
STATUTORY RULES OF NORTHERN IRELAND

2016 No. 216

The Universal Credit Regulations (Northern Ireland) 2016

PART 1

INTRODUCTION

Citation and commencement

1. These Regulations may be cited as the Universal Credit Regulations (Northern Ireland) 2016 and come into operation on the day on which Article 6 of the Welfare Reform (Northern Ireland) Order 2015 (universal credit) comes into force for all purposes in respect of the whole or any part of Northern Ireland.

Interpretation

2.—(1) In these regulations—

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

“the EEA Regulations” means the Immigration (European Economic Area) Regulations 2006⁽²⁾;

“the ESA Regulations” means the Employment and Support Allowance Regulations (Northern Ireland) 2016⁽³⁾;

“the ITEPA” means the Income Tax (Earnings and Pensions) Act 2003⁽⁴⁾;

“the Medical Evidence Regulations” means the Social Security (Medical Evidence) Regulations (Northern Ireland) 1976⁽⁵⁾;

“the Order” means the Welfare Reform (Northern Ireland) Order 2015;

“adopter” has the meaning in regulation 88(3)(a);

“attendance allowance” means—

- (a) an attendance allowance under section 64 of the Contributions and Benefits Act⁽⁶⁾;
- (b) an increase of disablement pension under section 104 or 105 of that Act (increases where constant attendance needed and for exceptionally severe disablement);
- (c) a payment by virtue of Article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983⁽⁷⁾ or any analogous payment;

(1) 1992 c. 7 (N.I.).

(2) S.I. 2006/1003.

(3) S.R. 2016 No. 219.

(4) 2003 c. 1.

(5) S.R. 1976 No.175.

(6) Section 64 was amended by section 63(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999(S.I. 1999/3147 (N.I. 11)) and paragraph 4 of Schedule 9 to the Order.

(7) S.I. 1983/686; Article 14 was substituted by S.I. 2001/420, Article 15 was amended by S.I. 2001/420 and Article 16 was amended by S.I. 1984/1675 and S.I. 2001/420.

- (d) any payment based on the need for attendance which is paid as an addition to a war disablement pension;
 - (e) armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011;
- “authority” has the meaning in Article 2 of the Children (Northern Ireland) Order 1995⁽⁸⁾;
- “bereavement allowance” means an allowance under section 39B of the Contributions and Benefits Act⁽⁹⁾;
- “blind” means certified as severely sight impaired or blind by a consultant ophthalmologist;
- “care leaver” has the meaning in regulation 8(4);
- “carer’s allowance” means a carer’s allowance under section 70 of the Contributions and Benefits Act;
- “carer element” has the meaning in regulation 30;
- “childcare costs element” has the meaning in regulation 32;
- “child element” has the meaning in regulation 25;
- “close relative” in relation to a person, means—
- (f) a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother or sister; and
 - (g) if any of the above is a member of a couple, the other member of the couple;
- “confinement” has the meaning in regulation 8(4);
- “course of advanced education” has the meaning in regulation 12;
- “disability living allowance” means an allowance under section 71 of the Contributions and Benefits Act;
- “earned income” has the meaning in regulation 51;
- “employment and support allowance” means an allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007⁽¹⁰⁾ as amended by Schedule 3 and Part 1 of Schedule 12 to the Order;
- “expected number of hours per week” has the meaning in regulation 87;
- “foster parent” means the person with whom a child is, or is proposed to be, placed under the Foster Placement (Children) Regulations (Northern Ireland) 1996⁽¹¹⁾;
- “grant” has the meaning in regulation 68;
- “health care professional” means (except in regulation 96)—
- (h) a registered medical practitioner;
 - (i) a registered nurse; or
 - (j) an occupational therapist or physiotherapist registered with a regulatory body established by an Order in Council under section 60 of the Health Act 1999⁽¹²⁾;
- “housing costs element” has the meaning in regulation 26;
- “HSC trust” means a Health and Social Care trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991⁽¹³⁾;

⁽⁸⁾ S.I. 1995/755 (N.I. 2).

