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STATUTORY INSTRUMENTS

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**2013 No. 386**

**SOCIAL SECURITY**

**The Universal Credit (Transitional Provisions) Regulations 2013**

*Made* - - - - 25th February 2013

*Coming into force* - - 29th April 2013

In accordance with section 43(3) and (6)(b) of the Welfare Reform Act 2012<sup>(1)</sup> (“the Act”), a draft of this instrument was laid before Parliament and approved by resolution of each House of Parliament.

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by section 42(2) and (3) of and paragraphs 1(1) and (2)(b), 3(1)(a), (b) and (c), 4(1)(a), 5(1), (2)(c) and (d) and (3)(a) and 6 of Schedule 6 to the Act.

This instrument has not been referred to the Social Security Advisory Committee because it contains only regulations made under the Act and is made before the end of the period of 6 months beginning with the coming into force of the Act<sup>(2)</sup>.

In accordance with section 176(2)(b) of the Social Security Administration Act 1992<sup>(3)</sup>, the Secretary of State has obtained the agreement of organisations appearing to him to be representative of the authorities concerned that proposals in respect of these Regulations should not be referred to them.

**PART 1**

**INTRODUCTION AND INTERPRETATION**

**Citation and commencement**

1.—(1) These Regulations may be cited as the Universal Credit (Transitional Provisions) Regulations 2013.

(2) These Regulations come into force on 29<sup>th</sup> April 2013.

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(1) 2012 c.5.

(2) See section 173(5) of the Social Security Administration Act 1992. The requirement to refer regulations to the Social Security Advisory Committee does not apply where regulations are contained in a statutory instrument made before the end of the period of six months beginning with the coming into force of the enactment under which the regulations were made.

(3) 1992 c.5.

**Interpretation****2.—(1)** In these Regulations—

“the Act” means the Welfare Reform Act 2012;

“the 2007 Act” means the Welfare Reform Act 2007(4);

“assessment period” has the same meaning as in the Universal Credit Regulations(5);

“the Claims and Payments Regulations” means the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013(6);

“contribution-based jobseeker’s allowance” has the same meaning as in the Jobseekers Act 1995(7) as it has effect apart from the amendments made by Part 1 of Schedule 14 to the Act (to remove references to an income-based allowance);

“contributory employment and support allowance” means a contributory allowance under Part 1 of the 2007 Act(8) as it has effect apart from the amendments made by Schedule 3, and Part 1 of Schedule 14, to the Act (to remove references to an income-related allowance);

“employment and support allowance” means an allowance under Part 1 of the 2007 Act as it has effect apart from the amendments made by Schedule 3, and Part 1 of Schedule 14, to the Act (to remove references to an income-related allowance);

“existing benefit” means income-based jobseeker’s allowance, income-related employment and support allowance, income support under section 124 of the Social Security Contributions and Benefits Act 1992(9), housing benefit under section 130 of that Act and child tax credit and working tax credit under the Tax Credits Act 2002(10), but see also regulation 28(2);

“First-tier Tribunal” has the same meaning as in the Social Security Act 1998(11);

“income-based jobseeker’s allowance” has the same meaning as in the Jobseekers Act 1995(12);

“income-related employment and support allowance” means an income-related allowance under Part 1 of the 2007 Act(13);

“jobseeker’s allowance” means an allowance under the Jobseekers Act 1995 as it has effect apart from the amendments made by Part 1 of Schedule 14 to the Act (to remove references to an income-based allowance);

“new claimant partner” has the meaning given in regulation 16;

“new style ESA” means an award of employment and support allowance under Part 1 of the 2007 Act as amended by Schedule 3, and Part 1 of Schedule 14, to the Act (to remove references to an income-related allowance);

“new style JSA” means an award of jobseeker’s allowance under the Jobseekers Act 1995 as amended by Part 1 of Schedule 14 to the Act (to remove references to an income-based allowance);

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(4) 2007 c.5.

(5) See reg 21.

(6) S.I. 2013/380.

(7) 1995 c.18. See s.1(4).

(8) See s.1(7).

(9) 1992 c.4.

(10) 2002 c.21.

(11) 1998 c.14.

(12) See s.1(4).

(13) See s.1(7).

“tax credit”, “tax credits” and “tax year” have the same meanings as in the Tax Credits Act 2002(14);

“the Universal Credit Regulations” means the Universal Credit Regulations 2013(15);

“Upper Tribunal” has the same meaning as in the Social Security Act 1998.

(2) For the purposes of these Regulations, the date on which a claim for universal credit is made is to be determined in accordance with the Claims and Payments Regulations(16).

## PART 2

### FIRST STAGE OF TRANSITION TO UNIVERSAL CREDIT

#### CHAPTER 1

##### ENTITLEMENT TO CLAIM UNIVERSAL CREDIT

###### **Entitlement to claim universal credit**

3.—(1) Unless a claim may be made by virtue of paragraph (2), or treated as made by virtue of paragraph (4), a person may not make, or be treated as making, a claim for universal credit unless—

- (a) the claim is in respect of a period which begins on or after the date on which these Regulations come into force; and
- (b) on the date on which the claim is made, or treated as made, the person falls within the Pathfinder Group(17).

(2) Subject to paragraph (3), where an award of universal credit to joint claimants terminates because they cease to be a couple, the claimant who is not exempt (by virtue of regulation 9(6) of the Claims and Payments Regulations) from the requirement to make a claim, may make a claim for universal credit during the period of one month starting with the date on which notification is given to the Secretary of State that the claimants have ceased to be a couple, even if the claimant does not fall within the Pathfinder Group on the date on which the claim is made.

(3) No claim may be made by a person by virtue of paragraph (2) at any time when the person or their partner is entitled to—

- (a) state pension credit; or
- (b) an existing benefit.

(4) Subject to paragraph (5), where regulation 9(8) of the Claims and Payments Regulations (Claims for universal credit by members of a couple) applies to a couple, they may be treated as making a claim for universal credit in accordance with that regulation, even though they do not fall within the Pathfinder Group on the date on which the claim is treated as made.

(5) No claim is to be treated as made by a couple by virtue of paragraph (4) at any time when—

- (a) the member of the couple who was previously entitled to universal credit as a single claimant is entitled to—
  - (i) state pension credit; or
  - (ii) an existing benefit;

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(14) See ss.1(2) and 48(1).

(15) S.I. 2013/376

(16) See reg 10.

(17) See reg 4.

- (b) the member of the couple who did not previously have an award of universal credit as a single person is entitled to state pension credit.

## CHAPTER 2

### THE PATHFINDER GROUP

#### The Pathfinder Group

4.—(1) A person falls within the Pathfinder Group if they meet the requirements of regulations 5 to 12.

(2) Any declaration which is required by regulation 6(3)(c), 9(1), or 12(a) or (b) is to be made by such method as may be required by the Secretary of State in relation to the person.

#### Personal characteristics

5. The person must be—

- (a) aged at least 18 years, but under 60 years and six months;
- (b) a single person;
- (c) a British citizen who—
  - (i) has resided in the United Kingdom throughout the period of two years ending with the date on which the claim for universal credit is made; and
  - (ii) has not, during that period, left the United Kingdom for a continuous period of four weeks or more.

#### Fitness to work

6.—(1) The person must not—

- (a) be pregnant; or
- (b) have been pregnant, if the date of her confinement occurred during the period of 15 weeks ending with the date on which the claim for universal credit is made.

(2) In this regulation, “confinement” has the same meaning as in regulation 8(4) of the Universal Credit Regulations.

(3) The person—

- (a) must not have obtained from a doctor a statement given in accordance with the rules set out in Part 1 of Schedule 1 to the Social Security (Medical Evidence) Regulations 1976<sup>(18)</sup> (“a statement of fitness for work”) in respect of the day on which the claim for universal credit is made, unless it has been determined, since the statement was given, that the person does not have limited capability for work within the meaning of the 2007 Act;
- (b) must not have applied for a statement of fitness for work;
- (c) must declare that they do not consider themselves to be unfit for work; and
- (d) must not have been the subject of a determination that they have limited capability for work within the meaning of the 2007 Act, unless it has subsequently been determined that they do not have limited capability for work within the meaning of that Act.

#### Existing benefits

7.—(1) The person must not be entitled to—

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(18) S.I. 1976/615. Sch 1 was substituted by S.I. 2010/137.

- (a) any existing benefit;
  - (b) contribution-based jobseeker's allowance;
  - (c) contributory employment and support allowance;
  - (d) incapacity benefit or severe disablement allowance, as defined in Schedule 4 to the 2007 Act;
  - (e) disability living allowance under section 71 of the Social Security Contributions and Benefits Act 1992<sup>(19)</sup>; or
  - (f) personal independence payment<sup>(20)</sup>.
- (2) The person must not be treated by regulation 8 as being entitled to a tax credit.
- (3) The person must not be awaiting—
- (a) a decision on a claim for any benefit mentioned in paragraph (1)(a) to (c); or
  - (b) the outcome of an application—
    - (i) to the Secretary of State to consider whether to revise, under section 9 of the Social Security Act 1998<sup>(21)</sup>, a decision that the person is not entitled to jobseeker's allowance, employment and support allowance or income support; or
    - (ii) to the relevant authority (within the meaning of the Child Support, Pensions and Social Security Act 2000<sup>(22)</sup>) to consider whether to revise, under Schedule 7 to that Act, a decision that the person is not entitled to housing benefit.
- (4) If the person has appealed against a decision that they are not entitled to a benefit mentioned in paragraph (1)(a) to (c), the Secretary of State must be satisfied—
- (a) that the appeal to the First-tier Tribunal, and any subsequent appeal to the Upper Tribunal or to a court, is not ongoing; and
  - (b) where an appeal has been finally determined, that there is no possibility of a further appeal by any party.
- (5) If the person was previously entitled to jobseeker's allowance, the award of that benefit must not have terminated during the period of two weeks ending with the date on which the claim for universal credit is made.
- (6) If the person was previously entitled to employment and support allowance, the award of that benefit must not have terminated during the period of two weeks ending with the date on which the claim for universal credit is made, unless the award terminated as a result of a decision which incorporated a determination that the person no longer had limited capability for work within the meaning of the 2007 Act.

