benefit-and-pension-rates-2025-to-2026/benefit-and-pension-rates-2025-to-2026#universal-credit-uc-monthly-rates

5.13 The regulated "maximum amount", of up to 40% of a claimant's Universal Credit standard allowance, as set out in paragraph 4(1) of Schedule 6 of *The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013,* is in relation to the total "maximum amount" for deductions that can be taken from a claimant's Universal Credit award. The regulated "maximum amount" of up to 40% cannot be exceeded apart for exceptions, such as, a deduction in respect of rent arrears, all the exceptions are set out in paragraph 4(4) of Schedule 6 of *The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013.*

5.14 Under the current policy of the overall deductions cap set at 25% of a claimant's Universal Credit standard allowance and the child support maintenance deduction being seventh in the regulated priority order (see paragraph 5.5), approximately 50,000 child support maintenance deductions are being made from Universal Credit each month.

5.15 Under the new policy it is estimated that, by moving the child support maintenance deduction higher up the regulated priority order and allowing it to exceed the overall deductions cap of 15% (where applicable), an estimated additional 10,000 child support maintenance deductions will be made each month. Resulting in the total number of child maintenance deductions increasing to an estimated 60,000 per month. Of the 60,000, an estimated 5,400 claimants will see their total monthly deductions increase by an average of £28[7] compared to the current policy.

5.16 Claimants, with a child support maintenance liability, are notified by the Child Maintenance Service (CMS), by letter, that CMS will seek to collect the claimant's child support maintenance payments by a deduction from their benefit. CMS send a form to Universal Credit to request that a deduction, in respect of child support maintenance, is applied to a claimant's Universal Credit award.

5.17 Once a child support maintenance deduction has been applied to a claimant's Universal Credit award, the claimant is notified of this via their Universal Credit online account. Furthermore, the claimant is also informed to talk to Child Maintenance Service if they want to query this deduction.

5.18 If a Universal Credit claimant disagrees with the decision to apply a child support maintenance deduction to their award, they can ask for the decision to be looked at again, this is called a "mandatory reconsideration" (MR). This can be done by contacting the benefit office that gave the decision, via their Universal Credit online account, or by phone, or by letter or by filling in and returning the MR form that is provided online[8]. If the MR results in the decision remaining unchanged, the Universal Credit claimant has the right to appeal the decision via the Courts and Tribunals Service[9].

5.19 The Department encourages anyone struggling to repay debts via their benefit award to contact Universal Credit via their Universal Credit online account or by calling the Universal Credit helpline at the earliest opportunity. The Department seeks to do as much as they are permitted to do to support claimants.

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[7] These are estimates based on modelling of the new policy on the financial and debt characteristics of the whole UC caseload in May 2024. The modelling also includes the effect of the change to Budgeting advance repayments announced at Spring Budget 2024.

[8] https://www.gov.uk/mandatory-reconsideration/how-to-ask-for-mandatory-reconsideration

[9] https://www.gov.uk/appeal-benefit-decision

What was the previous policy, how is this different?

5.20 The rationale for the current order by which deductions are taken, in accordance with the regulated priority order, reflects the potential severity of a consequence that might occur if a debt is not addressed. For example, not addressing rent arrears might result in the claimant being evicted as landlords can commence eviction action for tenants who do not address their rent arrears.

5.21 Whilst a claimant not addressing their child support maintenance obligation by a deduction made from their Universal Credit, might not have such a severe consequence upon the claimant, there is a legal obligation for them to pay their child support maintenance for their child or children.

5.22 The Government believes that all parents have an obligation to support their children and recognises the overall impact child support maintenance has in moving children out of poverty. Therefore, in support of this, a commitment was made to move the child support maintenance deduction higher up the regulated priority order.

6. Legislative and Legal Context

How has the law changed?

6.1 The instrument will modify the regulated priority order, set out at paragraph 5(2) of Schedule 6 of The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013, under the section headed, "priority between certain debts"), for one year by including a "sunset clause". This means the modification, made under this instrument, will cease to have effect at the end of 30 April 2026 at midnight (see paragraph 11.1 for the reasons given for a one year "sunset clause").

Why was this approach taken to change the law?

6.2 The modification is the only possible approach to achieve the Government's commitment to move the child support maintenance deduction higher up the regulated priority order.

7. Consultation

Summary of consultation outcome and methodology

7.1 The Department presented the proposed modification to the regulated priority order to the Social Security Advisory Committee (SSAC) on 14 February 2025. Under the powers conferred by Section 172(1) of the Social Security Administration Act 1992[10], SSAC have taken the proposed change on formal reference and have written to Secretary of State with the following recommendations:

- Recommendation 1 - The Department to demonstrate how it has given due regard to its obligations under the Equality Act 2010 and the Public Sector Equality Duty.
- Recommendation 2 – Align the coming into force date of the modification and the implementation date of the "Fair Repayment Rate" measure.
- Recommendation 3 - A commitment to allow claimants to "make representations" regarding affordability before the child support maintenance deduction commences.
- Recommendation 4 - Establishing an effective communications approach.

