
STATUTORY INSTRUMENTS

2014 No. 1452

The Welfare Reform Act 2012 (Commencement
No. 9, 11, 13, 14 and 16 and Transitional and
Transitory Provisions (Amendment)) Order 2014

PART 2

AMENDMENT OF THE NO. 9 ORDER

Amendment of article 2 of the No. 9 Order: interpretation

4.—(1) Where article 3 applies, article 2 of the No. 9 Order (interpretation) is amended as follows.

(2) In paragraph (1)—

(a) after the definition of “the amending provisions” insert—

““claimant”, in relation to an employment and support allowance or a jobseeker’s allowance, has the same meaning as in Part 1 of the 2007 Act and the 1995 Act (as it applies apart from the amendments made by Part 1 of Schedule 14 to the Act that remove references to an income-based jobseeker’s allowance) respectively and, in relation to universal credit, has the same meaning as in Part 1 of the Act;”;

(b) after the definition of “contributory employment and support allowance” insert—

““conversion decision” has the meaning given by the 2010 Transitional Regulations;”;

(c) after the definition of “the ESA Regulations 2013” insert—

““existing benefit” means income-based jobseeker’s allowance, income-related employment and support allowance, income support, housing benefit and child tax credit and working tax credit;

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

“gateway conditions” means the conditions specified in Schedule 5;

“housing benefit” means housing benefit under section 130 of the Social Security Contributions and Benefits Act 1992(1);”;

(d) after the definition of “income-related employment and support allowance” insert—

““income support” means income support under section 124 of the Social Security Contributions and Benefits Act 1992;”;

(e) after the definition of “jobseeker’s allowance” insert—

““joint claimant”, in relation to universal credit, has the same meaning as in Part 1 of the Act;”;

- (f) for the definitions of “new style ESA award”, “new style JSA award”, “old style ESA award” and “old style JSA award” substitute—
- ““new style ESA” means an employment and support allowance under Part 1 of the 2007 Act as amended by the provisions of Schedule 3, and Part 1 of Schedule 14, to the Act that remove references to an income-related allowance and “new style ESA award” shall be construed accordingly;
- “new style JSA” means a jobseeker’s allowance under the 1995 Act as amended by the provisions of Part 1 of Schedule 14 to the Act that remove references to an income-based allowance and “new style JSA award” shall be construed accordingly;
- “old style ESA” means an employment and support 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 that remove references to an income-related allowance and “old style ESA award” shall be construed accordingly;
- “old style JSA” means a jobseeker’s allowance under the 1995 Act as it has effect apart from the amendments made by Part 1 of Schedule 14 to the Act that remove references to an income-based jobseeker’s allowance and “old style JSA award” shall be construed accordingly;”;
- (g) after the definition of “relevant districts” insert—
- ““single claimant”, in relation to universal credit, has the same meaning as in Part 1 of the Act;
- “state pension credit” means state pension credit under the State Pension Credit Act 2002(2);
- “tax credit” (including “child tax credit” and “working tax credit”) has the same meaning as in the Tax Credits Act 2002(3);”;
- (h) omit the definition of “the Transitional Regulations”; and
- (i) at the end insert—
- ““the 2014 Transitional Regulations” means the Universal Credit (Transitional Provisions) Regulations 2014(4);
- “the Universal Credit Regulations” means the Universal Credit Regulations 2013(5);
- “Upper Tribunal” has the same meaning as in the Social Security Act 1998.”.
- (3) For paragraph (2) substitute—
- “(2) For the purposes of this Order—
- (a) the Claims and Payments Regulations 2013 apply for the purpose of deciding—
- (i) whether a claim for universal credit is made or is to be treated as made; and
- (ii) the date on which such a claim is made; and
- (b) where a couple is treated, in accordance with regulation 9(8) of the Claims and Payments Regulations 2013, as making a claim for universal credit, references to the date on which the claim is treated as made are to the date of formation of the couple.”.

(2) 2002 c.16.
(3) 2002 c. 21.
(4) S.I. 2014/1230.
(5) S.I. 2013/376.