#### **Existing benefits: ongoing awards of tax credits**

- 8.—**(1) For the purposes of regulations 7(2) and 16(4)—
- (a) a person is to be treated as being entitled to working tax credit with effect from the start of the current tax year even though a decision has not been made under section 14 of the Tax Credits Act 2002 (“the 2002 Act”) in respect of a claim for that tax credit for that tax year, if the person was entitled to working tax credit for the previous tax year and any of the cases specified in paragraph (2) applies; and
  - (b) a person is to be treated as being entitled to child tax credit with effect from the start of the current tax year even though a decision has not been made under section 14 of the 2002 Act

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(19) 1992 c.4.

(20) See the Act, s.77.

(21) 1998 c.14. See, in relation to consideration of revision under s.9, s.12(2)(b) and (3A), inserted by the Act.

(22) 2000 c.19.

in respect of a claim for that tax credit for that tax year, if the person was entitled to child tax credit for the previous tax year and any of the cases specified in paragraph (2) applies.

- (2) The cases are—
- (a) a final notice has not been given to the person under section 17 of the 2002 Act in respect of the previous tax year;
  - (b) a final notice has been given, which includes provision by virtue of subsection (2) or (4) of section 17, or a combination of those subsections and subsection (6) and—
    - (i) the date specified in the notice for the purposes of section 17(2) and (4) or, where different dates are specified, the later of them, has not yet passed and no claim for a tax credit for the current year has been made, or treated as made; or
    - (ii) a claim for a tax credit has been made, or treated as made, on or before the date mentioned in paragraph (i), but no decision has been made in relation to that claim under section 14(1) of the 2002 Act;
  - (c) a final notice has been given, no claim for a tax credit for the current year has been made, or treated as made, and no decision has been made under section 18(1) of the 2002 Act in respect of entitlement to a tax credit for the previous tax year; or
  - (d) a final notice has been given and—
    - (i) the person did not make a declaration in response to provision included in that notice by virtue of section 17(2)(a), (4)(a) or (6)(a), or any combination of those provisions, by the date specified in the notice;
    - (ii) they were given notice that payments of tax credit under section 24(4) of the 2002 Act had ceased due to their failure to make the declaration; and
    - (iii) their claim for universal credit is made during the period of 30 days starting with the date on the notice referred to in paragraph (ii) or, where the person is a new claimant partner, notification of formation of a couple with a person who is entitled to universal credit is given to the Secretary of State during that period.

### **Income and capital**

9.—(1) The person must declare that, during the period of one month starting with the date on which the claim for universal credit is made, their earned income is expected not to exceed—

- (a) £270, if they are aged under 25; or
- (b) £330, if they are aged 25 or over.

(2) The person's capital must not exceed £6,000.

(3) For the purposes of this regulation, “earned income” and “capital” have the same meanings as they have in Part 6 of the Universal Credit Regulations.

### **Housing**

10. The person must not—

- (a) be homeless (within the meaning of section 175 of the Housing Act 1996(23)) and must currently reside at their usual address;
- (b) reside in accommodation in which care, supervision, counselling, advice or other support services (other than services connected solely with the provision of adequate accommodation) are made available to them by or on behalf of the person by whom the accommodation is provided, with a view to enabling them to live there;

(23) 1996 c.52.

- (c) own, or partly own, the property in which they reside.

### **Caring responsibilities**

#### **11. The person must not—**

- (a) have a child<sup>(24)</sup> living with them some or all of the time;
- (b) have a person (“the young person”) living with them some or all of the time if—
  - (i) the young person is not a child, but is under the age of 20; and
  - (ii) they would be responsible for the young person for the purposes of regulation 4 of the Universal Credit Regulations, if the young person were a qualifying young person within the meaning of regulation 5 of those Regulations;
- (c) be an adopter (within the meaning of regulation 89(3) of the Universal Credit Regulations) with whom a child is expected to be placed during the period of two weeks beginning with the date on which the claim for universal credit is made;
- (d) be liable to pay child support maintenance under the Child Support Act 1991<sup>(25)</sup>;
- (e) have any responsibility for providing care to a person who has a physical or mental impairment, other than in the course of paid or voluntary employment.

### **Other requirements**

#### **12. The person—**

- (a) must declare that they do not expect to have any self-employed earnings, as defined in regulation 57 of the Universal Credit Regulations, during the period of one month starting with the date on which the claim for universal credit is made;
- (b) must not be engaged in education or training of any kind and must declare that they do not intend to engage in education or training of any kind (other than where required to do so by the Secretary of State, or by agreement with the Secretary of State, in connection with an award of universal credit) during the period of one month starting with the date on which the claim for universal credit is made;
- (c) must not have—
  - (i) a deputy appointed by the Court of Protection under Part 1 of the Mental Capacity Act 2005<sup>(26)</sup> (“the 2005 Act”);
  - (ii) a receiver appointed under Part 7 of the Mental Health Act 1983<sup>(27)</sup> and treated as a deputy by virtue of the 2005 Act; or
  - (iii) any other person acting on their behalf in relation to the claim for universal credit;
- (d) must have a national insurance number;
- (e) must have an account with a bank, a building society or the Post Office.

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<sup>(24)</sup> See the Act, s.40.

<sup>(25)</sup> 1991 c.48.

<sup>(26)</sup> 2005 c.9.

<sup>(27)</sup> 1983 c.20.

## CHAPTER 3

## TREATMENT OF INVALID CLAIMS FOR UNIVERSAL CREDIT

**Incorrect information regarding entitlement to claim**

**13.**—(1) This regulation applies where a claim for universal credit is made and it is subsequently discovered by the Secretary of State that the claimant gave incorrect information regarding any of the requirements of regulations 5 to 12 and did not in fact fall within the Pathfinder Group on the date on which the claim was made.

(2) Where the discovery is made before the claim for universal credit has been decided—

- (a) the claimant is to be informed that they are not entitled to claim universal credit;
- (b) if the claimant makes a claim for jobseeker’s allowance, employment and support allowance or income support (“the existing benefit”) and the date on which that claim is made (as determined in accordance with the Social Security (Claims and Payments) Regulations 1987(**28**) (“the 1987 Regulations”)) is after the date on which the claim for universal credit was made, but no later than one month after the date on which the information required by sub-paragraph (a) was given—
  - (i) the claim for the existing benefit is to be treated as made on the date on which the claim for universal credit was made; and
  - (ii) any provision of the 1987 Regulations under which the claim for the existing benefit is treated as made on a later date does not apply;
- (c) if the claimant makes a claim for housing benefit and the date of that claim (as determined in accordance with the Housing Benefit Regulations 2006(**29**) or, as the case may be, the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(**30**) (together referred to as “the Housing Benefit Regulations”)) is after the date on which the claim for universal credit was made, but no later than one month after the date on which the information required by sub-paragraph (a) was given—
  - (i) the claim for housing benefit is to be treated as made on the date on which the claim for universal credit was made; and
  - (ii) any provision of the Housing Benefit Regulations under which the claim for housing benefit is treated as made on a later date does not apply;
- (d) if the claimant makes a claim for a tax credit and that claim is received by a relevant authority at an appropriate office (within the meaning of the Tax Credits (Claims and Notifications) Regulations 2002(**31**) (“the 2002 Regulations”)) during the period of one month beginning with the date on which the information required by sub-paragraph (a) was given—
  - (i) the claim is to be treated as having been so received on the date on which the claim for universal credit was made; and
  - (ii) any provision of the 2002 Regulations under which the claim is treated as having been made on a later date does not apply.

(3) Where the discovery is made after a decision has been made that the claimant is entitled to universal credit, but before any payment has been made—

- (a) that decision is to cease to have effect immediately, by virtue of this regulation;

(28) S.I. 1987/1968, as amended.

(29) S.I. 2006/213, as amended.

(30) S.I. 2006/214, as amended.

(31) S.I. 2002/2014, as amended.



- (b) the claimant is to be informed that they are not entitled to claim universal credit; and
  - (c) paragraph (2)(b) to (d) applies.
- (4) Where the discovery is made after a decision has been made that the claimant is entitled to universal credit and one or more payments have been made to the claimant—
- (a) the claim is to be treated as one which the claimant was entitled to make;
  - (b) the decision is to be treated as a decision under section 8 of the Social Security Act 1998; and
  - (c) the award shall continue, if the claimant meets the conditions of entitlement for universal credit(32).

## CHAPTER 4

### AWARDS OF UNIVERSAL CREDIT WITHOUT A CLAIM

#### **Awards of universal credit without a claim**

**14.**—(1) Subject to paragraphs (2) and (3), an award of universal credit may be made without a claim in accordance with regulation 6 (Claims not required for entitlement to universal credit in certain cases) or regulation 9(6) or (7) (Claims for universal credit by members of a couple) of the Claims and Payments Regulations, even if the person to whom that award is made would not otherwise be permitted to claim universal credit by these Regulations.

(2) Where a decision is made that a person is not entitled to universal credit for the first assessment period due to the level of their earned income (within the meaning of the Universal Credit Regulations), regulation 6(2) of the Claims and Payments Regulations does not apply.

(3) No award of universal credit may be made to a person under regulation 6 or 9(6) or (7) of the Claims and Payments Regulations at any time when they or their partner are entitled to—

- (a) state pension credit; or
- (b) an existing benefit.

## PART 3

### EFFECT OF TRANSITION TO UNIVERSAL CREDIT

#### CHAPTER 1

#### ENTITLEMENT TO EXISTING BENEFITS

#### **Exclusion of entitlement to existing benefits**

**15.**—(1) A person is not entitled to any benefit mentioned in paragraph (2) at any time when they are entitled to universal credit.

(2) The benefits are—

- (a) income support under section 124 of the Social Security Contributions and Benefits Act 1992;
- (b) housing benefit under section 130 of that Act;
- (c) tax credits;
- (d) state pension credit.

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(32) See s.3 of the Act.

(3) A person who is entitled to universal credit may not make a claim for any benefit mentioned in paragraph (2)(a) to (c), even if, because of any of the provisions mentioned in paragraph (4), the claim is made or treated as made at a time when the person was not entitled to universal credit.