[10] https://www.legislation.gov.uk/ukpga/1992/5/section/172

- Recommendation 5 - The Department to engage positively with SSAC to agree a set of analysis to be undertaken over the course of the next six months.

7.2 The Department have accepted recommendation 1, by producing a new equality analysis, recommendation 2, by aligning the coming into force date of the modification and the implementation date of the "Fair Repayment Rate" measure, and recommendation 5, by engaging with the Social Security Advisory Committee on agreeing a set of analysis. Recommendation 4 has been accepted in principle with regards to having an effective communications approach (see paragraphs, 8.4, 8.5 and 8.6). The Department has rejected recommendation 3 for the following reasons:

- The amount of child support maintenance to be deducted from a Universal Credit award is a flat rate and the amount is set out in Schedule 1, paragraph 4 of the Child Support Act 1991[11]. This means that the amount is non-negotiable.
- A process already exists for claimants who want to dispute the decision to apply a deduction, in respect of child support maintenance, from their Universal Credit award (see paragraph 5.18).

7.3 An Unnumbered Act Paper, in response to SSAC's recommendations, has been laid before Parliament at the same time as these regulations. The response will be published on GOV.UK[12]

8. Applicable Guidance

8.1 The Department's internal guidance will be updated to reflect the legislative and policy change and will be available for staff to use from 30 April 2025. Any claimant and/or stakeholder queries that arise before the 30 April 2025 will be handled by the Department on a case-by-case basis.

8.2 Guidance that Departmental staff use when deciding to apply a deduction to a Universal Credit award is available both internally and externally. This guidance is called, "Advice for Decision Making: staff guide" (known as "ADM") and will be updated on 30 April 2025.

8.3 Chapter D3 of the "ADM"[13] provides guidance on child support maintenance deductions, and Chapter D2042 and D2043 of the "ADM"[14] provides guidance on the regulated priority order ("priority between certain debts"). This will be updated on 30 April 2025.

8.4 The Department has concluded that the business-as-usual approach to communicating with claimants about a child support maintenance deduction from their Universal Credit award, namely, via a message on the claimants Universal Credit online account, is the sensible approach to adopt. The reason for this is because it will not affect all Universal Credit claimants with a child support maintenance liability. Most claimants with a child support maintenance liability will experience no change and will continue to pay their child support maintenance via a deduction from their Universal Credit award. An additional estimated 10,000 Universal Credit claimants will start to pay their child support maintenance by a deduction made from their Universal Credit award.

[11] https://www.legislation.gov.uk/ukpga/1991/48/schedule/1
[12] https://www.gov.uk/government/organisations/social-security-advisory-committee
[13] https://assets.publishing.service.gov.uk/media/5f29319d8fa8f57acba2bd41/admd3.pdf
[14] https://assets.publishing.service.gov.uk/media/64a6b13cc531eb000c64ffa6/admd2.pdf

8.5 Furthermore, the Department cannot identify, in advance, those Universal Credit claimants this amendment could potentially impact. Therefore, any blanket communication campaign could cause confusion and in turn drive unnecessary inbound calls and/or complaints to the Department.

8.6 The Department have concluded that the most appropriate and effective way to communicate this amendment from 30 April 2025, is through external stakeholders, by using the following communication platforms:

- Touchbase the regular newsletter from DWP that is sent to external stakeholders.
- Partnership News a publication that goes to all DWP's Partnership Managers.
- Operational Stakeholder Engagement Forum (OSEF), ensuring an article is published in the Operational Update that is sent to members.
- Speaking with relevant key stakeholders, such as, Citizens Advice and Gingerbread.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because child support maintenance is a liability that should be legally paid by the non-resident parent.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the policy maintains existing standards and has no new impacts.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because no additional Universal Credit payments will be generated. There is no impact on Annually Managed Expenditure because the modifications do not affect the amount of Universal Credit awarded to a claimant prior to deductions being made, and there is no impact on Departmental Expenditure Limit because the modifications will be made within the envelope of current Departmental expenditure.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is to review the impact of the change by examining internal analysis and working with internal and external stakeholders from 30 April 2025. This will help determine the Departments approach in relation to the child support maintenance deduction, from 1 May 2026.

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 The Department has decided to make this change temporary via a "sunset clause" (see paragraph 6.1) because whilst it will increase the number of child support maintenance deductions made per month, it is also important to gather further

evidence as to the impact this change has on Universal Credit households, with regards to its ability to address other debts.

11.2 The evidence gathered will determine whether this temporary change should be made permanent or if an alternative approach is required.

11.3 This instrument meets the commitment to move child support maintenance deduction higher up the regulated priority order, as published in on 11 November 2024, in, "Estimated number and type of GB families and individuals in families benefitting from the uprating of benefits in financial year 2025 to 2026 and the "Fair Repayment Rate".

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").