Amendment of the No. 9 Order: the universal credit provisions

5.—(1) Where article 3 applies, article 3 of the No. 9 Order (day appointed for commencement of the universal credit provisions in Part 1 of the Act) is amended as follows—

(a) for article 3(3) substitute—

“(3) The claims and awards referred to are—

- (a) a claim for universal credit where, on the date on which the claim is made, the claimant resides in one of the relevant districts and meets the gateway conditions⁽⁶⁾;
- (b) a claim for universal credit where—
 - (i) the claimant gives incorrect information regarding the claimant residing in a relevant district or meeting the gateway conditions and does not reside in such a district or does not meet the gateway conditions on the date on which the claim is made; and
 - (ii) after a decision is made that the claimant is entitled to universal credit and one or more payments have been made in respect of the claimant, the Secretary of State discovers that incorrect information regarding residence or meeting the gateway conditions has been given;
- (c) a claim for universal credit that is treated as made by a couple in the circumstances referred to in regulation 9(8) of the Claims and Payments Regulations 2013 (claims for universal credit by members of a couple) where the claim complies with paragraph (7);
- (d) a claim for universal credit by a former member of a couple who is not exempt from the requirement to make a claim by virtue of regulation 9(6) of the Claims and Payments Regulations 2013 (claims for universal credit by members of a couple), whether or not the claim is made jointly with another person, where the claim is made 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, where the claim complies with paragraph (8);
- (e) an award of universal credit that is made without a claim in the circumstances referred to in regulation 6(1) or (2) of the Claims and Payments Regulations 2013 (claims not required for entitlement to universal credit in some cases) where the circumstances referred to in paragraph (9) apply; and
- (f) an award of universal credit that is made without a claim in the circumstances referred to in regulation 9(6), (7) or (10) of the Claims and Payments Regulations 2013 (claims for universal credit by members of a couple) where the circumstances referred to in paragraph (9) apply.”;

(b) omit article 3(5);

(c) after article 3(6), insert—

“(7) A claim that is treated as made by a couple in the circumstances referred to in regulation 9(8) of the Claims and Payments Regulations 2013 complies with this paragraph where, on the date on which the claim is treated as made, the member of the couple who did not previously have an award of universal credit as a single person is not entitled to state pension credit.

(8) A claim by a former member of a couple that is made in the circumstances referred to in paragraph (3)(d) complies with this paragraph where, on the date on which the claim

(6) A definition of “gateway conditions” is inserted into article 2(1) of the No. 9 Order by article 4 of this Order.

is made, the former member is not entitled to state pension credit and his or her partner (if any) is not entitled to—

- (a) state pension credit;
- (b) old style JSA;
- (c) old style ESA; or
- (d) income support.

(9) The circumstances referred to are where the relevant person is not entitled to state pension credit and, save where an award of universal credit is made in the circumstances referred to in regulation 9(7) of the Claims and Payments Regulations 2013, his or her partner (if any) is not entitled to—

- (a) state pension credit;
- (b) old style JSA;
- (c) old style ESA; or
- (d) income support.

(10) For the purposes of paragraph (9), “relevant person” means—

- (a) where an award of universal credit is made in the circumstances referred to in regulation 6(1) or (2) of the Claims and Payments Regulations 2013, the former claimant referred to in that regulation 6(1);
- (b) where an award of universal credit is made in the circumstances referred to in paragraph (6) of regulation 9 of the Claims and Payments Regulations 2013, the member of the former couple referred to in that paragraph;
- (c) where an award of universal credit is made in the circumstances referred to in paragraph (7) of regulation 9 of the Claims and Payments Regulations 2013, each of the joint claimants referred to in that paragraph;
- (d) where an award of universal credit is made in the circumstances referred to in paragraph (10) of regulation 9 of the Claims and Payments Regulations 2013, the surviving partner referred to in that paragraph.

(11) For the purposes of paragraphs (8) and (9), “partner” means a person who forms part of a couple with the person in question, where “couple” has the same meaning as it has in section 39 of the Act.”

(2) Where article 3 applies, after article 3 of the No. 9 Order, insert—

“Incorrect information regarding residence in a relevant district or meeting the gateway conditions

3A.—(1) This article 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 the claimant residing in a relevant district or meeting the gateway conditions and did not in fact reside in such a district (or in any other area with respect to which the provisions of the Act referred to in Schedule 2 are in force in relation to a case where a person claims universal credit and resides in such an area) or did not meet those conditions 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 the claimant is not entitled to claim universal credit;
 - (b) if the claimant makes a claim for old style ESA, old style JSA or income support (“the specified benefit”) and the date on which that claim is made (as determined

- in accordance with the Claims and Payments Regulations 1987) 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 specified benefit is to be treated as made on the date on which the claim for universal credit was made or the first date on which the claimant would have been entitled to the specified benefit if a claim had been made for it on that date, if later; and
 - (ii) any provision of the Claims and Payments Regulations 1987 under which the claim for the specified 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⁽⁷⁾ or, as the case may be, the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006⁽⁸⁾ (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 or the first date on which the claimant would have been entitled to housing benefit if a claim had been made for it on that date, if later; 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⁽⁹⁾ (“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 for a tax credit is to be treated as having been received by a relevant authority at an appropriate office on the date on which the claim for universal credit was made or the first date on which the claimant would have been entitled to a tax credit if a claim had been so received on that date, if later; 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 article;
 - (b) the claimant is to be informed that they are not entitled to claim universal credit; and
 - (c) sub-paragraphs (b) to (d) of paragraph (2) apply.
- (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 in respect of 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

⁽⁷⁾ S.I. 2006/213.
⁽⁸⁾ S.I. 2006/214.
⁽⁹⁾ S.I. 2002/2014.

