

2014 No. 1626

SOCIAL SECURITY

**The Universal Credit (Transitional Provisions) (Amendment)
Regulations 2014**

Made - - - - - *23rd June 2014*

Laid before Parliament *30th June 2014*

Coming into force in accordance with regulation 1

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), 5(1)(a) and 6(a) of Schedule 6 to the Welfare Reform Act 2012(a).

In accordance with section 172(1) of the Social Security Administration Act 1992(b) (“the 1992 Act”), the Secretary of State has referred proposals in respect of these Regulations to the Social Security Advisory Committee.

In accordance with section 176(1) of the 1992 Act, the Secretary of State has consulted with organisations appearing to him to be representative of the authorities concerned in respect of provisions in these Regulations relating to housing benefit.

Citation and commencement

1.—(1) These Regulations may be cited as the Universal Credit (Transitional Provisions) (Amendment) Regulations 2014.

(2) These Regulations come into force on 13th October 2014, except as provided by paragraph (3).

(3) Regulation 3, and regulation in so far as it relates to that regulation, come into force on 3rd November 2014.

Amendment of the Universal Credit (Transitional Provisions) Regulations 2014

2. The Universal Credit (Transitional Provisions) Regulations 2014(c) are amended in accordance with these Regulations

Amendments relating to specified accommodation

3. In regulation 2(1) (interpretation)—

(a) 2012 c.5.
(b) 1992 c.5.
(c) S.I. 2014/1230

- (a) omit the definition of “exempt accommodation”; and
- (b) after the definition of “old style JSA” insert—
 - ““specified accommodation” means accommodation to which one or more of subparagraphs (2) to (5) of paragraph 3A of Schedule 1 to the Universal Credit Regulations(a) applies;”.

(2) For “exempt accommodation” substitute “specified accommodation” in each of the following regulations—

- (a) regulation 5(2)(a) (exception to exclusion of entitlement to housing benefit);
- (b) regulation 6(8) (exception to exclusion of claims for housing benefit);
- (c) regulation 7(5)(a) (exception to termination of awards of housing benefit under regulation 7);
- (d) regulation 8(3) (exception to termination of awards of housing benefit under regulation 8); and
- (e) regulation 14(3) (exception to termination of awards of housing benefit following an appeal etc relating to universal credit).

Amendments relating to finalisation of tax credits

4.—(1) After regulation 12 (modification of tax credits legislation: overpayments and penalties) insert—

“Modification of tax credits legislation: finalisation of tax credits

12A.—(1) This regulation applies where—

- (a) a claim for universal credit is made, or is treated as having been made;
- (b) the claimant is, or was at any time during the tax year in which the claim is made or treated as made, entitled to a tax credit; and
- (c) the Secretary of State is satisfied that the claimant meets the basic conditions specified 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).

(2) Subject to paragraph (3), where this regulation applies, 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 Schedule to these Regulations (“the modified legislation”).

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

(2) At the end of the Regulations insert—

(a) Paragraph 3A of Schedule 1 was inserted by S.I. 2014/771.

**MODIFICATION OF TAX CREDITS LEGISLATION
(FINALISATION OF TAX CREDITS)**

Modifications to the Tax Credits Act 2002

1. Paragraphs 2 to 10 prescribe modifications to the application of the 2002 Act where regulation 12A of these Regulations applies.

2. In section 7 (income test)—

- (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 (final notice)—

- (a) in subsection (1)—
 - (i) omit “the whole or”; and
 - (ii) in sub-paragraph (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 (decisions after final notice)—

- (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 (power to enquire)—**
- (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 (decisions on discovery)—**
- (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 (decisions subject to official error), for “18(1), (5), (6) or (9)” substitute “18(1) or (5)”.**
- 8. In section 23 (notice of decisions)—**
- (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 30(1) (underpayments), before “tax year” in each place where it occurs, insert “part”.**
- 10. In section 38 (appeals)—**
- (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.”.

