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STATUTORY INSTRUMENTS

2023 No. 543

SOCIAL SECURITY

The Social Security and Universal Credit (Miscellaneous Amendments) Regulations 2023

<i>Made</i> - - - -	<i>15th May 2023</i>
<i>Laid before Parliament</i>	<i>17th May 2023</i>
<i>Coming into force</i> - -	<i>29th June 2023</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 5(1)(a) and 189(1) and (4) of the Social Security Administration Act 1992(a), sections 4(9), 23(7) and 29 of the Social Security (Recovery of Benefits) Act 1997(b) and sections 12(4) and 42(1) to (3) of, and paragraphs 1(1), 4(1)(b), (2)(c) to (e), and (3)(a) and 6(a) of Schedule 6 to, the Welfare Reform Act 2012(c).

In accordance with section 173(1)(b) of the Social Security Administration Act 1992, the Social Security Advisory Committee has agreed that the proposals in respect of these Regulations should not be referred to it.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Social Security and Universal Credit (Miscellaneous Amendments) Regulations 2023 and come into force on 29th June 2023.

(2) Any amendment made by these Regulations has the same extent as the provision amended.

Amendment of the Social Security (Recovery of Benefits) Regulations 1997

2. In regulation 1(2) of the Social Security (Recovery of Benefits) Regulations 1997 (interpretation)(d), for the definition of “Compensation Recovery Unit” substitute—

““Compensation Recovery Unit” means the Compensation Recovery Unit, part of the Department for Work and Pensions, at Wear View House, 1 Eden Street West, Sunderland, SR1 3EY.”.

(a) 1992 c. 5.
(b) 1997 c. 27. Section 29 is cited for the meaning of “prescribed” and “regulations”.
(c) 2012 c. 5.
(d) S.I. 1997/2205, amended by S.I. 2000/3030.

Amendment of the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008

3. In regulation 1(2) of the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008 (interpretation)(a), for the definition of “Compensation Recovery Unit” substitute—

““Compensation Recovery Unit” means the Compensation Recovery Unit, part of the Department for Work and Pensions, at Wear View House, 1 Eden Street West, Sunderland, SR1 3EY;”.

Amendment of the Universal Credit Regulations 2013

4. After regulation 28(5) of the Universal Credit Regulations 2013(b) (period for which the LCWRA element is not to be included), insert—

“(6) Paragraph (1) does not apply where a claimant has limited capability for work and it is subsequently determined that they have limited capability for work and work-related activity.”.

Amendment of the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013

5. In regulation 26(2) of the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013(c) (time within which a claim for universal credit is to be made), for the words “, subject to a maximum extension of one month, to the date on” substitute “up to and including the day that would be the last day of the first assessment period for an award beginning on the first day in respect of”.

Amendment of the Universal Credit (Transitional Provisions) Regulations 2014

6.—(1) The Universal Credit (Transitional Provisions) Regulations 2014(d) are amended as follows.

(2) In regulation 9(1) (treatment of ongoing entitlement to certain benefits: benefit cap), for “the Universal Credit Regulations” substitute “the Claims and Payments Regulations”.

(3) In regulation 21(4)(b) (other claimants with limited capability for work: credit only cases), for “regulation 27(1)(b)” substitute “regulation 27(1)”.

(4) In regulation 53(10) (transitional element – total legacy amount), for “in respect of housing benefit” substitute “for housing benefit in respect of specified or temporary accommodation”.

(5) In Schedule 1 (modification of tax credits legislation – finalisation of tax credits), omit—

- (a) paragraph 2(b);
- (b) paragraph 25(a);
- (c) paragraph 26(b);
- (d) paragraph 27(b).

(6) In Schedule 2 (claimants previously entitled to a severe disability premium)—

- (a) in paragraph 5(b)(i), for “if the higher SDP rate was payable” substitute “if the higher SDP rate is payable on the first day of the award and no person becomes a carer for either of them in the first assessment period”;

(a) S.I. 2008/1596, to which there are amendments not relevant to these Regulations.