(4) The provisions are—

- (a) regulation 6(1A)(b), (1F)(c), (3), (4ZC)(b), (16), (19), (28) or (30) of the Social Security (Claims and Payments) Regulations 1987(33) (“the 1987 Regulations”);
- (b) regulation 83(5) or (12) of the Housing Benefit Regulations 2006(34) (“the 2006 Regulations”);
- (c) regulation 64(6) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(35) (“the 2006 (SPC) Regulations”);
- (d) regulation 7, 8, 11(3) or 12(6) of the Tax Credits (Claims and Notifications) Regulations 2002(36) (“the 2002 Regulations”).

(5) For the purposes of paragraph (3)—

- (a) the date on which a claim for income support is made or treated as made is to be determined in accordance with the 1987 Regulations;
- (b) the date on which a claim for housing benefit is made or treated as made is to be determined in accordance with the 2006 Regulations or, as the case may be, the 2006 (SPC) Regulations;
- (c) the date on which a claim for a tax credit is made or treated as made is to be the date on which the claim is received by a relevant authority at an appropriate office, within the meaning of the 2002 Regulations, or such other date on which it is treated as made under those Regulations.

### Termination of awards of existing benefits

16.—(1) This regulation applies where—

- (a) a person (“A”) to whom an award of universal credit was made as a single claimant ceases to be entitled as such by becoming a member of a couple;
- (b) the other member of the couple (“B”) was not entitled to universal credit as a single claimant immediately before formation of the couple; and
- (c) an award of universal credit is made to the members of the couple jointly(37).

(2) In these Regulations, B is referred to as “the new claimant partner”.

(3) Where this regulation applies, all awards of an existing benefit to which the new claimant partner is entitled which did not terminate on formation of the couple are to terminate, by virtue of this regulation, on the day before the first date on which the joint claimants are entitled to universal credit.

(4) Where the new claimant partner was, immediately before forming a couple with A, treated by regulation 8 as being entitled to a tax credit, the new claimant partner is to be treated, for the

(33) S.I. 1987/1968. Para (1A) of reg 6 was inserted by S.I. 1997/793 and sub-para (b) was amended by S.I. 2009/1490; para (1F) was substituted by S.I.2009/1490; para (3) was inserted by S.I. 1988/522 and amended by S.I. 1988/1725, 1991/2284, 1997/793 and 1999/2572; para (4ZC) was inserted by S.I. 2000/1982 and sub-para (b) was amended by S.I. 2009/1490; para (16) was substituted by S.I. 2000/1596; para (19) was substituted by S.I. 2000/1596 and amended by S.I. 2002/428, 2006/2377 and 2007/2470; para (28) was amended by S.I. 2003/455; para (30) was inserted by S.I. 2002/428 and amended by S.I. 2007/2470.

(34) S.I. 2006/213. Reg 83(5) has been amended by S.I.2007/ 2911, 2008/2299 and 2008/1082.

(35) S.I. 2006/214. Reg 64(6) has been amended by S.I. 2007/2911 and 2008/2299.

(36) S.I. 2002/2014. Reg 7 has been amended by S.I. 2003/723, 2009/2887 and 2012/848; reg 8 was substituted by S.I. 2009/697 and has been amended by S.I. 2009/2887 and 2012/848; reg 11(3) was substituted by S.I. 2008/604 and has been amended by S.I. 2009/697 and 2010/751.

(37) See reg 9(8) of the Claims and Payments Regulations and reg 3(4) of these Regulations.

purposes of the Tax Credits Act 2002, as having made a claim for the tax credit in question for the current tax year.

(5) Any award of a tax credit which is made in respect of a claim which is treated as having been made by virtue of paragraph (4) is to terminate, by virtue of this regulation, on the day before the first date on which the joint claimants are entitled to universal credit.

### **Finalisation of tax credits and modification of tax credits legislation**

**17.**—(1) This regulation applies where an award of universal credit is made to a person who was previously entitled to a tax credit and the award of that tax credit terminated at any time during the tax year in which the award of universal credit is made.

(2) Where this regulation applies—

- (a) the Tax Credits Act 2002 (“the 2002 Act”) is to apply in relation to the person with the modifications made by paragraphs 9, 10, 13 and 14 of the Schedule to these Regulations; and
- (b) subject to paragraph (3), the amount of the tax credit to which the person is entitled is to be calculated in accordance with the 2002 Act and regulations made under that Act, as modified by the other provisions of that Schedule (“the legislation as further modified”).

(3) Where, in the opinion of the Commissioners of Her Majesty’s Revenue and Customs, it is not reasonably practicable to apply the legislation as further modified in relation to any case or category of cases, the 2002 Act is to apply without further modification, and regulations made under that Act are to apply without modification, in that case or category of cases.

### **Ongoing appeals etc**

**18.**—(1) This regulation applies where—

- (a) a new claimant partner to whom an award of universal credit has been made appealed against a decision relating to entitlement to an existing benefit; and
- (b) the appeal to the First-tier Tribunal, or any subsequent appeal to the Upper Tribunal or a court, was ongoing at the date on which the award of universal credit was made, or a further appeal (by any party) was made after that date.

(2) This regulation also applies where—

- (a) a new claimant partner to whom an award of universal credit has been made applied—
  - (i) to the Secretary of State to consider whether to revise, under section 9 of the Social Security Act 1998, or to supersede, under section 10 of that Act, a decision relating to the new claimant partner’s entitlement to jobseeker’s allowance, employment and support allowance or income support; or
  - (ii) to the relevant authority (within the meaning of the Child Support, Pensions and Social Security Act 2000) to consider whether to revise or supersede, under Schedule 7 to that Act, a decision relating to the new claimant partner’s entitlement to housing benefit,

and that application is pending at the date on which the award of universal credit was made; or

- (b) the Secretary of State or, as the case may be, a relevant authority mentioned in subparagraph (a)(ii), is considering whether to revise or supersede such a decision on their own initiative.

(3) Where this regulation applies, and the new claimant partner is still entitled to universal credit when the appeal is finally determined or a decision is revised or superseded—

- (a) any entitlement to an existing benefit arising from the appeal, or from the decision as revised or superseded, is to terminate, by virtue of this regulation, on the day before the first date of entitlement to universal credit;
  - (b) the new claimant partner is not entitled to any payment in respect of an existing benefit for any period after the day before the first date of entitlement to universal credit; and
  - (c) the Secretary of State is to consider whether it is appropriate to revise under section 9 of the 1998 Act the decision in relation to entitlement to universal credit or, if that decision has been superseded under section 10 of that Act, the decision as so superseded (in either case, “the UC decision”).
- (4) Where it appears to the Secretary of State to be appropriate to revise the UC decision, it is to be revised in such manner as appears to the Secretary of State to be necessary to take account of—
- (a) the decision of the First-tier Tribunal, Upper Tribunal, or court or, as the case may be, the decision relating to entitlement to an existing benefit, as revised or superseded by the Secretary of State or relevant authority; and
  - (b) any finding of fact by the Tribunal, Upper Tribunal, or court.

## CHAPTER 2

### TRANSITION FROM EXISTING BENEFITS TO UNIVERSAL CREDIT

#### **Advance payments of universal credit**

- 19.**—(1) This regulation applies where—
- (a) the Secretary of State is deciding a claim for universal credit, other than a claim which is treated as having been made by virtue of regulation 9(8) of the Claims and Payments Regulations;
  - (b) the claimant was previously entitled to an existing benefit (“the existing award”); and
  - (c) the claim for universal credit was made during the period of one month starting with the date on which the existing award terminated.
- (2) This regulation also applies where—
- (a) the Secretary of State is deciding a claim for universal credit which is treated as having been made by virtue of regulation 9(8) of the Claims and Payments Regulations;
  - (b) one of the claimants is a new claimant partner who was previously entitled to an existing benefit; and
  - (c) the award of that benefit terminated on formation of the couple, or by virtue of regulation 16.
- (3) Where this regulation applies, the claimant may request an advance payment of universal credit at any time during the first assessment period for universal credit and, in the case of joint claimants, such a request may be made by either of them or by them jointly.
- (4) Where a request has been made in accordance with this regulation, the Secretary of State may make an advance payment to the claimant, or joint claimants, of such amount in respect of universal credit as the Secretary of State considers appropriate.
- (5) After an advance payment has been made under this regulation, payments of any award of universal credit to the claimant, or joint claimants, may be reduced until the amount of the advance payment is repaid.

## **Benefit Cap**

**20.** Part 7 of the Universal Credit Regulations (The Benefit Cap) does not apply to a person who was permitted to claim universal credit by these Regulations (including a person to whom regulation 13(4)(a) applies), or to a person to whom an award of universal credit has been made without a claim in accordance with these Regulations.

## **Income from existing benefits**

- 21.**—(1) This regulation applies where—
- (a) an award of universal credit is made to joint claimants;
  - (b) one of those claimants is a new claimant partner who was previously entitled to income-based jobseeker’s allowance, income-related employment and support allowance, or income support under section 124 of the Social Security Contributions and Benefits Act 1992 (“the relevant existing benefit”);
  - (c) the award of the relevant existing benefit terminated on formation of the couple, or by virtue of regulation 16; and
  - (d) a payment of that benefit is made which includes payment in respect of a period which falls within one or more assessment periods for universal credit (“the overlapping payment”).
- (2) Where this regulation applies, for the purposes of calculating the amount of the award of universal credit to the joint claimants in respect of an assessment period—
- (a) regulation 66 of the Universal Credit Regulations (What is included in unearned income?) applies as if the overlapping payment which was made in respect of that assessment period were added to the descriptions of unearned income in paragraph (1)(b) of that regulation; and
  - (b) regulation 73 of the Universal Credit Regulations (Unearned income calculated monthly) does not apply to the overlapping payment.

## **Deductions from benefits**

- 22.**—(1) This regulation applies where—
- (a) an award of universal credit is made to joint claimants;
  - (b) one of those claimants is a new claimant partner who was previously entitled to income-based jobseeker’s allowance, income-related employment and support allowance or income support (“the earlier award”), or was, immediately before termination of the award, the partner of a person who was so entitled;
  - (c) the earlier award terminated by virtue of regulation 16; and
  - (d) at the time at which the earlier award terminated, deductions in respect of fuel costs or water charges were being made under regulation 35 of the Social Security (Claims and Payments) Regulations 1987, in accordance with Schedule 9 to those Regulations(38).
- (2) Where this regulation applies, deductions in respect of fuel costs or, as the case may be, water charges, may be made from the award of universal credit in accordance with Schedule 6 to the Claims and Payments Regulations, without the need for any consent which would otherwise be required under paragraph 3(3) of that Schedule.

