
STATUTORY INSTRUMENTS

2019 No. 935

The Welfare Reform Act 2012 (Commencement No. 31 and Savings and Transitional Provisions (Amendment)) Order 2019

Amendment of the No. 31 Order

2.—(1) The No. 31 Order is amended as follows.

(2) In article 2—

(a) in paragraph (1)—

(i) before “the 2002 Act”, insert—

““the 1992 Act” means the Social Security Contributions and Benefits Act 1992(1);”;

(ii) omit the definition of “couple”;

(b) after paragraph (1), insert—

“(1A) In this Order, “couple” has the same meaning as in the 2002 Act(2), save—

(a) in reference to entitlement to housing benefit, where it has the same meaning as in Part VII of the 1992 Act(3); and

(b) in article 7(3)(a), where it has the meaning given by article 7(2)(b)(ii).”;

(c) in paragraph (3), after “article 6(2)” insert “and article 8(2)(b)”;

(d) in paragraph (4)(b)—

(i) at the start, insert “save in article 7(3)(a),”;

(ii) after “part of a”, insert “mixed-age”;

(iii) for “the claim being made, or the person” substitute “a person claiming or”;

(iv) for “a person” substitute “the person”; and

(v) omit “(save in article 7(3)) a member of”.

(3) In article 7—

(a) in the heading, before “polygamous marriages” insert “application of the rules in universal credit for treatment of couples and”;

(b) in paragraph (1), for “party to a polygamous marriage” substitute “member of a mixed-age couple”;

(c) for paragraph (2) substitute—

“(2) For the purposes of paragraph (3)—

(a) all secondary legislation relevant to assessment of entitlement to state pension credit or housing benefit applies so that claims and awards may be made in

(1) 1992 c. 4.

(2) See section 17(1). The definition of “couple” was substituted by [S.I. 2014/560](#) in relation to England and Wales and [S.I. 2014/3229](#) in relation to Scotland.

(3) See section 137(1). The definition of “couple” was substituted by [S.I. 2014/560](#) in relation to England and Wales and [S.I. 2014/3229](#) in relation to Scotland.

respect of the party specified in paragraph (3)(a) or (b) as a part of a couple or as a single person respectively; and

(b) the following rules in regulation 3 of the Universal Credit Regulations 2013 apply—

(i) the rule in paragraph (3) (treatment of certain couples), which establishes that a member of a couple may make a claim as a single person;

(ii) the rule in paragraph (4) (treatment of polygamous marriages), which establishes that two of the parties to a polygamous marriage are to be treated as a couple and the remaining party (or parties) as a single person (or single persons);

(iii) the rule in paragraph (6) (absence from the household), which establishes that members of a couple may cease to be treated as a couple.”;

(d) in paragraph (3)—

(i) in sub-paragraph (a), for “(2)(a)” substitute “(2)(b)(ii)”;

(ii) in sub-paragraph (b), for “(2)(a)” substitute “(2)(b)(i) to (iii)”.

(4) After article 7 insert—

“Transitional provision: where restrictions on claims for universal credit are in place

8.—(1) This article applies to a member of a mixed-age couple who, further to articles 3 to 7, is excluded from entitlement to state pension credit or housing benefit, and is also prevented from claiming universal credit by virtue of—

(a) regulation 4 of the Universal Credit (Transitional Provisions) Regulations 2014 (claims for universal credit may not be made in an area or category of case)(**4**);

(b) regulation 4A of those Regulations (restriction on claims for universal credit by persons entitled to a severe disability premium)(**5**); or

(c) article 4(11) of the Welfare Reform Act 2012 (Commencement No. 32 and Savings and Transitional Provisions) Order 2019 (no claims for universal credit by frontier workers)(**6**).

(2) Where this article applies, the member of the mixed-age couple who has attained the qualifying age for state pension credit is, for the purposes of an award of benefit referred to in the following sub-paragraphs to that member, to be treated as—

(a) meeting the basic condition of entitlement (upper age limit) for—

(i) income support, in section 124(1)(aa) of the 1992 Act(**7**);

(ii) a jobseeker’s allowance, in section 1(2)(h) of the 1995 Act; or

(iii) an employment and support allowance, in section 1(3)(c) of the 2007 Act; and

(b) not having attained that age for housing benefit, for the purposes of regulation 5 of the Housing Benefit Regulations 2006(**8**) and regulation 5 of the Housing Benefit SPC Regulations, so that the Housing Benefit Regulations 2006 apply to the assessment of the award.

(4) [S.I. 2014/1230](#).

(5) Regulation 4A was inserted by [S.I. 2019/10](#).

(6) [S.I. 2019/167 \(C. 6\)](#).

(7) Sub-paragraph (aa) was inserted by section 14 of, and Schedule 2 to, the State Pension Credit Act 2002 (c. 16).

(8) [S.I. 2006/213](#).

(3) This article continues to apply until the award of benefit referred to in paragraph (2) (a) or (b) terminates, regardless of whether paragraph (1)(a), (b) or (c) continues to apply throughout the award.

(4) Where a member of a mixed-age couple who has attained the qualifying age for state pension credit is entitled to income support by virtue of paragraph (2)(a)(i), references to a claimant's partner in paragraphs 9 and 9A (conditions for pensioner premium)(**9**) and in paragraph 10 (condition for higher pensioner premium)(**10**) of Schedule 2 to the Income Support (General) Regulations 1987(**11**) have effect as though they were references to the claimant.

(5) In this article—

“the 1995 Act” means the Jobseekers Act 1995(**12**);

“the 2007 Act” means the Welfare Reform Act 2007(**13**);

“employment and support allowance” 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 2012 Act that remove references to an income-related employment and support allowance;

“income support” has the same meaning as in Part VII of the 1992 Act;

“jobseeker's allowance” 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 2012 Act that remove references to an income-based jobseeker's allowance.”

(9) Paragraph 9 was substituted by S.I. 1989/534 and 2002/3019 and amended by S.I. 2009/1488.

(10) Sub-paragraph (1) of paragraph 10 was substituted by S.I. 2002/3019 and amended by S.I. 2003/2379, 2007/719 and 2009/1488. Sub-paragraph (6) was inserted by S.I. 2007/719.

(11) S.I. 1987/1967.

(12) 1995 c. 18.

(13) 2007 c. 5.