(c) the award is to continue, if the claimant meets the conditions of entitlement for universal credit⁽¹⁰⁾.

(5) For the purposes of paragraph (2), a person makes a claim for old style ESA or old style JSA where he or she makes a claim for an employment and support allowance or a jobseeker's allowance and the claim is subject to Part 1 of the 2007 Act or the 1995 Act respectively as those provisions have effect apart from the amendments made by the amending provisions.”.

Substitution of article 4 of the No. 9 Order: provisions abolishing income-related employment and support allowance and income-based jobseeker's allowance

6. Where article 3 applies, for article 4 of the No. 9 Order (day appointed for the abolition of income-related employment and support allowance and income-based jobseeker's allowance) substitute—

“4.—(1) The day appointed for the coming into force of—

- (a) section 33(1)(a) and (b) and (2) of the Act (abolition of benefits);
- (b) paragraphs 22 to 26 of Schedule 3 to the Act (abolition of benefits: consequential provisions) and section 33(3) of the Act in so far as it relates to those paragraphs; and
- (c) the repeals in Part 1 of Schedule 14 to the Act (abolition of benefits superseded by universal credit) that are referred to in Schedule 3,

in relation to the case of a claim referred to in paragraph (2)(a) to (d) and (g) and any award that is made in respect of such a claim, and in relation to the case of an award referred to in paragraph (2)(e) and (f), is the day appointed in accordance with paragraph (3).

(2) The claims and awards referred to are—

- (a) a claim for universal credit, an employment and support allowance or a jobseeker's allowance where, on the date on which the claim is made, the claimant—
 - (i) resides in one of the relevant districts; and
 - (ii) meets the gateway conditions;
- (b) a claim for universal credit where—
 - (i) the claimant gives incorrect information regarding the claimant residing in a relevant district or meeting the gateway conditions and does not reside in such a district or does not meet the gateway conditions on the date on which the claim is made; and
 - (ii) after a decision is made that the claimant is entitled to universal credit and one or more payments have been made in respect of the claimant, the Secretary of State discovers that incorrect information regarding residence or meeting the gateway conditions has been given;
- (c) a claim for universal credit that is treated as made by a couple in the circumstances referred to in regulation 9(8) of the Claims and Payments Regulations 2013 (claims for universal credit by members of a couple) where the claim complies with article 3(7) and the Secretary of State is of the view referred to in article 5(2);
- (d) a claim for universal credit by a former member of a couple who is not exempt from the requirement to make a claim by virtue of regulation 9(6) of the Claims and Payments Regulations 2013 (claims for universal credit by members of a

⁽¹⁰⁾ See the Act, s.3.

couple), whether or not the claim is made jointly with another person, where the claim is made 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, where the claim complies with article 3(8);

- (e) an award of universal credit that is made without a claim in the circumstances referred to in regulation 6(1) or (2) of the Claims and Payments Regulations 2013 (claims not required for entitlement to universal credit in some cases) where the circumstances referred to in article 3(9) apply;
- (f) an award of universal credit that is made without a claim in the circumstances referred to in regulation 9(6), (7) or (10) the Claims and Payments Regulations 2013 (claims for universal credit by members of a couple) where the circumstances referred to in article 3(9) apply; and
- (g) a claim for an employment and support allowance or a jobseeker's allowance that does not fall within sub-paragraph (a) and that is made —
 - (i) during the relevant period by a single claimant of universal credit or, in the case of joint claimants of universal credit, by either of the joint claimants, where the single claimant has made or the joint claimants have made, or been treated as having made, a claim for universal credit within sub-paragraphs (a) to (d);
 - (ii) during the relevant period by a single claimant of universal credit or, in the case of joint claimants of universal credit, by either of the joint claimants, where the single claimant has been awarded, or the joint claimants have been awarded, universal credit without a claim within sub-paragraph (e) or (f);
 - (iii) by a person who is entitled to make a claim for universal credit in the circumstances referred to in sub-paragraph (d) but has not yet done so; or
 - (iv) by a person who may be entitled to an award of universal credit in the circumstances referred to in sub-paragraph (e) or (f) but where no decision has yet been made as to the person's entitlement.

