EXPLANATORY MEMORANDUM TO

THE UNIVERSAL CREDIT (TRANSITIONAL PROVISIONS) (AMENDMENT) REGULATIONS 2026

2026 No. 6

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.

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 Hannah Birtwistle-Gordon, Deputy Director for Universal Credit Policy, at the Department for Work and Pensions confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Winston Alexander at the Department for Work and Pensions can be contacted by email at the following address with any queries regarding the instrument: uc.policyspoc@dwp.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 **Short Notice Migration Notice** - The amendment to Regulation 44 of The Universal Credit (Transitional Provisions) Regulations 2014[1] will shorten the notice period of Migration Notices (MNs) to less than three months for some customers in receipt of Income Related Employment and Support Allowance (ESA(IR)), Income Support (IS), income-based Jobseeker's Allowance (JSA(IB)) and working age Housing Benefit (wHB) legacy benefits, where the notice period would otherwise run beyond the abolition date for the relevant legacy benefit.

4.2 It will apply to those who are identified as eligible to be moved to Universal Credit (UC), through Managed Migration (MM), with less than three months before the abolition of the specified legacy benefits. This will enable them to be issued with a Migration Notice, the deadline for which reflects the closure of the relevant benefit and allows them to be considered for Transitional Protection (TP). Without this change, those who become eligible for MM with less than three months' notice risk not receiving TP.

4.3 **Failed Stop Notice** – Without this legislation some customers, due to a previous system issue would not be entitled to TP and, for income related Employment and Support Allowance (ESA(IR)), not have their Work Capability Assessment (WCA)

1 https://www.legislation.gov.uk/uksi/2014/1230/regulation/44

decision carried over into Universal Credit (UC). This regulation treats the customer as having continued to be entitled to various legacy benefits until they make a subsequent claim to UC, as long as that claim is made within a month of the Secretary of State notifying them to do so. Doing so allows the Work Capability Assessment (WCA) to be carried over into the UC claim and the customer to be eligible for transitional protection.

Where does the legislation extend to, and apply?

4.4 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.

4.5 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 **Short Notice Migration Notice –** Regulation 44 prescribes that a Migration Notice (MN) must be issued with a minimum of three months' notice for Department for Work and Pensions legacy benefit customers, as set out in paragraph 4.1.

5.2 The Welfare Reform Act 2012 (Commencement Order No. 35) (Abolition of benefits) Order 2025[2] has now been published. Abolishing Income Support and income-based Jobseeker's Allowance (JSA (IB)) on 1st April 2026. The Commencement Order to set a date for Employment and Support Allowance (Income Related) (ESA(IR)) and working age Housing Benefit (wHB) abolition will be brought forward shortly. The vast majority of customers have now been invited to move to UC under Managed Migration. When the legacy benefits are abolished, there may be a small number of customers whose entitlement to legacy benefit is reinstated with less than three months until the closure date, for example, following a successful appeal.

5.3 Under the current legislation these customers could only receive a Migration Notice (MN) with a deadline after legacy benefits close. If a customer were to make a claim for UC after the closure of their legacy benefit, they could not benefit from Transitional Protection (TP).

5.4 This policy amendment seeks to strengthen the original policy intent of providing TP for these customers.

5.5 Legislation to close the relevant legacy benefits has not yet been brought forward for all legacy benefits, therefore these regulations do not prescribe a specific deadline date for Short Notice Migration Notices (SNMNs). The dates for the SNMNs will be aligned to the relevant closure date, once in place. Where a combination of ESA(IR), IS, JSA(IB) and wHB are in payment, the applicable date will be the date of the earliest abolition date for the legacy benefits in payment, as happened when tax credits closed.

5.6 This change is intended to accommodate customers whose legacy benefit comes back into payment following a successful dispute but is not limited to this group, to allow for any unforeseen circumstances. This creates an additional safety net for customers and will enable more customers to be assessed for and potentially receive TP for their legacy benefit entitlement.