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(38) S.I. 1987/1968. Reg 35 was substituted by S.I. 1988/522, amended by S.I. 2001/18 and 2002/2441 and partially revoked by S.I. 2003/492.

**Transition from employment and support allowance**

- 23.—(1) This regulation applies where—
- (a) an award of universal credit is made to joint claimants;
  - (b) one of the claimants is a new claimant partner;
  - (c) that person was previously entitled to employment and support allowance; and
  - (d) the award of employment and support allowance—
    - (i) terminated on formation of the couple or by virtue of regulation 16, in so far as it was an award of income-related employment and support allowance;
    - (ii) continued in existence as an award of new style ESA, in so far as it was an award of contributory employment and support allowance.
- (2) In this regulation, the “relevant date” means—
- (a) in relation to an award to which paragraph (1)(d)(i) applies and paragraph (1)(d)(ii) does not apply, the date on which the award terminated; and
  - (b) in relation to an award to which paragraph (1)(d)(ii) applies, or to which that paragraph and paragraph (1)(d)(i) both apply, the day before the first date of entitlement to universal credit.
- (3) Where, on or before the relevant date, it had been determined that the new claimant partner was entitled to the work-related activity component—
- (a) regulation 27(3) of the Universal Credit Regulations (Award to include LCW and LCWRA elements) does not apply; and
  - (b) the new claimant partner is to be treated as having limited capability for work for the purposes of regulation 27(1)(a) of those Regulations and section 21(1)(a) of the Act.
- (4) Unless the assessment phase had not ended at the relevant date<sup>(39)</sup>, if a new claimant partner who is treated as having limited capability for work under paragraph (3) is entitled to an award of universal credit as a joint claimant—
- (a) regulation 28 of the Universal Credit Regulations (Period for which the LCW or LCWRA element is not to be included) does not apply; and
  - (b) the LCW element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award with effect from the beginning of the first assessment period.
- (5) Where, on or before the relevant date, it had been determined that the new claimant partner was entitled to the support component—
- (a) regulation 27(3) of the Universal Credit Regulations does not apply; and
  - (b) the new claimant partner is to be treated as having limited capability for work and work-related activity for the purposes of regulation 27(1)(b) of those Regulations and section 19(2)(a) of the Act.
- (6) Unless the assessment phase had not ended at the relevant date, if a new claimant partner who is treated as having limited capability for work and work-related activity under paragraph (5) is entitled to an award of universal credit—
- (a) regulation 28 of the Universal Credit Regulations does not apply; and
  - (b) the LCWRA element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period.

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(39) In which case, *see* reg 24(3).

(7) Where a person is treated, by virtue of this regulation, as having limited capability for work or, as the case may be, limited capability for work and work-related activity, the Secretary of State may at any time make a fresh determination as to these matters, in accordance with the Universal Credit Regulations.

(8) In this regulation and in regulations 24 to 28—

“assessment phase”, “support component” and “work-related activity component” have the same meanings as in the 2007 Act(40);

“incapacity benefit” and “severe disablement allowance” have the same meanings as in Schedule 4 to that Act;

“LCW element” and “LCWRA element” have the same meanings as in the Universal Credit Regulations(41).

### **Transition from employment and support allowance before the end of the assessment phase**

**24.**—(1) This regulation applies where—

- (a) an award of universal credit is made to joint claimants;
- (b) one of the claimants is a new claimant partner;
- (c) that person was previously entitled to employment and support allowance; and
- (d) the award of employment and support allowance—
  - (i) terminated on formation of the couple or by virtue of regulation 16, in so far as it was an award of income-related employment and support allowance;
  - (ii) continued in existence as an award of new style ESA, in so far as it was an award of contributory employment and support allowance.

(2) In this regulation, the “relevant date” means—

- (a) in relation to an award to which paragraph (1)(d)(i) applies and paragraph (1)(d)(ii) does not apply, the date on which the award terminated; and
- (b) in relation to an award to which paragraph (1)(d)(ii) applies, or to which that paragraph and paragraph (1)(d)(i) both apply, the day before the first date of entitlement to universal credit.

(3) Where, on the relevant date, the assessment phase(42) in relation to the person to whom it was awarded had lasted for less than 13 weeks—

- (a) regulation 28(2) of the Universal Credit Regulations (Period for which the LCW or LCWRA element is not to be included) does not apply; and
- (b) for the purposes of regulation 28 of those Regulations, the relevant period is the period of 13 weeks starting with the first day of the assessment phase.

(4) Where, on the relevant date, the assessment phase in relation to the person to whom it was awarded had not ended and had lasted for more than 13 weeks—

- (a) regulation 28 of the Universal Credit Regulations does not apply;
- (b) if it is subsequently determined in accordance with Part 5 of those Regulations that the person has limited capability for work—
  - (i) the LCW element is (subject to the provisions of Part 4 of those Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period; and

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(40) See ss.4 and 24(2).

(41) See reg 27.

(42) See reg 23(8).



- (ii) for the purposes of determining the person's entitlement to employment and support allowance prior to the relevant date, the person is to be treated as having been entitled to the work-related activity component from the day after the day on which the period referred to in paragraph (3)(b) ended;
- (c) if it is subsequently determined in accordance with Part 5 of the Universal Credit Regulations that the person has limited capability for work and work-related activity—
  - (i) the LCWRA element is (subject to the provisions of Part 4 of those Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period; and
  - (ii) for the purposes of determining the person's entitlement to employment and support allowance prior to the relevant date, the person is to be treated as having been entitled to the support component from the day after the day on which the period referred to in paragraph (3)(b) ended.

### **Transition from income support based on incapacity**

- 25.**—(1) This regulation applies where—
- (a) an award of universal credit is made to joint claimants;
  - (b) one member of the couple is a new claimant partner; and
  - (c) that person was previously entitled to income support based on incapacity and the award of that benefit terminated on formation of the couple or by virtue of regulation 16.
- (2) Where this regulation applies—
- (a) if it is determined in accordance with Part 5 of the Universal Credit Regulations that the new claimant partner has limited capability for work—
    - (i) that person is to be treated as having had limited capability for work for the purposes of regulation 27(1)(a) of the Universal Credit Regulations (Award to include LCW and LCWRA elements) from the beginning of the first assessment period;
    - (ii) regulation 28 of those Regulations (Period for which the LCW or LCWRA element is not to be included) does not apply to the joint award of universal credit; and
    - (iii) the LCW element<sup>(43)</sup> is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award with effect from the beginning of the first assessment period;
  - (b) if it is determined in accordance with Part 5 of the Universal Credit Regulations that the new claimant partner has limited capability for work and work-related activity—
    - (i) that person is to be treated as having had limited capability for work and work-related activity for the purposes of regulation 27(1)(b) of the Universal Credit Regulations from the beginning of the first assessment period;
    - (ii) regulation 28 of those Regulations does not apply to the joint award of universal credit; and
    - (iii) the LCWRA element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period.
- (3) In this regulation—
- “income support based on incapacity” means an award of income support which is an “existing award” within the meaning of Schedule 4 to the 2007 Act;

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(43) See reg 23(8).



### **Transition from other incapacity benefits**

- 26.—(1) This regulation applies where—
- (a) an award of universal credit is made to joint claimants;
  - (b) one member of the couple is a new claimant partner;
  - (c) that person was entitled to incapacity benefit or severe disablement allowance<sup>(44)</sup> at the time the award of universal credit was made; and
  - (d) it is subsequently determined in accordance with the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No.2) Regulations 2010<sup>(45)</sup> that the award qualifies for conversion into an award (“the converted award”) in accordance with regulation 7 of those Regulations (Qualifying for conversion).
- (2) Where this regulation applies, and the converted award includes the work-related activity component—
- (a) regulation 27(3) of the Universal Credit Regulations (Award to include LCW and LCWRA elements) does not apply and, where a decision on the award of universal credit incorporates a determination which has already been made in accordance with that regulation, that decision is to be revised in accordance with this regulation;
  - (b) the new claimant partner is to be treated as having had limited capability for work for the purposes of regulation 27(1)(a) of the Universal Credit Regulations from the beginning of the first assessment period;
  - (c) regulation 28(1) of the Universal Credit Regulations (Period for which LCW or LCWRA element is not to be included) does not apply;
  - (d) the LCW element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period; and
  - (e) the new claimant partner is to be treated as having limited capability for work for the purposes of section 21(1)(a) of the Act.
- (3) Where this regulation applies and the converted award includes the support component—
- (a) regulation 27(3) of the Universal Credit Regulations does not apply and, where a decision on the award of universal credit incorporates a determination which has already been made in accordance with that regulation, that decision is to be revised in accordance with this regulation;
  - (b) the new claimant partner is to be treated as having had limited capability for work and work-related activity for the purposes of regulation 27(1)(b) of the Universal Credit Regulations from the beginning of the first assessment period;
  - (c) regulation 28(1) of the Universal Credit Regulations does not apply;
  - (d) the LCWRA element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period; and
  - (e) the new claimant partner is to be treated as having limited capability for work and work-related activity for the purposes of section 19(2)(a) of the Act.

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<sup>(44)</sup> See reg 23(8)..

<sup>(45)</sup> S.I. 2010/1907, amended by S.I. 2010/2430, 2011/2425 and 2012/913.

**Transition from other incapacity benefits: claimants approaching pensionable age**

27.—(1) This paragraph applies where—

- (a) an award of universal credit is made to joint claimants;
- (b) one member of the couple is a new claimant partner;
- (c) that person is entitled to incapacity benefit or severe disablement allowance<sup>(46)</sup>;
- (d) no notice may be issued to the new claimant partner under the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No.2) Regulations 2010 (“the 2010 Regulations”) because they will reach pensionable age (within the meaning of those Regulations) before 6<sup>th</sup> April 2014<sup>(47)</sup>; and
- (e) the new claimant partner is also entitled to—
  - (i) personal independence payment, where neither the daily living component nor the mobility component is payable at the enhanced rate<sup>(48)</sup>;
  - (ii) disability living allowance under section 71 of the Social Security Contributions and Benefits Act 1992 (“the 1992 Act”), where the care component is payable at the middle rate within the meaning of section 72(4) of that Act or the mobility component is payable at the lower rate within the meaning of section 73(11) of that Act (or both components are payable at those rates); or
  - (iii) attendance allowance under section 64 of the 1992 Act, where the allowance is payable at the lower rate in accordance with section 65 of that Act.