(3) Subject to paragraph (4), the day appointed in relation to the cases referred to in paragraph (2) is—

- (a) in the case of a claim referred to in paragraph (2)(a) to (d) and (g), the first day of the period in respect of which the claim is made or (in the case of a claim for universal credit) treated as made;
- (b) in the case of an award referred to in paragraph (2)(e) or (f), the first day on which a claimant is entitled to universal credit under that award.

(4) In relation to the case of a claim referred to in paragraph (2)(c) (claim for universal credit treated as made by a couple), where the member of the couple referred to in regulation 9(8)(b) of the Claims and Payments Regulations 2013 ("new claimant partner") was entitled during the prior period to an old style ESA award or an old style JSA award, the new claimant partner was at that time a member of a couple and the award included an amount in respect of the new claimant partner and his or her partner ("P"), the day appointed in relation to that case is the day after the day on which the new claimant partner and P ceased to be a couple for the purposes of the ESA Regulations 2008 or the JSA Regulations 1996 as the case may be.

(5) For the purposes of paragraph (4), the "prior period" means the period beginning with the first day of the period for which the claim for universal credit is treated as made and ending with the day before the day on which the claim for universal credit is treated as made.

(6) In paragraph (1), the reference to the case of a claim for universal credit referred to in paragraph (2)(a) to (d) (and any award made in respect of the claim), or of an award of universal credit referred to in paragraph (2)(e) and (f), includes a reference to—

- (a) a case where a notice under regulation 4 of the 2010 Transitional Regulations (the notice commencing the conversion phase in relation to an award of incapacity benefit or severe disablement allowance) is issued to a single claimant or in the case of joint claimants, either of those claimants, during the designated period;
- (b) where sub-paragraph (a) does not apply, a case where a conversion decision is made during that period in relation to an award of incapacity benefit or severe disablement allowance to which a single claimant or in the case of joint claimants, either of those claimants, is entitled; and
- (c) where sub-paragraphs (a) and (b) do not apply, a case where the effective date of a conversion decision in relation to such an award occurs during that period (where “effective date” has the same meaning as in the 2010 Transitional Regulations),

and any award of an employment and support allowance that is made consequent on a conversion decision that relates to the notice referred to in sub-paragraph (a), the conversion decision referred to in sub-paragraph (b) or the conversion decision referred to in sub-paragraph (c), as the case may be.

(7) For the purposes of paragraph (6), the designated period means—

- (a) in relation to a claim for universal credit referred to in paragraph (2)(a), (b)(i) or (d), any period when a decision has not yet been made on the claim;
- (b) in relation to a claim for universal credit that is treated as made as referred to in paragraph (2)(c), any period when no decision has yet been made as to the joint claimants’ entitlement;
- (c) any period, subsequent to the period referred to in sub-paragraph (a) or (b), when the single claimant or joint claimants is or are entitled to an award of universal credit in respect of the claim; and
- (d) in relation to an award of universal credit referred to in paragraph (2)(e) or (f), any period when the single claimant or joint claimants to whom the award was made is or are entitled to that award.”.

Substitution of article 5 of the No. 9 Order: provisions abolishing income-related employment and support allowance and income-based jobseeker’s allowance

7.—(1) Where article 3 applies, for article 5 of the No. 9 Order (provisions that apply in connection with the abolition of income-related employment and support allowance and income-based jobseeker’s allowance under article 4) substitute—

“5.—(1) For the purposes of article 4(2)(a), in determining whether a claimant meets the gateway conditions, Schedule 5 is to be read as though any reference to making a claim for universal credit included a reference to making a claim for an employment and support allowance or for a jobseeker’s allowance as the case may be.

(2) The view of the Secretary of State referred to in article 4(2)(c) is that each of the joint claimants meets the basic conditions in section 4(1)(a) to (d) of the Act (other than any of those conditions which the claimant is not required to meet by virtue of regulations under section 4(2) of the Act).