2 https://www.legislation.gov.uk/uksi/2025/1148/contents/made

5.7 **Failed Stop Notice** – By law when a customer makes a claim for Universal Credit (UC), any legacy benefit they receive is terminated from the date of the UC claim, even if the UC claim is unsuccessful. A gap in the process meant that the department did not meet that legal requirement in some cases. This meant that where a UC claim was unsuccessful due to identity not being verified, only tax credits awards were terminated, any other legacy award continued incorrectly. This has now been rectified; Department for Work and Pensions (DWP) now meets that legal requirement and terminates all legacy awards when a UC claim is made.

5.8 For some customers, terminating the remaining benefits from the correct date will create a gap between the legacy benefit ending and any subsequent UC claim. Due to this gap, they would not be entitled to Transitional Protection (TP), and in addition for Employment and Support Allowance (ESA), the Work Capability Assessment (WCA) decision would not be carried over. This would require the customer to undertake a new WCA and serve a new waiting period before any health-related addition was included in the UC award. The lack of transitional protection and health-related addition could mean a financial drop on moving to UC of up to £663.04 per month until any health-related addition is included in the fourth Assessment Period, with a continuing loss of up to £239.87 per month.

What was the previous policy, how is this different?

5.9 **Short Notice Migration Notice –** The changes to Regulation 44 address the three month notice period that current legislation prescribes. Under current rules, customers issued with a Migration Notice must be given a minimum of three months to claim UC. The changes to Regulation 44 remove this restriction for customers to allow for periods of less than three months to claim UC. There is no specific deadline date within these regulations for the Short Notice Migration Notice (SNMN), so the SNMN date will be aligned to the closure date when brought forward.

5.10 In January 2025, DWP laid similar regulations to enable us to amend a SNMN to households receiving tax credits (including those combined with other legacy benefits). As we approach the final stages of Managed Migration of the remaining legacy benefit customers to UC, we intend to make the supportive measure available again to ensure that all customers are provided with the protection of a Migration Notice before legacy benefits are abolished.

5.11 The previous policy intent remains unchanged as its purpose was to notify customers to make a claim for UC as part of Managed Migration and to ensure those customers could be considered for Transitional Protection (TP) for their legacy benefit award at the point of moving.

5.12 **Failed Stop Notice –** Policy intent is that transitional element is awarded to eligible customers (as set out in Universal Credit (Transitional Provisions) Regulations 2014), at the end of the first assessment period as part of the total UC award, to ensure that they do not receive a lower entitlement compared to their legacy award at the point they move to UC. Without this Instrument, up to 309 customers who did not have their legacy award correctly terminated would not be eligible for a transitional element and in addition ESA customers would not have their WCA carried over into UC. Applying a transitional element and carrying over the WCA into UC is not legally possible without this Instrument.

6. Legislative and Legal Context

How has the law changed?

6.1 **Short Notice Migration Notice -** These regulations amend the Universal Credit (Transitional Provisions) Regulations 2014. Regulation 2(2) amends regulation 44 of the Transitional Regulations to ensure that recipients of certain social security benefits that are soon to be abolished, and who are issued Universal Credit Migration Notices shortly before the abolition, can access the Transitional Protection (TP) for which the Transitional Regulations provide. The amendment does this by aligning the deadline day set out in the Migration Notice with the abolition of the relevant benefit. Where a person is the recipient of Housing Benefit and another legacy benefit, the timing of the Migration Notice is to be determined by the abolition of the other legacy benefit.

6.2 **Failed Stop Notice –** Inserting the new regulation into the Transitional Regulations provides for those customers who would otherwise be disadvantaged by an error to be treated as being entitled to their legacy benefit up to the date before any subsequent UC claim is made. This allows them to benefit from the 2014 regulation 19(1)(a), 20(1)(a), para 3(a) of schedule 2 and para 4 of schedule 3, thereby enabling a WCA decision to be carried over from ESA and eligibility for the Severe Disability Premium transitional element if the criteria is met.

Why was this approach taken to change the law?

6.3 **Short Notice Migration Notice -** This is the only possible approach to make the necessary changes.