(2) Where paragraph (1) applies—

- (a) regulation 27(3) of the Universal Credit Regulations (Award to include LCW and LCWRA elements) does not apply;
- (b) the new claimant partner is to be treated as having limited capability for work for the purposes of regulation 27(1)(a) of the Universal Credit Regulations from the beginning of the first assessment period;
- (c) regulation 28(1) of the Universal Credit Regulations (Period for which LCW or LCWRA element is not to be included) does not apply;
- (d) the LCW element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period; and
- (e) the new claimant partner is to be treated as having limited capability for work for the purposes of section 21(1)(a) of the Act.

(3) This paragraph applies where—

- (a) an award of universal credit is made to joint claimants;
- (b) one member of the couple is a new claimant partner;
- (c) that person is entitled to incapacity benefit or severe disablement allowance;
- (d) no notice may be issued to the new claimant partner under the 2010 Regulations because they will reach pensionable age (within the meaning of those Regulations) before 6<sup>th</sup> April 2014; and
- (e) the new claimant partner is also entitled to—

<sup>(46)</sup> See reg 23(8).

<sup>(47)</sup> See S.I. 2010/1907, reg 4(5)(a).

<sup>(48)</sup> See the Act, ss. 78-80.

- (i) personal independence payment, where either the daily living component or the mobility component is (or both components are) payable at the enhanced rate;
  - (ii) disability living allowance under section 71 of the 1992 Act, where the care component is payable at the highest rate within the meaning of section 72(4) of that Act or the mobility component is payable at the higher rate within the meaning of section 73(11) of that Act (or both components are payable at those rates); or
  - (iii) attendance allowance under section 64 of the 1992 Act, where the allowance is payable at the higher rate in accordance with section 65 of that Act.
- (4) Where paragraph (3) applies—
- (a) regulation 27(3) of the Universal Credit Regulations does not apply;
  - (b) the new claimant partner is to be treated as having limited capability for work and work-related activity for the purposes of regulation 27(1)(b) of the Universal Credit Regulations from the beginning of the first assessment period;
  - (c) regulation 28(1) of the Universal Credit Regulations does not apply;
  - (d) the LCWRA element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period; and
  - (e) the new claimant partner is to be treated as having limited capability for work and work-related activity for the purposes of section 19(2)(a) of the Act.

#### **Transition from other incapacity benefits: supplementary**

**28.**—(1) Where an award of universal credit is made to a person who is entitled to incapacity benefit or severe disablement allowance<sup>(49)</sup>, regulation 66 of the Universal Credit Regulations (What is included in unearned income?) applies to that person as if incapacity benefit or, as the case may be, severe disablement allowance were added to the descriptions of unearned income in paragraph (1)(b) of that regulation.

(2) For the purposes of regulations 26 and 27 and this regulation only, incapacity benefit and severe disablement allowance are prescribed benefits under paragraph 1(2)(b) of Schedule 6 to the Act.

#### **Support for housing costs**

**29.**—(1) Paragraph (2) applies where—

- (a) an award of universal credit (“the current award”) is made—
  - (i) to a person who was previously entitled to income-based jobseeker’s allowance, income-related employment and support allowance or income support (“the earlier award”); or
  - (ii) to a person who was the partner of a person falling within paragraph (i) immediately before the earlier award terminated, but is no longer their partner;
- (b) the earlier award terminated—
  - (i) during the period of one month ending with the first date of entitlement to universal credit; or
  - (ii) in the case of an award to joint claimants, on formation of the couple or by virtue of regulation 16; and
- (c) the earlier award included an amount in respect of housing costs under—

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<sup>(49)</sup> See reg 23(8).

- (i) paragraphs 14 to 16 of Schedule 2 to the Jobseeker’s Allowance Regulations 1996(50) (“the 1996 Regulations”);
- (ii) paragraphs 16 to 18 of Schedule 6 to the Employment and Support Allowance Regulations 2008(51) (“the 2008 Regulations”); or, as the case may be,
- (iii) paragraphs 15 to 17 of Schedule 3 to the Income Support (General) Regulations 1987(52) (“the 1987 Regulations”).

(2) Where this paragraph applies, paragraph 5 of Schedule 5 to the Universal Credit Regulations (No housing costs element under this Schedule for qualifying period) does not apply to the person in respect of the current award.

(3) Paragraph (4) applies where paragraph (1)(a) and (b) applies, but the earlier award did not include an amount in respect of housing costs because the person’s entitlement (or, as the case may be, their partner’s entitlement) was nil by virtue of—

- (a) paragraph 6(1)(c) or 7(1)(b) of Schedule 2 to the 1996 Regulations;
- (b) paragraph 8(1)(c) or 9(1)(b) of Schedule 6 to the 2008 Regulations; or, as the case may be,
- (c) paragraph 6(1)(c) or 8(1)(b) of Schedule 3(53) to the 1987 Regulations.

(4) Where this paragraph applies, the “qualifying period” for which paragraph 5 of Schedule 5 to the Universal Credit Regulations provides is to be reduced by—

- (a) the length of time during which the person (or, as the case may be, their partner) was continuously entitled to the earlier award, including the length of any period which was treated as a period of continuing entitlement under—
  - (i) paragraph 13 of Schedule 2 to the 1996 Regulations(54);
  - (ii) paragraph 15 of Schedule 6 to the 2008 Regulations(55); or, as the case may be,
  - (iii) paragraph 14 of Schedule 3 to the 1987 Regulations(56); and
- (b) the length of time (if any) between the date on which the earlier award terminated and the first date of entitlement to universal credit.

(5) Where paragraph (4) applies, paragraph 6 of Schedule 5 to the Universal Credit Regulations (Application of paragraph 5: receipt of JSA and ESA) does not apply.

### **Sanctions: transition from employment and support allowance**

**30.**—(1) This regulation applies where—

- (a) an award of universal credit is made to a person who was previously entitled to employment and support allowance (“the ESA award”); and

(50) S.I. 1996/207. Para 15 was amended by S.I. 2008/2767; para 16 was amended by S.I. 2006/217 and 2006/2378. The Regulations have been modified in their application to certain claimants by S.I. 2008/3195, as amended by S.I. 2009/3257 and 2011/2425.

(51) S.I. 2008/794. The Regulations have been modified in their application to certain claimants by S.I. 2008/3195, as amended by S.I. 2009/3257.

(52) S.I. 1987/1967. Para 16 was amended by S.I. 2008/2767; para 17 was amended by S.I. 2006/217 and 2006/2378. The Regulations have been modified in their application to certain claimants by S.I. 2008/3195, as amended by S.I. 2009/3257.

(53) Para 6(1) and 8(1) were amended by S.I. 1995/2927.

(54) Para 13 was amended by S.I. 1996/1516, 1996/1517, 1996/2538, 1997/827, 1997/2863, 1998/2231, 1999/714, 1999/1921, 1999/2860, 2000/724, 2000/1978, 2001/488, 2001/1029, 2002/841, 2002/3019, 2005/2465, 2006/2378, 2008/698, 2008/1554, 2008/1826, 2008/2767, 2009/480, 2011/674 and 2011/2425. See also para 18(1)(c) of Sch 2.

(55) Para 15 was amended by S.I. 2008/2428, 2011/674, 2011/2425 and 2011/2428. See also para 20(1)(c) of Sch 6.

(56) Para 14 was amended by S.I. 1995/2927, 1996/206, 1996/1944, 1997/2863, 1998/2231, 1999/714, 1999/1921, 1999/3178, 2000/724, 2000/1981, 2001/488, 2001/1029, 2002/841, 2002/3019, 2005/2465, 2006/2378, 2008/698, 2008/1554, 2008/2428, 2008/2767 and 2011/674. See also S.I. 1996/206, reg 32.

- (b) immediately before the relevant date, payments in respect of the ESA award were reduced under regulation 63 of the Employment and Support Allowance Regulations 2008<sup>(57)</sup> (“the 2008 Regulations”).
- (2) In this regulation, the “relevant date” means—
  - (a) in relation to an ESA award which terminated otherwise than by virtue of regulation 16, the date on which the ESA award terminated;
  - (b) in relation to an ESA award which terminated by virtue of regulation 16 (in so far as it was an award of income-related employment and support allowance), or which continued in existence as an award of new style ESA (in so far as it was an award of contributory employment and support allowance), the day before the first date of entitlement to universal credit.
- (3) Where this regulation applies—
  - (a) the failure which led to reduction of the ESA award (“the ESA failure”) is to be treated, for the purposes of the Universal Credit Regulations, as a failure which is sanctionable under section 27 of the Act;
  - (b) the award of universal credit is to be reduced in relation to the ESA failure, in accordance with the provisions of this regulation and Chapter 2 of Part 8 of the Universal Credit Regulations (Sanctions), as modified by this regulation; and
  - (c) the reduction is to be treated, for the purposes of the Universal Credit Regulations, as a reduction under section 27 of the Act.
- (4) The reduction period for the purposes of the Universal Credit Regulations<sup>(58)</sup> is to be the number of days which is equivalent to the length of the fixed period applicable to the person under regulation 63 of the 2008 Regulations in relation to the ESA failure, minus—
  - (a) the number of days (if any) in that period in respect of which the amount of employment and support allowance was reduced; and
  - (b) the number of days (if any) in the period starting with the day after the relevant date and ending with the day before the first date on which the person is entitled to universal credit.
- (5) Accordingly, regulation 101 of the Universal Credit Regulations (General principles for calculating reduction periods) applies in relation to the ESA failure as if, in paragraphs (1) and (3), for the words “in accordance with regulations 102 to 105”, there were substituted the words “in accordance with regulation 30 of the Universal Credit (Transitional Provisions) Regulations 2013”.

### **Escalation of sanctions: transition from employment and support allowance**

**31.**—(1) This regulation applies where an award of universal credit is made to a person who was at any time previously entitled to employment and support allowance.