(b) S.I. 2013/376, amended by S.I. 2017/204.

(c) S.I. 2013/380.

(d) S.I. 2014/1230, amended by S.I. 2014/1626, 2019/1152 and 2021/4.

(b) renumber paragraph 8 as paragraph 8(1) and at the end insert—

“(2) In paragraph 5(b)(i), the reference to a person being a carer for another person is to the person being entitled to, and in receipt of, a carer’s allowance or having an award of universal credit which includes the carer element in respect of caring for that other person.”
;

(c) after paragraph 8, insert—

“9. For the purposes of paragraph 3(b) and 5(b)(i), paragraph 6(6) of Schedule 4 to the Employment and Support Allowance Regulations 2008(a) or, as the case may be, the corresponding provision in relation to income support or income-based jobseeker’s allowance, is to be disregarded.”.

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

Guy Opperman
Minister of State

15th May 2023

Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make minor amendments to various social security regulations.

Regulation 2 amends the Social Security (Recovery of Benefits) Regulations 1997 (S.I. 1997/2205) and regulation 3 amends the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008 (S.I. 2008/1596) to update the address of the Compensation Recovery Unit, which is part of the Department for Work and Pensions.

Regulation 4 amends regulation 28 of the Universal Credit Regulations 2013 (S.I. 2013/376), which makes provision for the period for which the limited capability for work and work-related activity element is not to be included in an award of universal credit. Regulation 28(1) sets out the general rule for when the element is not included and regulation 28(6) provides an exception to the general rule where a person has limited capability for work and it is subsequently determined that they have limited capability for work and work-related activity.

Regulation 5 amends regulation 26(2) of the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013 (S.I. 2013/380) so that the maximum time period in which a claim for universal credit can be made is more closely aligned with the operation of universal credit. If a claimant does not make a claim on the first day of the period in respect of which they wish to claim universal credit, they can nonetheless be entitled to universal credit from that day provided that they make a claim on or before what would have been the last day of the first assessment period had they made the claim on that first day.

Regulation 6 amends various provisions of the Universal Credit (Transitional Provisions) Regulations 2014 (S.I. 2014/1230) (“the 2014 Regulations”). Paragraph (2) amends regulation 9(1) of the 2014 Regulations, which makes provision for the ongoing entitlement to benefits and the application of the benefit cap, so that an erroneous reference to the Universal Credit Regulations is corrected to refer to the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013.

Paragraph (3) amends regulation 21 of the 2014 Regulations so that, where (on or before the date of claim to universal credit) it had been determined that a claimant would have limited capability for work-related activity if they were entitled to old style ESA, the claimant is to be treated as

(a) S.I. 2008/794, amended by S.I. 2015/1754; there are other amending instruments but none is relevant.

having limited capability for work and work-related activity for certain purposes. An erroneous reference to regulation 27(1)(b) of the Universal Credit Regulations is corrected to refer to regulation 27(1) of those Regulations.

Paragraph (4) amends regulation 53 of the 2014 Regulations, which makes provision for the amount of transitional element, to clarify that it is only housing benefit in respect of specified or temporary accommodation that is not included in the consideration of the award of transitional element.

Paragraph (5) amends the modifications to the Tax Credits Act 2002 (c. 21) and the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002 (S.I. 2002/2008) in Schedule 1 to the 2014 Regulations. These modifications clarify the position for the finalisation of entitlement where the award is terminated within the tax year following a claim for universal credit. The amendments remove some unnecessary references to a “part” of the current tax year.

Paragraph (6) amends Schedule 2 to the 2014 Regulations by providing that a couple will receive a higher transitional severe disability premium (SDP) element if they continue to meet the conditions of eligibility for a higher SDP rate up to and including the first day of the universal credit award and no person becomes a carer for either of them in the first assessment period. It also contains a related definition and provides for provisions in other legislation to be disregarded in consequence.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, public or voluntary sectors is foreseen.

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