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

11. Paragraphs 12 to 23 prescribe modifications to the application of the Tax Credits (Definition and Calculation of Income) Regulations 2002(a) where regulation 12A of these Regulations applies.

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

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

13. In regulation 3 (calculation of income of claimant)(b)—

- (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) in the second and third sentences of Step 4, before “year” insert “part”;
- (b) in paragraph (6A)(c), for the words from “ending on 31st March” to the end, substitute “ending on the last day of the month in which the claimant’s award of a tax credit terminated”;
- (c) in paragraph (8)(b), before “year” insert “part”.

14. In regulation 4 (employment income)(d)—

- (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), for “that year” substitute “the tax year” and after “ITEPA” insert “which is treated as received in the part tax year”;
- (f) in paragraph (1)(j), after “applies” insert “which is received in the part tax year”;
- (g) in paragraph (1)(l), for “that year” substitute “the tax year” and 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), in the first sentence and in the title of Table 1, after “employment income” insert “received in the part tax year”;
- (j) in paragraph (5), after “calculating earnings” insert “received in the part tax year”.

15. In regulation 5 (pension income)(e)—

- (a) in paragraph (1), after ““pension income” means” insert “any of the following received in or relating to the part tax year”;
- (b) in paragraph (2), in the first sentence and in the title of Table 2, after “pension income” 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”.

(a) S.I. 2002/2006.

(b) Regulation 3 was amended by S.I. 2003/732 and 2815, 2006/745 and 766, 2007/824 and 1305 and 2014/658.

(c) Paragraph (6A) was inserted by S.I. 2003/732 and amended by S.I. 2007/824.

(d) Regulation 4 was amended by S.I. 2003/732 and 2815, 2004/762 and 2663, 2006/766, 2007/824, 2008/604 and 2169, 2009/2887, 2010/2494, 2012/848 and 2014/658.

(e) Regulation 5 was amended by S.I. 2003/732, 2006/745 and 766, 2008/604 and 2010/2914.

- 16. In regulation 6 (trading income)(a)—**
- (a) re-number the existing regulation as paragraph (1);
 - (b) in paragraph (1) (as so re-numbered)—
 - (i) in sub-paragraph (a), for “taxable profits for the tax year” substitute “actual or estimated taxable profits attributable to the part tax year”;
 - (ii) in sub-paragraph (b), for “taxable profit for the” substitute “actual or estimated taxable profit attributable to the part tax”;
 - (c) after paragraph (1) insert—

“(2) Actual or estimated taxable profits attributable to the part tax year (“the relevant trading income”) is to be calculated by reference to the basis period (determined by reference to the rules in Chapter 15 of Part 2 of ITTOIA) ending during the tax year in which the claimant made, or was treated as making, a claim for universal credit.

(3) The relevant trading income is to be 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.”.

17. In regulation 7 (social security income)(b)—

 - (a) in paragraph (1), after “social security income” insert “received in the part tax year”;
 - (b) in paragraph (3), in the opening words and in the title of Table 3, after “social security income” insert “received in the part tax year”.

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

19. In regulation 10 (investment income)(d)—

 - (a) in paragraph (1), after “gross amount” insert “received in the part tax year”;
 - (b) in paragraph (1)(e), before “year” insert “part tax”;
 - (c) in paragraph (2), in the opening words and in the title of Table 4, after “investment income” insert “received in the part tax year”.

20. In regulation 11(1) (property income)(e)—

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

21. In regulation 12(1) (foreign income)(f), before “year” insert “part tax”.

22. In regulation 13 (notional income), after “means income” insert “received in the part tax year”.

23. In regulation 18 (miscellaneous income)(g), after “means income” insert “received in the part tax year”.

(a) Regulation 6 was amended by S.I. 2006/766.
 (b) Regulation 7 was amended by S.I. 2003/732 and 2815, 2008/1879, 2009/697, 2010/2494 and 2014/658.
 (c) Regulation 8 was amended by S.I. 2003/2815, 2006/766, 2008/2169 and 2012/848.
 (d) Regulation 10 was amended by S.I. 2003/732 and 2815, 2006/766, 2007/824 and 2010/751.
 (e) Regulation 11(1) was amended by S.I. 2003/2815 and 2006/766.
 (f) Regulation 12(1) was amended by S.I. 2006/766.
 (g) Regulation 18 was amended by S.I. 2006/766.