(3) For the purposes of article 4(2)(g), “relevant period” means—

- (a) in relation to a claim for universal credit within article 4(2)(a) to (d), any UC claim period, and any period subsequent to any UC claim period in respect of

- which the single claimant or the joint claimants is or are entitled to an award of universal credit in respect of the claim;
- (b) in relation to an award of universal credit within article 4(2)(e) or (f), any period when the single claimant or the joint claimants to whom the award was made is or are entitled to the award.
- (4) For the purposes of paragraph (3)(a), a “UC claim period” is a period when—
- (a) a claim for universal credit within article 4(2)(a), (b)(i) or (d) has been made but a decision has not yet been made on the claim;
- (b) a claim for universal credit within article 4(2)(c) has been treated as made and no decision has yet been made as to the joint claimants’ entitlement; or
- (c) a decision has been made that a single claimant or joint claimants is or are not entitled to universal credit and—
- (i) the Secretary of State is considering whether to revise that decision under section 9 of the Social Security Act 1998, whether on an application made for that purpose, or on the Secretary of State’s own initiative; or
- (ii) the single claimant or the joint claimants has or have appealed against that decision to the First-tier Tribunal and that appeal or any subsequent appeal to the Upper Tribunal or to a court has not been finally determined.
- (5) Subject to paragraph (6), for the purposes of article 4(2)(a) and (g), the Claims and Payments Regulations 1987 apply for the purpose of deciding—
- (a) whether a claim for an employment and support allowance or a jobseeker’s allowance is made; and
- (b) the date on which the claim is made or is to be treated as made.
- (6) For the purposes of article 4(2)(g)—
- (a) a person makes a claim for an employment and support allowance or a jobseeker’s allowance if they take any action which results in a decision on a claim being required under the Claims and Payments Regulations 1987; and
- (b) except as provided in paragraph (7), it is irrelevant that the effect of any provision of the Claims and Payments Regulations 1987 is that, for the purposes of those Regulations, the claim is not made or treated as made during the relevant period or at a time referred to in article 4(2)(g)(iii) or (iv).
- (7) The following provisions of the Claims and Payments Regulations 1987 apply for the purpose of deciding whether or not a claim for an employment and support allowance or a jobseeker’s allowance is made or is to be treated as made during the relevant period or at a time referred to in article 4(2)(g)(iii) or (iv)—
- (a) regulation 6(1F)(b) or (c); and
- (b) regulation 6(4ZA) to (4ZD) and (4A)(a)(i) and (b).
- (8) For the purposes of article 4(3)(a)—
- (a) in the case of a claim for universal credit, where the time for making a claim is extended under regulation 26(2) of the Claims and Payments Regulations 2013 (time within which a claim for universal credit is to be made), the reference to the first day of the period in respect of which the claim is made is a reference to the first day of the period in respect of which the claim is, by reason of the operation of that provision, timeously made;
- (b) in the case of a claim for an employment and support allowance or a jobseeker’s allowance, where the time for making a claim is extended under regulation 19 of,

and Schedule 4 to, the Claims and Payments Regulations 1987(11), the reference to the first day of the period in respect of which the claim is made is a reference to the first day of the period in respect of which the claim is, by reason of the operation of those provisions, timeously made.”.

Transitional provision where Secretary of State determines that claims for universal credit may not be made: effect on claims for employment and support allowance and jobseeker’s allowance

8. With effect from 16th June 2014, the No. 9 Order is amended by the insertion after article 5 of—

“Transitional provision where Secretary of State determines that claims for universal credit may not be made: effect on claims for employment and support allowance and jobseeker’s allowance

5A.—(1) Where a person makes a claim for an employment and support allowance or a jobseeker’s allowance at a time when they would not be able to make a claim for universal credit by virtue of a determination under regulation 4(1) of the 2014 Transitional Regulations (claims for universal credit may not be made in an area or category of case), then—

- (a) in relation to a claim for an employment and support allowance, Part 1 of the 2007 Act and the Welfare Reform Act 2009(12) are to apply as though the amending provisions and the provisions referred to in article 7(1)(c), (d) and (f) had not come into force in relation to the claim;
- (b) in relation to a claim for a jobseeker’s allowance, the 1995 Act, the Social Security Administration Act 1992(13) and the Social Security Act 1998(14) are to apply as though the amending provisions and the provisions referred to in article 7(1) (a), (b) and (e) had not come into force in relation to the claim.

(2) Paragraph (1) does not apply in relation to a claim for an employment and support allowance or a jobseeker’s allowance that falls within article 4(2)(g) (claims for an employment and support allowance or a jobseeker’s allowance during specified periods with respect to a claim for universal credit, or an award of universal credit without a claim), or an analogous provision in any other order that brings into force the amending provisions.

(3) For the purposes of this article, paragraphs (5) to (7) of article 5 apply for the purpose of deciding—

- (a) whether a claim for an employment and support allowance or a jobseeker’s allowance is made; and
- (b) the date on which the claim is made or is to be treated as made.”.