⁽⁹⁾ Section 39B was inserted by Article 52(2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999.

⁽¹⁰⁾ 2007 c. 2 (N.I.).

⁽¹¹⁾ S.R. 1996 No. 467.

⁽¹²⁾ 1999 c. 8.

⁽¹³⁾ 1991/194 (N.I. 1) (as amended by Schedule 6 to the Health and Social Care (Reform) Act (Northern Ireland) 2009).

“individual threshold” has the meaning in regulation 89(2);

“industrial injuries benefit” means a benefit under Part 5 of the Contributions and Benefits Act;

“jobseeker’s allowance” means an allowance under the Jobseekers (Northern Ireland) Order 1995 as amended by Part 1 of Schedule 12 to the Order (removing references to an income-based allowance);

“LCW element” and “LCWRA element” have the meaning in regulation 28;

“looked after by an authority” in relation to a child or young person means a child or young person who is looked after by an authority within the meaning of Article 25 of the Children (Northern Ireland) Order 1995;

“maternity allowance” means a maternity allowance under section 35 or 35B of the Contributions and Benefits Act(14);

“monthly earnings” has the meaning in regulation 89(6);

“national insurance contributions” means contributions under Part 1 of the Contributions and Benefits Act;

“National Minimum Wage Regulations” means that National Minimum Wage Regulations 2015.(15)

“paid work” means work done for payment or in expectation of payment and does not include being engaged by a charitable or voluntary organisation, or as a volunteer, in circumstances in which the payment received by or due to be paid to the person is in respect of expenses;

“partner” means (except in regulation 77) the other member of a couple;

“personal independence payment” means an allowance under Part 5 of the Order;

“prisoner” means—

- (a) a person who is detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court; or
- (b) is on temporary release in accordance with the provisions of the Prison Act (Northern Ireland) 1953(16),

other than a person who is detained in hospital under the provisions of the Mental Health (Northern Ireland) Order 1986(17);

“qualifying young person” has the meaning in regulation 6;

“redundancy” has the meaning in Article 174(1) of the Employment Rights (Northern Ireland) Order 1996(18);

“Regional Health and Social Care Board” means a Board established under section 7 of the Health and Social Care (Reform) Act (Northern Ireland) 2009(19);

“regular and substantial caring responsibilities for a severely disabled person” has the meaning in regulation 31;

“relevant childcare” has the meaning in regulation 37;

“responsible for a child or qualifying young person” has the meaning in regulation 4;

“statutory adoption pay” means a payment under Part XIIIZB of the Contributions and Benefits Act(20);

(14) Section 35B was inserted by regulation 2(5) of S.R. 2014 No. 102.

(15) S.I. 2015/621, relevant amending instruments are S.I. 2015/1724 and 2016/68.

(16) 1953 c. 18.

(17) S.I. 1986/595 (N.I. 4).

(18) S.I. 1996/1919 (N.I. 16).

(19) 2009 c. 1 (N.I.).

(20) Part XIIIZB was inserted by Article 6 of the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2)).

“statutory maternity pay” means a payment under Part XII of the Contributions and Benefits Act;

“statutory paternity pay” means statutory paternity pay under Part XIIZA of the Contributions and Benefits Act(21);

“statutory shared parental pay” means statutory shared parental pay payable in accordance with Part XIIZC of the Contributions and Benefits Act(22);

“statutory sick pay” means a payment under Part XI of the Contributions and Benefits Act;

“student loan” has the meaning in regulation 68;

“terminally ill” means suffering from a progressive disease where death in consequence of that disease can reasonably be expected within 6 months;

“total outstanding reduction period” has the meaning in regulation 98(5);

“trade dispute” has the meaning as in Article 127 of the Trade Union and Labour Relations (Northern Ireland) Order 1995(23);

“unearned income” has the meaning in regulation 66;

“war disablement pension” means any retired pay, pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the ITEPA;

“widowed mother’s allowance” means an allowance under section 37 of the Contributions and Benefits Act;

“widowed parent’s allowance” means an allowance under section 39A of the Contributions and Benefits Act(24);

“widow’s pension” means a pension under section 38 of the Contributions and Benefits Act.