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

24. Paragraphs 25 to 27 prescribe modifications to the application of the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002(a) where regulation 12A of these Regulations applies.

25. 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 6th 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 2014” at the end.

26. In regulation 7(3) (determination of rate of working tax credit)(b)—

(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 “T”, before “tax year” insert “part”;

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

27. In regulation 8(3) (determination of rate of child tax credit)(c)—

(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 “T”, before “tax year” insert “part”;

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

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

28. Paragraphs 29 to 34 prescribe modifications to the application of the Tax Credits (Claims and Notifications) Regulations 2002(d) where regulation 12A of these Regulations applies.

29. In regulation 4 (interpretation), omit paragraph (b)(e).

30. Omit regulation 11 (circumstances in which claims to be treated as made)(f).

31. Omit regulation 12 (further circumstances in which claims to be treated as made)(g).

32. In regulation 13 (circumstances in which claims made by one member of a couple to be treated as also made by the other)—

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

(b) omit paragraph (2)(i).

(a) S.I. 2002/2008.

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

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

(d) S.I. 2002/2014

(e) Regulation 4(b) was amended by S.I. 2009/697.

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

(g) Regulation 12 was amended by S.I. 2010/751 and 2914.

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

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

- 33.** In regulation 15(1)(c) (persons who die after making a claim)—
- (a) omit “the whole or” and “after the end of that tax year but”; and
 - (b) for “section 18(1), (5), (6) or (9)” substitute “section 18(1) or (5)”.

- 34.** In regulation 33 (dates to be specified in notices)(a)—
- (a) in paragraph (a), for the words from “not later than 31st July” to “if later”, substitute “not less than 30 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

35. Paragraph 36 prescribes a modification to the application of the Tax Credits (Payment by the Commissioners) Regulations 2002(b) where regulation 12A of these Regulations applies.

- 36.** Omit regulation 7 (prescribed circumstances for certain purposes)(c).

Modification to the Tax Credits (Residence) Regulations 2003

37. Paragraph 38 prescribes a modification to the application of the Tax Credits (Residence) Regulations 2003(d) where regulation 12A of these Regulations applies.

38. In regulation 3(5)(a) (circumstances in which a person is treated as not being in the United Kingdom)(e), omit “under regulation 11 or 12 of the Tax Credits (Claims and Notifications) Regulations 2002 or otherwise”.

Amendments relating to transition from incapacity benefit or severe disablement allowance

5.—(1) In regulation 22 (transition from income support payable on the grounds of incapacity for work or disability)—

- (a) at the end of the heading insert “and other incapacity benefits”; and
- (b) in paragraph (1)—
 - (i) after “to a claimant” insert “(other than a claimant to whom regulation 23 or 24 applies)”; and
 - (ii) at the end insert “or is entitled to incapacity benefit or severe disablement allowance”.

(2) In regulation 23 (transition from other incapacity benefits)—

- (a) at the end of the heading insert “: assessment under the 2010 Regulations”;
- (b) in paragraph (1)—
 - (i) in sub-paragraph (a) at the end insert “(“the relevant award”); and
 - (ii) for sub-paragraph (b) substitute—

“(b) on or before the date on which the claim for universal credit is made or treated as made, a notice has been issued to the claimant under regulation 4 of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No.2) Regulations 2010 (“the 2010 Regulations”) (notice commencing the conversion phase).”;

- (c) after paragraph (1) insert—

(a) Regulation 33 was substituted by S.I. 2004/762 and amended by S.I. 2007/824.
(b) S.I. 2002/2173.
(c) Regulation 7 was amended by S.I. 2005/2200.
(d) S.I. 2003/654.
(e) Regulation 3(5) was substituted by S.I. 2004/1243.