(2) Where this regulation applies, for the purposes of determining the reduction period under regulation 104 of the Universal Credit Regulations (Low-level sanction) in relation to a sanctionable failure by the person, other than a failure which is treated as sanctionable by virtue of regulation 30—

- (a) a reduction of universal credit in accordance with regulation 30; and
- (b) any reduction of an employment and support allowance under the 2008 Regulations which did not result in a reduction under regulation 30,

is, subject to paragraph (3), to be treated as arising from a sanctionable failure for which the reduction period which applies is the number of days which is equivalent to the length of the fixed period which applied under regulation 63 of the 2008 Regulations.

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<sup>(57)</sup> S.I. 2008/794; reg 63 was amended by S.I. 2011/1349 and 2012/2756.

<sup>(58)</sup> See reg 101(1).

(3) In determining a reduction period under regulation 104 of the Universal Credit Regulations in accordance with paragraph (2), no account shall be taken of—

- (a) a reduction of universal credit in accordance with regulation 30 if, at any time after that reduction, the person was entitled to an existing benefit;
- (b) a reduction of an employment and support allowance under the 2008 Regulations if, at any time after that reduction, the person was entitled to universal credit, new style ESA or new style JSA, and was subsequently entitled to an existing benefit.

### **Sanctions: transition from jobseeker’s allowance**

**32.**—(1) This regulation applies where—

- (a) an award of universal credit is made to a person who was previously entitled to jobseeker’s allowance (“the JSA award”);
- (b) immediately before the relevant date, payments in respect of the JSA award were reduced under section 19 (as it applied either before or after substitution by the Act<sup>(59)</sup>) or section 19A of the Jobseekers Act 1995 (“the 1995 Act”), or under regulation 69B of the Jobseeker’s Allowance Regulations 1996<sup>(60)</sup> (“the 1996 Regulations”); and
- (c) if the JSA award was made to a joint-claim couple within the meaning of the 1995 Act and the reduction related to—
  - (i) in the case of a reduction under section 19 as it applied before substitution by the Act, circumstances relating to only one member of the couple; or,
  - (ii) in the case of a reduction under section 19 as it applied after substitution by the Act, a sanctionable failure by only one member of the couple,
 the award of universal credit was made to that person.

(2) In this regulation, the “relevant date” means—

- (a) in relation to a JSA award which terminated otherwise than by virtue of regulation 16, the date on which the JSA award terminated;
- (b) in relation to a JSA award which terminated by virtue of regulation 16 (in so far as it was an award of income-based jobseeker’s allowance), or which continued in existence as an award of new style JSA (in so far as it was an award of contribution-based jobseeker’s allowance), the day before the first date of entitlement to universal credit.

(3) Where this regulation applies—

- (a) the circumstances or failure which led to reduction of the JSA award (in either case, “the JSA failure”) is to be treated, for the purposes of the Universal Credit Regulations, as—
  - (i) a failure which is sanctionable under section 26 of the Act, where the reduction was under section 19 of the 1995 Act; or
  - (ii) a failure which is sanctionable under section 27 of the Act, where the reduction was under section 19A of the 1995 Act or regulation 69B of the 1996 Regulations;
- (b) the award of universal credit is to be reduced in relation to the JSA failure, in accordance with the provisions of this regulation and Chapter 2 of Part 8 of the Universal Credit Regulations (Sanctions), as modified by this regulation; and
- (c) the reduction is to be treated, for the purposes of the Universal Credit Regulations, as a reduction under section 26 or, as the case may be, section 27 of the Act.

<sup>(59)</sup> See s.46.

<sup>(60)</sup> S.I.1996/207; reg 69B was inserted by S.I. 2012/2568.



(4) The reduction period for the purposes of the Universal Credit Regulations is to be the number of days which is equivalent to the length of the period of reduction of jobseeker's allowance which is applicable to the person under regulation 69, 69A or 69B of the 1996 Regulations, minus—

- (a) the number of days (if any) in that period in respect of which the amount of jobseeker's allowance was reduced; and
- (b) the number of days (if any) in the period starting with the day after the relevant date and ending with the day before the first date on which the person is entitled to universal credit.

(5) Accordingly, regulation 101 of the Universal Credit Regulations (General principles for calculating reduction periods) applies in relation to the JSA failure as if, in paragraphs (1) and (3), for the words “in accordance with regulations 102 to 105”, there were substituted the words “in accordance with regulation 32 of the Universal Credit (Transitional Provisions) Regulations 2013”.

(6) Where the JSA award was made to a joint-claim couple within the meaning of the 1995 Act and the JSA failure related to only one member of the couple, the daily reduction rate for the purposes of the Universal Credit Regulations<sup>(61)</sup> is the amount calculated in accordance with regulation 74B(3) of the 1996 Regulations<sup>(62)</sup> in respect of the JSA award, divided by seven and rounded down to the nearest 10 pence, unless regulation 111(2) or (3) of the Universal Credit Regulations (Daily Reduction Rate) applies.

(7) Where the daily reduction rate is to be determined in accordance with paragraph (6), regulation 111(1) of the Universal Credit Regulations applies in relation to the JSA failure as if, for the words from “an amount equal to” to the end there were substituted the words “an amount determined in accordance with regulation 32 of the Universal Credit (Transitional Provisions) Regulations 2013”.

### **Escalation of sanctions: transition from jobseeker's allowance**

**33.**—(1) This regulation applies where an award of universal credit is made to a person who was at any time previously entitled to jobseeker's allowance.

(2) Where this regulation applies, for the purposes of determining the applicable reduction period under regulation 102 (Higher-level sanction), 103 (Medium-level sanction) or 104 (Low-level sanction) of the Universal Credit Regulations in relation to a sanctionable failure by the person, other than a failure which is treated as sanctionable by virtue of regulation 32—

- (a) a reduction of universal credit in accordance with regulation 32; and
- (b) any reduction of a jobseeker's allowance under section 19 or 19A of the 1995 Act, or under regulation 69B of the 1996 Regulations which did not result in a reduction under regulation 32,

is, subject to paragraph (3), to be treated as arising from a sanctionable failure for which the reduction period is the number of days which is equivalent to the length of the period which applied under regulation 69, 69A or 69B of the 1996 Regulations.

(3) In determining a reduction period under regulation 102, 103 or 104 of the Universal Credit Regulations in accordance with paragraph (2), no account shall be taken of—

- (a) a reduction of universal credit in accordance with regulation 32 if, at any time after that reduction, the person was entitled to an existing benefit;
- (b) a reduction of a jobseeker's allowance under section 19 or 19A of the 1995 Act, or under regulation 69B of the 1996 Regulations if, at any time after that reduction, the person was entitled to universal credit, new style ESA or new style JSA, and was subsequently entitled to an existing benefit.

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(61) See reg 111.

(62) Reg 74B was inserted by S.I. 2000/1978 and amended by S.I. 2010/509.

**Sanctions: temporary return to existing benefits**

**34.** If an award of universal credit terminates while there is an outstanding reduction period (within the meaning of regulation 107 of the Universal Credit Regulations) and the claimant becomes entitled to an existing benefit during that period—

- (a) regulation 107 of the Universal Credit Regulations (Reduction period to continue where award terminates) shall cease to apply; and
- (b) the reduction period shall terminate on the first date of entitlement to the existing benefit.

**Loss of benefit penalties**

**35.**—(1) This regulation applies where—

- (a) an award of universal credit is made to a person who was previously entitled to an existing benefit other than a tax credit (“the earlier award”);
- (b) the person is an offender, within the meaning of the Social Security Fraud Act 2001(**63**) (“the 2001 Act”);
- (c) at the time the earlier award terminated, payments were subject to a restriction under section 6B (Loss of benefit in case of conviction, penalty or caution for benefit offence), 7 (Repeated benefit fraud) or 8 (Effect of offence on joint-claim jobseeker’s allowance) of the 2001 Act; and
- (d) the first date of entitlement to universal credit is during the period of one month beginning with the date on which the earlier award terminated.

(2) This regulation also applies where—

- (a) an award of universal credit is made to a person who is an offender, within the meaning of the 2001 Act;
- (b) another person who was the offender’s family member within the meaning of the 2001 Act(**64**) was previously entitled to an existing benefit other than a tax credit (“the earlier award”);
- (c) at the time the earlier award terminated, payments were subject to a restriction under section 9 (effect of offence on benefits for members of offender’s family) of the 2001 Act; and
- (d) the first date of entitlement to universal credit is during the period of one month beginning with the date on which the earlier award terminated.

(3) Where this regulation applies—

- (a) payments of universal credit to the person are to be reduced by an amount determined in accordance with paragraphs (4) and (5) in respect of each day which is included in the remainder of the disqualification period applicable to the offender under the Social Security (Loss of Benefit) Regulations 2001(**65**) (“the 2001 Regulations”); and
- (b) any provision in regulations made under section 6B(5A)(a) or 7(2A)(a) of the 2001 Act, under which payments of universal credit would otherwise be reduced by a different amount, does not apply.

(4) The payment of universal credit is to be reduced by—

- (a) an amount which is equal to the amount by which payments in respect of the earlier award were reduced in accordance with the 2001 Act and the 2001 Regulations immediately

**(63)** 2001 c.11. See ss. 6B and 7.

**(64)** See s.9.

**(65)** S.I. 2001/4022.



before termination of that award, multiplied by the relevant multiplication factor and divided by the number of days in the year; or

- (b) such lesser amount as reduces a payment of universal credit to nil.
- (5) The relevant multiplication factor is—
  - (a) where payments in respect of the existing benefit were made weekly, 52;
  - (b) where payments in respect of the existing benefit were made fortnightly, 26;
  - (c) where payments in respect of the existing benefit were made every four weeks, 13; and
  - (d) where payments in respect of the existing benefit were made monthly, 12.

Signed by authority of the Secretary of State for Work and Pensions

25th February 2013

*Freud*  
Parliamentary Under Secretary of State  
Department for Work and Pensions

## SCHEDULE

Regulation 17(2)

## MODIFICATIONS TO TAX CREDITS LEGISLATION

**Modifications to the Tax Credits Act 2002**

1. Paragraphs 2 to 14 prescribe modifications to the application of the Tax Credits Act 2002 where regulation 17 applies.