6.4 **Failed Stop Notice -** This approach has been taken to prevent customers being disadvantaged by an error in not terminating their legacy benefits at the correct time. Had the termination action been taken correctly, customers would have had the benefit of the 2014 regulation 46(3) and (4). This regulation, in effect, gives the customer the opportunity to benefit from that regulation that they otherwise would not have had.

7. Consultation

Summary of consultation outcome and methodology

7.1 **Short Notice Migration Notice -** There is no requirement to undertake a formal consultation of the proposed amendment and new regulation. However, as part of the statutory duty the Department has to consult the Social Security Advisory Committee (SSAC) and Local Authority Associations (LAAs) when changes to certain legislation are made. The Department presented draft regulations to SSAC on 8th October 2025. The committee gave approval to take these regulations forward on 10th November 2025 and did not take the regulations on formal reference. The minutes from the SSAC consultation discussing these regulations will be published in due course on Gov.uk[3].

7.2 Consultation letters providing a full explanation of the proposed regulation change was issued by email to LAAs, London Councils Local Authority Associations, Welsh Government Local Authority Associations, and the Convention of Scottish Local Authority's (COSLA) on 21st October 2025. A deadline of 5th November 2025 was allowed for replies to the consultation. The deadline passed without any concerns being raised by the representative bodies.

3 https://www.gov.uk/government/collections/social-security-advisory-committee-minutes-of-meetings

7.3 **Failed Stop Notice -** The Department presented these regulations to Social Security Advisory Committee on 8th October 2025. No concerns or additional recommendations were made as a result of that consultation. These regulations apply in England, Scotland, and Wales. No customers in Northern Ireland (NI) have been impacted by this error; however, we have made colleagues in NI aware of these regulations. The committee gave approval to take these regulations forward on 10th November 2025 and did not take the regulations on formal reference.

8. Applicable Guidance

8.1 Internal guidance for staff and decision makers within the Department will be updated and information for customers will be available on Gov.uk[4] for when these regulations come into force on 29th January 2026.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 **Short Notice Migration Notice** - A full Impact Assessment has not been prepared for this instrument as the proposed amendment to regulation 44 impacts Department for Work and Pensions (DWP) processes only, has a positive impact, is of a limited scale and the new regulation does not go outside the original policy intent. We consider that a separate assessment is not required.

9.2 **Failed Stop Notice** – A full Impact Assessment has not been prepared for this instrument as assessments have been undertaken in relation to move to UC, the introduction of the transitional Severe Disability Premium (SDP) element and the increase of that element to include additional disability premiums. This will advantage those who have been on a legacy benefit with SDP and/or a Limited Capability for Work and Work-Related Activity (LCWRA) and therefore targets those who have a health condition or disability. However, this protection will apply equally regardless of the other protected characteristics. Any indirect impacts caused by targeting this group is justified in response to a DWP error.

Impact on businesses, charities, and voluntary bodies

9.3 There is no, or no significant, impact on business, charities, or voluntary bodies. This change impacts a small number of customers, is comprised of limited-scale, with beneficial amendments to social security regulations unrelated to business, charities, or voluntary bodies. Any limited impacts will have already been accounted for as part of move to UC, as these amendments remain within the original policy intent.

9.4 The legislation does not impact small or micro businesses.

9.5 There is no, or no significant, impact on the public sector because this amendment to Short Notice Migration Notices and the new regulation for Failed Stop Notices is paid for by the Department for Work and Pensions within current resources.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 **Short Notice Migration Notice -** The approach to monitoring this legislation is that there are no plans to formally review the impacts of these regulations, because the

[4] https://www.gov.uk/government/collections/universal-credit-for-claimants-who-receive-a-migration-notice-letter

package is comprised of limited-scale, with beneficial amendments to social security legislation.

10.2 **Failed Stop Notice –** This legislation will only apply to a small number of customers referred to in paragraph 5.12. The progress of these customers will be monitored closely through internal governance forums once the exercise has commenced.

10.3 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 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative 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”).