Amendment of article 6 of the No. 9 Order: provisions abolishing income-related employment and support allowance and income-based jobseeker’s allowance cease to apply

9.—(1) This article applies where, on or after 16th June 2014, with respect to all or part of the period to which a new style ESA award or a new style JSA award (where that award is made by virtue of the coming into force of the amending provisions under any secondary legislation) relates—

(11) Regulation 19 was substituted by S.I. 1997/793 and relevant amendments to regulation 19 were made by 1997/2290, 1999/2572 and 3108, 2000/1982 and 2978, 2002/428 and 1397 and 2006/2377. Relevant amendments to Schedule 4 were made by S.I. 1996/1460 and 2008/1554.

(12) 2009 c. 24.

(13) 1992 c. 5.

(14) 1998 c. 14.

- (a) a person makes a claim for universal credit; or
- (b) the Secretary of State receives an application for supersession of the decision to make the award, on the basis of a relevant change of circumstances that would relate to the ground for entitlement to an income-related employment and support allowance or an income-based jobseeker's allowance if the amending provisions had not come into force with respect to the award.

(2) Where this article applies, article 6 of the No. 9 Order (transitional provision: where the abolition of income-related employment and support allowance and income-based jobseeker's allowance is treated as not applying) is amended as follows—

- (a) in sub-paragraph (a) of paragraph (1), at the end insert “by virtue of the coming into force of the amending provisions under any secondary legislation”;
- (b) in sub-paragraphs (b)(ii) and (c) of paragraph (1), and paragraph (2), omit “under article 4(1)”;
- (c) after sub-paragraph (d) of paragraph (1) insert “and”, and, for sub-paragraphs (e) and (f) of paragraph (1), substitute—

“(e) (i) on the date on which the claim for universal credit is made, or the application for supersession is received, as the case may be, the claim does not, or, in the case of an application for supersession, a claim for universal credit by the person would not, fall within any case (including a case with respect to which an award of universal credit may be made without a claim) in relation to which the provisions of the Act referred to in Schedule 2 are in force (“the UC commencement case”); or

(ii) on that date, the claim for universal credit does, or, in the case of an application for supersession, a claim for universal credit by the person would, fall within the UC commencement case, but the claim does or would fall within a case (including a case that relates in whole or in part to residence in an area) that is the subject of a determination made by the Secretary of State under regulation 4(1) of the 2014 Transitional Regulations (determination that claims for universal credit may not be made).”;

(d) in paragraph (3), omit “(f)”, “; and” at the end of sub-paragraph (a), and sub-paragraph (b); and

(e) at the end insert—

“(6) For the purposes of this article, “secondary legislation” means an instrument made under an Act.”.

(3) For the purposes of this article, “secondary legislation” means an instrument made under an Act.

Amendment of article 9 of the No. 9 Order: conversion of incapacity benefits.

10. Where article 3 applies, in article 9(1) of the No. 9 Order (transitional provision: conversion of incapacity benefits), after “article 4(2)(a) to (d)” insert “or (g)”.

Amendment of article 11 of the No. 9 Order: transition from new style ESA

11.—(1) This article applies where the circumstances referred to in paragraphs (1) and (1A) of article 11 of the No. 9 Order (transition from new style ESA)(**15**) apply and where—

(15) Article 11 was amended by [S.I. 2013/1511 \(C. 60\)](#).

- (a) the claim for an employment and support allowance referred to in paragraph (1)(a) of that article is made; or
- (b) the new style ESA award referred to in paragraph (1)(b) of that article becomes an old style ESA award,

on or after 16th June 2014.

(2) Where this article applies, in article 11(2) of the No. 9 Order, omit “and” after sub-paragraph (k) and, after sub-paragraph (l) insert—

“; and

- (m) in Schedule 6 (housing costs), in paragraphs 8(1) and 9(1), each reference to an employment and support allowance included a reference to new style ESA.”

Amendment of article 13 of the No. 9 Order: transition from new style JSA

12.—(1) This article applies where the circumstances referred to in paragraphs (1) and (2) of article 13 of the No. 9 Order (transition from new style JSA)(**16**) apply and where—

- (a) the claim for a jobseeker’s allowance referred to in paragraph (1)(a) of that article is made; or
- (b) the new style JSA award referred to in paragraph (1)(b) of that article becomes an old style JSA award,

on or after 16th June 2014.