“(1A) Where this regulation applies, regulations 27(3) (award to include LCW and LCWRA elements) and 38 (determination of limited capability for work and work-related activity) of the Universal Credit Regulations do not apply and the question whether a claimant has limited capability for work, or for work and work-related activity, is to be determined, for the purposes of the Act and the Universal Credit Regulations, in accordance with this regulation.”;

(d) in paragraph (2)—

(i) for the opening words substitute “Where it is determined in accordance with the 2010 Regulations that the relevant award qualifies for conversion into an award in accordance with regulation 7 of those Regulations (qualifying for conversion) and that award includes the work-related activity component”; and

(ii) omit sub-paragraph (a); and

(e) in paragraph (3)—

(i) for the opening words substitute “Where it is determined in accordance with the 2010 Regulations that the relevant award qualifies for conversion into an award in accordance with regulation 7 of those Regulations and that award includes the support component”; and

(ii) omit sub-paragraph (a).

(3) In regulation 25 (transition from other incapacity benefits: supplementary), in paragraph (2) after “For the purposes of regulations” insert “22,”.

(4) In regulation 26 (other claimants with incapacity for work: credits only cases where claimant is approaching pensionable age)—

(a) in paragraph (1)(c)—

(i) for “neither regulation 22 nor regulation 24 applies” substitute “none of regulations 22, 23 or 24 apply”; and

(ii) for “either” substitute “any”; and

(b) after paragraph (3) insert—

“(4) Where the claimant is not entitled to a payment, allowance or increased rate of pension specified in either regulation 24(1)(d) or regulation 24(3)(d)—

(a) if it is determined in accordance with Part 5 of the Universal Credit Regulations that the claimant has limited capability for work—

(i) the claimant 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;

(ii) regulation 28 of the Universal Credit Regulations does not apply; and

(iii) 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; and

(b) if it is determined in accordance with Part 5 of the Universal Credit Regulations that the claimant has limited capability for work and work-related activity—

(i) the claimant 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 the Universal Credit Regulations does not apply; 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.”.

Amendments relating to loss of tax credits penalties

6.—(1) In regulation 36(1) (loss of benefit penalties: reduction of universal credit) after “Subject to paragraph (6)” insert “ and to regulation 38”.

(2) After regulation 36 insert—

“Loss of benefit penalties: transition from working tax credit

37.—(1) This regulation applies where an award of universal credit is made to a claimant who—

- (a) was previously entitled to working tax credit; and
- (b) is an offender, within the meaning of the 2002 Act^(a).

(2) Where this regulation applies, the Social Security (Loss of Benefit) Regulations 2001^(b) apply as if in regulation 3ZB of those Regulations—

- (a) in paragraph (1) at the beginning there were inserted “Subject to regulation 38 of the Universal Credit (Transitional Provisions) Regulations 2014,”;
- (b) “disqualification period” includes a disqualification period within the meaning of the 2002 Act^(c);
- (c) “offender” includes an offender within the meaning of the 2002 Act; and
- (d) “offender’s family member” includes a person who is a member of the family (within the meaning of section 137(1) of the Social Security Contributions and Benefits Act 1992^(d)) of a person who is an offender within the meaning of the 2002 Act.

Loss of benefit penalties: maximum total reduction

38. Where regulations 35 and 37 both apply to a claimant, the total amount of a reduction of universal credit in respect of any assessment period under—

- (a) regulation 36; and
- (b) regulation 3ZB of the Social Security (Loss of Benefit) Regulations 2001, must not exceed the amount of the standard allowance^(e) which is applicable to the claimant in respect of that period.”.