2. In section 7—

(a) in subsection (3), before “current year income” in each place where it occurs, insert “notional”;

(b) in subsection (4)—

(i) for “current year” substitute “current part year”;

(ii) in paragraphs (a) and (b), before “tax year” insert “part”;

(c) after subsection (4), insert—

“(4A) In this section “the notional current year income” means—

(a) in relation to persons by whom a joint claim for a tax credit is made, the aggregate income of the persons for the part tax year to which the claim relates, divided by the number of days in that part tax year, multiplied by the number of days in the tax year in which the part tax year is included and rounded down to the next whole number of pence, and

(b) in relation to a person by whom a single claim for a tax credit is made, the income of the person for that part tax year, divided by the number of days in that part tax year, multiplied by the number of days in the tax year in which the part tax year is included and rounded down to the next whole number of pence.”.

3. In section 17—

(a) in subsection (1)(a), before “tax year” insert “part”;

(b) in subsection (3), before “tax year” insert “part”;

(c) in subsections (4)(a) and (4)(b), for “current year” in both places where it occurs, substitute “current part year”;

(d) in subsection (5)(a) for “current year” in both places where it occurs, substitute “current part year”;

(e) omit subsection (8).

4. In section 18—

(a) in subsection (1), before “tax year” insert “part”;

(b) omit subsections (6) to (9);

(c) in subsection (10), for “subsection (1), (5), (6) or (9)” substitute “subsection (1) or (5)”;

(d) in subsection (11)—

(i) after “subsection (5)” omit “or (9)”;

(ii) omit paragraph (a);

(iii) in paragraph (b) omit “in any other case.”;

(iv) before “tax year” in each place where it occurs, insert “part”.

5. In section 19—

(a) in subsection (1)(a) and (b), before “tax year” insert “part”;

- (b) in subsection (3), before “tax year” insert “part”;
  - (c) for subsection (5) substitute—
    - “(5) “The relevant section 18 decision” means the decision under subsection (1) of section 18 in relation to the person or persons and the part tax year.”;
  - (d) for subsection (6) substitute—
    - “(6) “The relevant section 17 date” means the date specified for the purposes of subsection (4) of section 17 in the notice given to a person or persons under that section in relation to the part tax year.”;
  - (e) in subsection (11), before “tax year” insert “part”;
  - (f) in subsection (12), before “tax year” in each place where it occurs, insert “part”.
- 6.** In section 20—
- (a) in subsection (1), before “tax year” insert “part”;
  - (b) in subsection (4)(a), before “tax year” insert “part”;
  - (c) in subsection (5)(b), before “tax year” insert “part”;
  - (d) in subsection (6)—
    - (i) before “tax year” insert “part”;
    - (ii) in paragraph (a), for “section 18(1), (5), (6) or (9)” substitute “section 18(1) or (5)”;
  - (e) in subsection (7), before “tax year” in each place where it occurs, insert “part”.
- 7.** In section 21, for “18(1), (5), (6) or (9)” substitute “18(1) or (5)”.
- 8.** In section 23—
- (a) in subsection (1), for “18(1), (5), (6) or (9)” substitute “18(1) or (5)”;
  - (b) in subsection (3)—
    - (i) after “18(1)” omit “or (6)”;
    - (ii) for paragraph (b) substitute—
      - “(b) the notice of the decision under subsection (1) of section 18,”.
- 9.** In section 28—
- (a) in subsection (1)—
    - (i) after “tax year” in both places where it occurs, insert “or part tax year”;
    - (ii) at the end, insert “or treated as an overpayment of universal credit”;
  - (b) in subsections (3) and (4), after “repaid” insert “to the Board or, as the case may be, to the Secretary of State”;
  - (c) omit subsection (5);
  - (d) in subsection (6) omit “(apart from subsection (5))”.
- 10.** In section 29(4), for “any tax credit” substitute “universal credit”.
- 11.** In section 30(1), before “tax year” in each place where it occurs, insert “part”.
- 12.** In section 38—
- (a) in subsection (1)(b), before “tax year” insert “part”;
  - (b) for subsection (2), substitute—
    - “(2) “The relevant section 18 decision” means the decision under subsection (1) of section 18 in relation to the person or persons and the tax credit for the part tax year.”.

*Status: This is the original version (as it was originally made).*

13. In section 48, after the definition of “overpayment”, insert—

““part tax year” means a period of less than a year beginning with 6<sup>th</sup> April and ending with the date on which the award of a tax credit terminated.”.

14. In Schedule 2, in paragraph 6(1)(a) and (c) and (2)(a), after the words “for the tax year”, insert “or part tax year”.

### **Modifications to the Tax Credits (Definition and Calculation of Income) Regulations 2002**

15. Paragraphs 16 to 28 prescribe modifications to the application of the Tax Credits (Definition and Calculation of Income) Regulations 2002<sup>(66)</sup> where regulation 17 applies.

16. In regulation 2(2), after the definition of “the Macfarlane Trusts” insert—

““part tax year” means a period of less than a year beginning with 6<sup>th</sup> April and ending with the date on which the award of a tax credit terminated.”.

17. In regulation 3<sup>(67)</sup>—

(a) in paragraph (1)—

(i) before “tax year” insert “part”;

(ii) in Steps 1 and 2, after “of the claimant, or in the case of a joint claim, of the claimants” insert “received in or relating to the part tax year”;

(iii) for the first sentence of Step 4, substitute “Where a claimant was entitled to a tax credit and an award of universal credit is made to that person, calculate the trading income (as defined in regulation 6) of the claimant, or in the case of a joint claim, of the claimants, in accordance with regulations 6A and 6B.”;

(iv) in the second and third sentences of Step 4, before “year” insert “part”;

(b) in paragraph (6A), for the words from “ending on 31<sup>st</sup> March” to the end, substitute “ending on the last day of the month immediately preceding the month in which the claimant’s award of a tax credit terminated”;

(c) in paragraph (8)(b), before “year” insert “part”.

18. In regulation 4<sup>(68)</sup>—

(a) in paragraph (1)(a), before “tax year” insert “part”;

(b) in paragraph (1)(b), (c), (d), (e), (g) and (k), before “year” insert “part”;

(c) in paragraph (1)(f), after “ITEPA” insert “which is treated as received in the part tax year and in respect of which the charge arises in the part tax year”;

(d) in paragraph (1)(h), after “week” insert “in the part tax year”;

(e) in paragraph (1)(i), after “ITEPA” insert “which is treated as received in the part tax year”;

(f) in paragraph (1)(j), after “applies” insert “received in the part tax year”;

(g) in paragraph (1)(l), after “ITEPA” insert “in respect of which the charge arises in the part tax year”;

(h) in paragraph (1)(m), after “paid” insert “in the part tax year”;

(i) in paragraph (4), after “employment income” in both places where it occurs, insert “received in the part tax year”;

<sup>(66)</sup> S.I. 2002/2006.

<sup>(67)</sup> Reg 3 was amended by S.I. 2003/732, 2003/2815, 2006/745, 2006/766, 2007/824 and 2007/1305.

<sup>(68)</sup> Reg 4 was amended by S.I. 2003/732, 2003/2815, 2004/762, 2004/2663, 2006/766, 2007/824, 2008/604, 2008/2169, 2009/2887, 2010/2494 and 2012/848.

- (j) in paragraph (5), after “calculating earnings” insert “received in the part tax year”.
- 19.** In regulation 5(**69**)—
- (a) in paragraph (1)(o), after “applies” insert “received in or relating to the part tax year”;
  - (b) in paragraph (2) after “pension income” in both places where it occurs, insert “received in or relating to the part tax year”;
  - (c) in paragraph (3), after “income tax purposes”, insert “in relation to the part tax year”.
- 20.** In regulation 6(**70**)—
- (a) after “claimant’s trading income is” insert “, subject to regulations 6A and 6B”;
  - (b) in paragraph (a), before “tax year” insert “part”;
  - (c) in paragraph (b), before “year” insert “part”.
- 21.** After regulation 6 insert—

**“Trading Income: in-year finalisation**

**6A.** This regulation applies where—

- (a) an award of universal credit is made to a person who was previously entitled to a tax credit;
- (b) the award of that tax credit has terminated;
- (c) the date on which the award terminated falls in the tax year to which that award relates (“the relevant tax year”); and
- (d) the claimant carried on a trade, vocation or profession during the part tax year.

**6B.**—(1) Where regulation 6A applies, a claimant’s trading income for the purposes of the first paragraph in Step 4 in regulation 3(1) is the claimant’s actual or estimated taxable profits attributable to the part tax year (“the relevant trading income”).

(2) The relevant trading income is to be calculated by reference to the basis period ending during the relevant tax year.

(3) The basis period is to be determined by reference to the rules in Chapter 15 of Part 2 of ITTOIA.

(4) The relevant trading income is calculated by—

- (a) taking the figure for the actual or estimated taxable income earned in the basis period;
- (b) dividing that figure by the number of days in the basis period to give the daily figure; and
- (c) multiplying the daily figure by the number of days in the part tax year on which the trade, profession or vocation was carried on.”.

**22.** In regulation 7(**71**)—

- (a) in paragraph (1), after “social security income” insert “received in the part tax year”;
- (b) in paragraph (3), after “social security income” in both places where it occurs, insert “received in the part tax year”.

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(69) Reg 5 was amended by [S.I. 2003/732](#), [2006/745](#), [2006/766](#), [2008/604](#) and [2010/2914](#).

(70) Reg 6 was amended by [S.I. 2006/766](#).

(71) Reg 7 was amended by [S.I. 2003/732](#), [2003/2815](#), [2008/1879](#), [2009/697](#) and [2010/2494](#).

*Status: This is the original version (as it was originally made).*

**23.** In regulation 8(**72**), after “in relation to a student” insert “, any of the following which is received in the part tax year”.

**24.** In regulation 10(**73**)—

- (a) in paragraph (1), after “gross amount” insert “received in the part tax year”;
- (b) in paragraph (1)(e), before “year” insert “part”;
- (c) in paragraph (2), after “investment income” in both places where it occurs, insert “received in the part tax year”.

**25.** In regulation 11(1)(**74**)—

- (a) omit “annual”;
- (b) after “taxable profits” insert “for the part tax year”.

**26.** In regulation 12(1)(**75**), before “year” insert “part tax”.

**27.** In regulation 13, after “means income” insert “received in the part tax year”.

**28.** In regulation 18(**76**), after “means income” insert “received in the part tax year”.

### **Modifications to the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002**

**29.** Paragraphs 30 to 32 prescribe modifications to the application of the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002(**77**) where regulation 17 applies.

