

# WELFARE REFORM ACT 2012

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 1: Universal credit

#### *Schedule 6 – Migration to universal credit*

177. *Schedule 6* provides for the migration to universal credit. *Paragraph 1(1)* provides a general regulation-making power for this purpose, and the rest of the Schedule sets out illustrative examples of how this power may be used. The first regulations made under this sub-paragraph will be subject to the affirmative resolution procedure, where they are making provision under *paragraphs 4, 5 and 6* of this Schedule. *Paragraph 1(3)* defines the ‘appointed day’, which is referred to in many of the illustrative provisions, as the day on which section 1 (and therefore the universal credit provisions) come into force.
178. *Paragraph 2* contains provisions relating to claims made before universal credit provisions come into effect. *Sub-paragraph (1)(a)* enables a claim for universal credit to be made before the universal credit provisions are introduced. *Sub-paragraph (1)(b)* allows a claim for universal credit made before the appointed day to be treated as a claim for the appropriate existing benefits. This may be used if the person making the claim fell into a group which had yet to begin the transition process. *Sub-paragraph (1)(c)* allows for a claim for an existing benefit to be treated as a claim for universal credit.
179. *Sub-paragraph (2)* allows for an award of universal credit to be made in respect of a period before universal credit is introduced. This might be used if a person made a claim to one of the existing benefits shortly before the introduction of universal credit. In these circumstances, it could make sense to treat their claim as a claim to universal credit, making an award for the whole period.
180. *Paragraph 3* contains provisions relating to claims made after the ‘appointed day’ on which the universal credit provisions come into effect. It allows for a phased transition from existing benefits to universal credit.
181. Claimants may not be able to move voluntarily from an existing benefit to universal credit. *Sub-paragraph (1)(a)* provides that regulations may exclude temporarily or permanently anyone receiving one of the relevant existing benefits from making a claim for universal credit. The power to exclude a person permanently could be used, for example, where a claimant is approaching state pension age and so will soon not meet the conditions of entitlement for universal credit.
182. *Sub-paragraph (1)(b)* allows for a temporary delay before a person can make a claim for universal credit. *Sub-paragraph (1)(c)* allows for a person to be excluded from entitlement for a temporary period.
183. *Sub-paragraph (1)(d)* allows claims for universal credit to be treated as claims for an existing benefit. This may apply particularly in cases where the claimant is excluded from claiming universal credit under *sub-paragraph (1)(a)*. *Sub-paragraph (1)(e)*

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enables a claim for an existing benefit to be treated as a claim for universal credit during this transitional period.

184. *Sub-paragraph (2)* allows for an award of universal credit to be made in respect of a period before the universal credit provisions come into effect. This follows the provision in paragraph 2(2) with the same effect for claims during the transitional period.
185. *Paragraph 4* enables regulations to make provisions relating to ongoing awards of the existing benefits and the making of awards for universal credit.
186. *Sub-paragraph (1)* allows for the termination of an award of an existing benefit and the making of an award of universal credit in its place. An award of universal credit may be made without the claimant having to apply.
187. Under *sub-paragraphs (2)(a)* and *(b)* regulations may require claimants to follow a certain procedure, provide information or undergo an assessment when the new award of universal credit begins, and to set out the consequences if a person fails to do so.
188. *Sub-paragraph (2)(c)* allows for regulations to temporarily or permanently alter the conditions of entitlement for people moving onto universal credit and determine the amount of their award. This means that some people who are entitled to an existing benefit but would not otherwise meet the conditions of entitlement for the universal credit could be entitled to universal credit.
189. The sub-paragraph also allows in certain circumstances for people who have taken a work capability assessment for the purposes of an existing benefit to be exempted from the requirement to undertake an assessment for universal credit.
190. *Sub-paragraph (2)(d)* enables regulations to make provision for the amount of an award. *Sub-paragraph (2)(e)* enables the fulfilment of certain conditions of entitlement for an existing benefit to be treated as fulfilment of the same condition for universal credit.
191. *Sub-paragraph (3)* allows for the amount of universal credit a claimant will receive to be linked to the amount of benefit they receive under the current system, so that their amount of universal credit is the same as or not more than a prescribed amount less than their current award. It also enables the amount of a person's universal credit award to be linked to the amount of an existing benefit award even where there is a short gap in entitlement before their universal credit award begins.
192. *Paragraph 5* includes transitional provisions relating to the imposition of work-related requirements and sanctions. This includes provisions under *sub-paragraphs (2)(a)* and *(b)* to allow claimant commitments or requirements that claimants have accepted in relation to JSA, ESA or IS to be treated as being for universal credit. *Sub-paragraph (2)(c)* allows compliance with a requirement for one of these benefits to be treated as compliance for universal credit. Under *sub-paragraph (2)(d)* requirements may also be withdrawn or not applied temporarily for the purposes of transition.
193. *Sub-paragraph (3)* makes provision relating to sanctions. In particular, *sub-paragraph (3)(a)* allows for a sanction applied to an existing award of JSA, ESA or IS to be continued when a person moves to universal credit. Under *sub-paragraph (3)(c)* provisions relating to universal credit sanctions may be disapplied temporarily.
194. *Sub-paragraph (4)* sets out the work-related requirements and sanctions to which these provisions may apply.
195. *Paragraph 6* allows for any provision of TCA 2002 (or regulations made under it) to be modified as necessary for the purposes of transferring people from working tax credit and child tax credit to universal credit. This may be used to align certain tax credit rules more closely with universal credit in advance to facilitate the transition process. Paragraph 6 also provides for overpayments of tax credits to be treated as overpayments of universal credit.

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196. *Paragraph 7* provides for regulations which will allow these transitional provisions to operate even if there is a gap in entitlement which would otherwise mean that they could not be used.