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

23rd June 2014

Freud
Parliamentary Under Secretary of State
Department of Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Universal Credit (Transitional Provisions) Regulations 2014 (S.I. 2014/1230) (“the 2014 Regulations”), which make provision for the replacement of certain “existing benefits” by universal credit, a new benefit established by the Welfare Reform Act 2012 (c.5). The existing benefits include housing benefit, working tax credit and child tax credit.

Regulation 3 makes amendments to reflect a new concept of “specified accommodation”, for which the universal credit housing element is not payable under the Universal Credit Regulations

(a) See sections 36A and 36C, inserted by section 120 of the Welfare Reform Act 2012 (“the Act”).

(b) S.I. 2001/4022. Regulation 3ZB was inserted by S.I. 2013/385.

(c) See sections 36A(6) and 36C(5).

(d) 1992 c.4. The definition of “family” was amended by paragraph 46 of Schedule 24 to the Civil Partnership Act 2004 (c.33).

(e) See section 9 of the Act.

2013 (S.I. 2013/376). It extends provisions of the 2014 Regulations which previously allowed for dual entitlement to universal credit and to housing benefit in respect of “exempt accommodation”, so that they apply in respect of the additional categories of accommodation falling within the definition of “specified accommodation” (which includes exempt accommodation).

The amendments to the 2014 Regulations made by regulation 4 provide for the amount of a tax credit to which a claimant is entitled to be finalised before the end of the tax year in which the award terminates, if the claimant has claimed universal credit during that tax year. Normally, entitlement to tax credits is finalised after the end of the tax year in question. New regulation 12A(1) and (2) of the 2014 Regulations, along with the new Schedule to those Regulations, provide for modification of the Tax Credits Act 2002 (c.21) and regulations made under that Act, to allow for in-year finalisation. New regulation 12A(3) gives a discretion to the Commissioners for Her Majesty’s Revenue and Customs to finalise entitlement to a tax credit after the end of the tax year in any case, or category of cases, where they consider that it is not reasonably practicable to apply the modified legislation.

The amendments made by regulation 5 relate to universal credit claimants who are also entitled to incapacity benefit or severe disablement allowance (or to national insurance credits on the basis of incapacity for work or disability). The Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No.2) Regulations 2010 (S.I. 2010/1907), which were made under the Welfare Reform Act 2007 (c.5), provide for a process of conversion of awards of incapacity benefit and severe disablement allowance into awards of employment and support allowance (“the ESA conversion process”). Regulation 22 of the 2014 Regulations is extended to apply to claimants who are entitled to incapacity benefit or severe disablement allowance, provided they have not started the ESA conversion process. This means that where their capacity for work is assessed under the Universal Credit Regulations 2013 (S.I. 2013/376), entitlement to the limited capability for work (“LCW”) or limited capability for work-related activity (“LCWRA”) element will be backdated to the start of the universal credit award. The amendments to regulation 23 of the 2014 Regulations provide for universal credit claimants who have already started the ESA conversion process to be assessed for entitlement to the LCW or LCWRA element in universal credit on the basis of the assessment for ESA conversion.

Amendments to regulation 26 of the 2014 Regulations have the effect that universal credit claimants who are entitled to national insurance credits on the basis of their incapacity for work and are approaching pensionable age, may also have entitlement to the LCW or LCWRA element backdated once they have been assessed under the Universal Credit Regulations. Previously, regulation 26 provided for this only in cases where the claimant is also entitled to another benefit indicating their incapacity for work.

Regulation 6 inserts new regulations 37 and 38 into the 2014 Regulations. Regulation 37 provides for a penalty applied to an award of working tax credit to continue where the claimant moves to universal credit during the period of the penalty. Regulation 38 ensures that, where a claimant is entitled to both working tax credit and to another existing benefit when they move to universal credit, the total penalty transferred to the award of universal credit does not exceed the amount of the claimant’s standard allowance.

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/>.

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