(2) Where this article applies, article 13(3) of the No. 9 Order is amended as follows—

(a) before sub-paragraph (a), insert—

“(za) in regulation 11, the references in paragraph (2)(a) and (b) to a jobseeker’s allowance included a reference to new style JSA;”;

(b) after sub-paragraph (a), insert—

“(aa) in regulation 17A(7)(**17**), in paragraph (a) of the definition of “benefit”, the reference to a jobseeker’s allowance included a reference to new style JSA;

(ab) in regulation 19(1)(r)(**18**), the reference to a jobseeker’s allowance included a reference to new style JSA;”;

(c) omit “and” after sub-paragraph (d) and, after sub-paragraph (e), insert—

“(f) in paragraphs 6(1) and 7(1) of Schedule 2 (housing costs), each reference to a jobseeker’s allowance included a reference to new style JSA; and

(g) in paragraph 13 of Schedule 2 (housing costs)(**19**)—

(i) in paragraph (a) of sub-paragraph (1) (apart from sub-paragraph (ii)(bb) of that paragraph), each of the references to a jobseeker’s allowance included a reference to new style JSA;

(ii) in sub-paragraph (1)(b), the reference to a jobseeker’s allowance included a reference to new style JSA; and

(iii) in sub-paragraph (1)(c)(iv) and (f)(iii), the reference to the making of a claim for a jobseeker’s allowance included a reference to the making of a claim for a jobseeker’s allowance where the 1995 Act, as it has effect as amended by the amending provisions, applied to the claim and the new style JSA award

(16) Article 13 was substituted by [S.I. 2013/1511 \(C. 60\)](#).

(17) Regulation 17A was inserted by [S.I. 1998/1274](#); the definition of “benefit” was substituted by [S.I. 1999/3083](#).

(18) Sub-paragraph (r) was substituted by [S.I. 1998/1274](#) and amended by [S.I. 2008/2831](#) and [2009/583](#).

(19) Relevant amendments of sub-paragraph (1) were made by [S.I. 1996/1516](#) and [1517](#), [1999/2860](#), [2001/488](#) and [2011/674](#).

that resulted from the claim continued as an old style JSA award by virtue of article 6 of this Order.”.

Amendment of articles 15 and 18 of the No. 9 Order: sanctions

13. Where article 3 applies, in articles 15(1)(a) and 18(1)(a) of the No. 9 Order (sanctions: transition from old style ESA and old style JSA in case of a continuing award) for “article 4(2)(b)” substitute “article 4(2)(a)”.

Amendment of article 22 of the No. 9 Order: references to contributory ESA or contribution-based JSA

14. Where article 3 applies, in article 22 of the No. 9 Order (transitional provision: references to contributory employment and support allowance and contribution-based jobseeker’s allowance), after “article 4(2)(a) to (d)” insert “or (g)”.

Insertion into No. 9 Order of a new article 24

15. With effect from 16th June 2014, the No. 9 Order is amended by the insertion after article 23 of—

“Appeals relating to ESA and JSA

24.—(1) This article applies where, after an award of universal credit has been made to a claimant (where that award is made by virtue of the coming into force of the provisions of the Act referred to in Schedule 2, under any secondary legislation) —

- (a) an appeal against a decision relating to the entitlement of the claimant to an old style ESA award or an old style JSA award is finally determined; or
- (b) a decision relating to the claimant’s entitlement to such an award is revised under section 9 of the Social Security Act 1998 (“the 1998 Act”) or superseded under section 10 of that Act.

(2) Where this article applies, 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”).

(3) 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 old style ESA award or an old style JSA award, as revised or superseded; and
- (b) any finding of fact by the First-tier Tribunal, Upper Tribunal or court.

(4) For the purposes of this article, “secondary legislation” means an instrument made under an Act.”.

Gateway conditions

16. Where article 3 applies, after Schedule 4 to the No. 9 Order, insert—

“SCHEDULE 5

Article 2(1)

THE GATEWAY CONDITIONS

Personal characteristics

1. The claimant 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

- 2.—(1) The claimant 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 paragraph, “confinement” has the same meaning as in regulation 8(4) of the Universal Credit Regulations.
- (3) The claimant—
 - (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⁽²⁰⁾ (“a statement of fitness for work”) in respect of the date on which the claim for universal credit is made, unless it has been determined, since the statement was given, that the claimant 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 the claimant does not consider himself or herself to be unfit for work; and
 - (d) must not have been the subject of a determination that the claimant has limited capability for work within the meaning of the 2007 Act, unless it has subsequently been determined that the claimant does not have limited capability for work within the meaning of that Act.

Existing benefits

- 3.—(1) The claimant must not be entitled to—
 - (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;

⁽²⁰⁾ S.I. 1976/615. Schedule 1 was substituted by S.I. 2010/137.