**30.** In regulation 2 (interpretation)—

- (a) after the definition of “the income threshold” insert—
  - ““part tax year” means a period of less than a year beginning with 6<sup>th</sup> April and ending with the date on which the award of a tax credit terminated,”;
- (b) in the definition of “the relevant income” insert “as modified by the Universal Credit (Transitional Provisions) Regulations 2013” at the end.

**31.** In regulation 7(3)(**78**)—

- (a) in Step 1, in the definition of “MR”, after “maximum rate” insert “(determined in the manner prescribed at the date on which the award of the tax credit terminated)”;
- (b) in Step 3—
  - (i) in the definition of “I”, before “tax year” insert “part”;
  - (ii) in the definition of “N1”, before “tax year” insert “part”.

**32.** In regulation 8(3)(**79**)—

- (a) in Step 1, in the definition of “MR”, after “maximum rate” insert “(determined in the manner prescribed at the date on which the award of the tax credit terminated)”;
- (b) in Step 3—
  - (i) in the definition of “I”, before “tax year” insert “part”;

(72) Reg 8 was amended by S.I. 2003/2815, 2006/766, 2008/2169 and 2012/848.

(73) Reg 10 was amended by S.I. 2003/732, 2003/2815, 2006/766, 2007/824 and 2010/751.

(74) Reg 11(1) was amended by S.I. 2003/2815 and 2006/766.

(75) Reg 12(1) was amended by S.I. 2006/766.

(76) Reg 18 was amended by S.I. 2006/766.

(77) S.I. 2002/2008.

(78) Reg 7(3) was amended by S.I. 2008/796, 2011/1035 and 2012/849.

(79) Reg 8(3) was amended by S.I. 2011/1035 and 2012/849.

(ii) in the definition of “N1”, before “tax year” insert “part”.

### **Modifications to the Tax Credits (Claims and Notifications) Regulations 2002**

**33.** Paragraphs 34 to 42 prescribe modifications to the application of the Tax Credits (Claims and Notifications) Regulations 2002(**80**) where regulation 17 applies.

**34.** In regulation 4, omit paragraph (b)(**81**).

**35.** Omit regulation 10.

**36.** Omit regulation 11(**82**).

**37.** Omit regulation 12(**83**).

**38.** In regulation 13—

(a) in paragraph (1)(**84**), after “prescribed by paragraph” omit “(2) or”;

(b) omit paragraph (2)(**85**).

**39.** In regulation 15(1)(c), for “section 18(1), (5), (6) or (9)” substitute “section 18(1) or (5)”.

**40.** In regulation 21(1A)(**86**), for “regulation 27(2), (2A) or (3)” substitute “regulation 27(2A) or (3)”.

**41.** In regulation 27—

(a) in paragraph (1)(**87**), after “prescribed by paragraphs” omit “(2),”;

(b) omit paragraph (2).

**42.** In regulation 33(**88**)—

(a) in paragraph (a), for the words from “not later than 31<sup>st</sup> July” to “if later”, substitute “not less than 28 days after the date on which the notice is given”;

(b) omit paragraph (b) and the “and” which precedes it.

### **Modification to the Tax Credits (Payment by the Commissioners) Regulations 2002**

**43.** Paragraph 44 prescribes a modification to the application of the Tax Credits (Payment by the Commissioners) Regulations 2002(**89**) where regulation 17 applies.

**44.** Omit regulation 7(**90**).

### **Modification to the Tax Credits (Residence) Regulations 2003**

**45.** Paragraph 46 prescribes a modification to the application of the Tax Credits (Residence) Regulations 2003(**91**) where regulation 17 applies.

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(80) S.I. 2002/2014.

(81) Reg 4(b) was amended by S.I. 2009/697.

(82) Reg 11 was amended by S.I. 2004/762, 2008/604, 2009/697 and 2010/751.

(83) Reg 12 was amended by S.I. 2010/751 and 2010/2914.

(84) Reg 13(1) was amended by S.I. 2005/2919 and 2008/2169.

(85) Reg 13(2) was amended by S.I. 2005/2919 and 2010/751.

(86) Para (1A) was inserted by S.I.2003/723 and amended by S.I. 2006/2689.

(87) Reg 27(1) was amended by S.I. 2003/723 and 2006/2689.

(88) Reg 33 was substituted by S.I. 2004/762 and amended by S.I. 2007/824.

(89) S.I. 2002/2173.

(90) Reg 7 was amended by S.I. 2005/2200.

(91) S.I. 2003/654.

46. In regulation 3(5)(a)(92), omit the words in brackets after “child tax credit”.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision for the first phase of the replacement of certain “existing benefits” by universal credit, a new benefit established by the Welfare Reform Act 2012. The existing benefits are income-based jobseeker’s allowance, income-related employment and support allowance, income support, housing benefit, working tax credit and child tax credit. The Regulations provide that claims for universal credit may initially only be made by a limited group of claimants and specify the requirements for membership of this “Pathfinder Group”. They also specify how certain matters which are relevant to previous entitlement to existing benefits will be taken into account in the claimant’s entitlement to universal credit.

Regulation 3 states that a person may generally only make a claim for universal credit if they fall within the Pathfinder Group. The requirements for membership of this group are set out in regulations 5 to 12 and cover matters such as the claimant’s age and relationship status, their availability for work and their financial situation. Under regulations 7 and 8, a person may not claim universal credit if they are, or were until recently, entitled to certain existing benefits.

The treatment of claims which have been allowed to proceed on the basis of inaccurate information is governed by regulation 13. No entitlement to universal credit will arise in respect of an invalid claim, unless payments have already started.

Regulation 14 deals with cases in which awards of universal credit may be made without a claim, in accordance with the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013. It provides that, subject to certain exceptions, such awards may be made to persons who would not be entitled to claim universal credit at the relevant time.

Part 3 of the Regulations makes provision about claimants who move from existing benefits to universal credit and, in particular, about how matters which are relevant to the award of an existing benefit are to have effect in relation to an award of universal credit.

Regulation 15 prevents a person who is entitled to universal credit from also being entitled to, or claiming, certain existing benefits. Under regulation 16, all existing awards will terminate when an award of universal credit is made to a newly formed couple, one of whom was previously entitled to universal credit and the other to an existing benefit.

Where an award of universal credit is made to a person who was previously entitled to a tax credit, regulation 17 provides for the Tax Credits Act 2002 to apply to that person with certain modifications. It also provides for the amount of the tax credit to which the person was entitled to be calculated in accordance with a modified version of the Tax Credits Act and regulations made under that Act unless, in the opinion of the Commissioners of Her Majesty’s Revenue and Customs, this is not reasonably practicable. The modifications, which are set out in the Schedule to these Regulations, allow for calculation of entitlement to a tax credit before the end of the tax year in which the award terminated.

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(92) Reg 3(5) was substituted by S.I. 2004/1243.



Regulation 18 deals with appeals which are determined, and decisions about existing benefits which are revised or superseded, while the appellant is entitled to universal credit. Any entitlement to an existing benefit arising from an appeal, revision or supersession will terminate immediately. A decision made about entitlement to universal credit may be revised to take account of any findings of fact by the appeal body.

Where an award of universal credit is made to a person who was entitled to an existing benefit before they became entitled to universal credit, regulation 19 allows the claimants to apply for an advance payment of universal credit during their first assessment period. Repayment is by reduction of subsequent payments.

Regulation 20 provides that the benefit cap will not apply to awards of universal credit during the initial phase of introduction of the new benefit.

Regulation 21 applies where a person who has formed a couple with a universal credit claimant was previously entitled to certain existing benefits. If a payment is made in respect of one of those benefits for a period which is included in a universal credit assessment period, the payment will be taken into account as unearned income when calculating entitlement to universal credit for the assessment period in question.

Where certain deductions were made from a claimant's award of an existing benefit, regulation 22 allows deductions in respect of the same items to be made from an award of universal credit without the need for consents which might otherwise be required.

Regulation 23 provides that a claimant may be treated as having limited capability for work, or limited capability for work and work-related activity, for the purposes of an award of universal credit, if they were previously entitled to the work-related activity component, or the support component, of an award of employment and support allowance. If the claimant was in the process of assessment of their capability for work in connection with an award of employment and support allowance at the time the award terminated, the assessment period for universal credit will be adjusted accordingly, under regulation 24.

Transition to universal credit from income support on grounds of disability is dealt with in regulation 25 and transition from incapacity benefit or severe disablement allowance is dealt with in regulations 26 to 28. In both cases, the limited capability for work or limited capability for work and work-related activity elements may be included in an award of universal credit with effect from the start of the first assessment period, if the claimant is subsequently assessed as having limited capability for work. Awards of incapacity benefit and severe disablement allowance will be taken into account as unearned income, in calculating the amount of universal credit to which a claimant is entitled.

Where a universal credit claimant was previously entitled to jobseeker's allowance, employment and support allowance or income support, regulation 29 allows for any support for housing costs which was included in that award, or time spent waiting to qualify for such support, to be carried over to the award of universal credit, if the claimant is entitled to the universal credit housing element.

Regulations 30 to 34 deal with the treatment of any sanctions which have been imposed on awards of jobseeker's allowance and employment and support allowance, prior to transition to universal credit. Current sanctions will continue to have effect by way of deductions from the award of universal credit and past sanctions will be taken into account for the purposes of determining the sanction applicable to any future sanctionable failure. However, where there is a period of entitlement to an existing benefit between two periods of entitlement to universal credit, any sanctions arising prior to that intervening period will not be taken into account

Where a claimant moves to universal credit within one month of the end of an award of an existing benefit and is subject to a loss of benefit penalty, regulation 35 provides that the penalty will continue at the same rate. Any award of universal credit will be reduced by an amount equivalent to the reduction of the existing benefit, for the remainder of the disqualification period.

**Status:** This is the original version (as it was originally made).

An assessment has been made of the impact of the introduction of universal credit. Copies of the impact assessment may be obtained from the Better Regulation Unit of the Department for Work and Pensions, 2D Caxton House, Tothill Street, London SW1 9NA or from the DWP website <http://www.dwp.gov.uk/policy/welfare-reform/legislation-and-key-documents/welfare-reform-act-2012/impact-assessments-and-equality/>.