- (e) disability living allowance under section 71 of the Social Security Contributions and Benefits Act 1992⁽²¹⁾; or
 - (f) personal independence payment under Part 4 of the Act⁽²²⁾.
- (2) If the claim fell within a case in relation to which the provisions referred to in Schedule 2 were in force and regulation 8(4) of the 2014 Transitional Regulations applied to the claimant, the claimant would not be treated by regulation 11 of those Regulations as being entitled to a tax credit.
- (3) The claimant 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⁽²³⁾, a decision that the claimant is not entitled to old style JSA, old style ESA or income support; or
 - (ii) to the relevant authority (within the meaning of the Child Support, Pensions and Social Security Act 2000⁽²⁴⁾) to consider whether to revise, under Schedule 7 to that Act, a decision that the claimant is not entitled to housing benefit.
- (4) If the claimant has appealed against a decision that he or she is not entitled to a benefit mentioned in sub-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 claimant was previously entitled to an old style JSA award, the award 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 claimant was previously entitled to an old style ESA award, the award 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.

Income and capital

- 4.—(1) The claimant must declare that, during the period of one month starting with the date on which the claim for universal credit is made, the claimant’s earned income is expected not to exceed—
- (a) £270, if the claimant is aged under 25; or
 - (b) £330, if the claimant is aged 25 or over.
- (2) The claimant’s capital must not exceed £6,000.
- (3) For the purposes of this paragraph, “earned income” and “capital” have the same meanings as they have in Part 6 of the Universal Credit Regulations.

(21) 1992 c. 4. Section 71 was amended by the Welfare Reform and Pensions Act 1999 (c. 30), section 67(1).

(22) See the Act, s.77.

(23) 1998 c.14. The section has been amended in a way that is not relevant to this Order. See, in relation to consideration of revision under s.9, s.12(2)(b) and (3A), inserted by section 102 of the Act.

(24) 2000 c.19.

Housing

5. The claimant must not—

- (a) be homeless (within the meaning of section 175 of the Housing Act 1996⁽²⁵⁾) and must currently reside at his or her 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 the claimant by or on behalf of the person by whom the accommodation is provided, with a view to enabling the claimant to live there;
- (c) reside in the same household as a person who is a member of the regular forces or the reserve forces (within the meaning of section 374 of the Armed Forces Act 2006⁽²⁶⁾) and who is absent from the household in connection with that role; or
- (d) own, or partly own, the property in which he or she resides.

Caring responsibilities

6.—(1) There must not be—

- (a) a child living with the claimant some or all of the time;
- (b) a person (“the young person”) living with the claimant some or all of the time if—
 - (i) the young person is not a child, but is under the age of 20; and
 - (ii) the claimant 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.

(2) The claimant must not—

- (a) be an adopter (within the meaning of the Universal Credit Regulations⁽²⁷⁾) 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;
- (b) be a foster parent;
- (c) be liable to pay child support maintenance under the Child Support Act 1991⁽²⁸⁾; or
- (d) 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.

(3) For the purposes of this paragraph—

- (a) “child” has the same meaning as in Part 1 of the Act⁽²⁹⁾;
- (b) “foster parent” means—
 - (i) in relation to England, a person who is approved as a foster parent under the Fostering Services (England) Regulations 2011⁽³⁰⁾;
 - (ii) in relation to Wales, a person who is approved as a foster parent under the Fostering Services (Wales) Regulations 2003⁽³¹⁾;

⁽²⁵⁾ 1996 c.52.

⁽²⁶⁾ 2006 c.52.

⁽²⁷⁾ See regulation 2, as amended by S.I. 2013/803.

⁽²⁸⁾ 1991 c.48.

⁽²⁹⁾ See section 40 of the Act.

⁽³⁰⁾ S.I. 2011/581. See regulation 27.

⁽³¹⁾ S.I. 2003/237. See regulation 28, substituted by S.I. 2010/746.

- (iii) in relation to Scotland, a person who is approved as a kinship carer or a foster carer under the Looked After Children (Scotland) Regulations 2009⁽³²⁾.

Other requirements

7. The claimant—
- (a) must declare that the claimant does not expect to have any self-employed earnings (within the meaning of 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 receiving education or undertaking a course of training of any kind and must declare that he or she does 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⁽³³⁾ (“the 2005 Act”);
 - (ii) a receiver appointed under Part 7 of the Mental Health Act 1983⁽³⁴⁾ and treated as a deputy by virtue of the 2005 Act; or
 - (iii) any other person acting on the claimant’s 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, or a current account with a Credit Union (within the meaning of the Credit Unions Act 1979⁽³⁵⁾).

Declarations

8. Any declaration which is required by paragraph 2(3)(c), 4(1) or 7(a) or (b) is to be made by such method as may be required by the Secretary of State in relation to the person by whom it is to be made.”.

⁽³²⁾ S.S.I. 2009/210. See regulations 10 and 22.

⁽³³⁾ 2005 c.9.

⁽³⁴⁾ 1983 c.20.

⁽³⁵⁾ 1979 c.34.