(2) For the purposes of these Regulations and notwithstanding section 39(2) of the Interpretation Act (Northern Ireland) 1954(25), where a period of time is expressed to begin on, or to be reckoned from, a particular day, that day shall be included in the period.

The Benefit Unit

Couples

3.—(1) A couple may be entitled to universal credit as joint claimants where—

- (a) one member does not meet the basic condition in Article 9(1)(b) of the Order (under the qualifying age for state pension credit) if the other member does meet that condition, or
- (b) one member does not meet the basic condition in Article 9(1)(d) of the Order (not receiving education) and is not excepted from that condition if the other member does meet that condition or is excepted from it.

(2) A person who is a member of a couple may make a claim as a single person if the other member of the couple—

- (a) does not meet the basic condition in Article 9(1)(a) of the Order (at least 18 years old) and is not a person in respect of whom the minimum age specified in regulation 8 applies,
- (b) does not meet the basic condition in Article 9(1)(c) of the Order,
- (c) is a prisoner,

(21) Part XIIZA was inserted by Article 5 of the Employment (Northern Ireland) Order 2002.

(22) Part XIIZC was inserted by section 5(2) of the Work and Families Act (Northern Ireland) 2015 (c. 1).

(23) S.I. 1995/1980 (N.I. 12).

(24) Section 39A was inserted by Article 52(2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999.

(25) 1954 c. 33 (N.I.).

(d) is a person other than a prisoner in respect of whom entitlement does not arise by virtue of regulation 19 (restrictions on entitlement), or

(e) is a person to whom section 115 of the Immigration and Asylum Act 1999⁽²⁶⁾ (exclusion from benefits) applies,

and regulations 18 (capital), 38 (amounts of elements) and 23 (deduction of income and work allowance) provide for the calculation of the award in such cases.

(3) Where two people are parties to a polygamous marriage, the fact that they are husband and wife is to be disregarded if—

(a) one of them is a party to an earlier marriage that still subsists, and

(b) the other party to that earlier marriage is living in the same household,

and, accordingly, the person who is not a party to the earlier marriage may make a claim for universal credit as a single person.

(4) In paragraph (3) “polygamous marriage” means a marriage during which a party to it is married to more than one person and which took place under the laws of a country which permits polygamy.

(5) Where the claimant is a member of a couple, and the other member is temporarily absent from the claimant’s household, they cease to be treated as a couple if that absence is expected to exceed, or does exceed, 6 months.

When a person is responsible for a child or qualifying young person

4.—(1) Whether a person is responsible for a child or qualifying young person for the purposes of Part 2 of the Order and these Regulations is determined as follows.

(2) A person is responsible for a child or qualifying young person who normally lives with them.

(3) But a person is not responsible for a qualifying young person if the two of them are living as a couple.

(4) Where a child or qualifying young person normally lives with two or more persons who are not a couple, only one of them is to be treated as responsible and that is the person who has the main responsibility.

(5) The persons mentioned in paragraph (4) may jointly nominate which of them has the main responsibility but the Department may determine that question—

(a) in default of agreement, or

(b) if a nomination or change of nomination does not, in the opinion of the Department, reflect the arrangements between those persons.

(6) Subject to regulation 5, a child or qualifying young person is to be treated as not being the responsibility of any person during any period when the child or qualifying young person is—

(a) looked after by an authority, or

(b) a prisoner.

(7) Where a child or qualifying young person is temporarily absent from a person’s household the person ceases to be responsible for the child or qualifying young person if—

(a) the absence is expected to exceed, or does exceed, 6 months, or

(b) the absence is from Northern Ireland and is expected to exceed, or does exceed, one month unless it is in circumstances where an absence of a person for longer than one month would

(26) 1999 c. 33.

be disregarded for the purposes of regulation 11(2) or (3) (death of close relative etc.or medical treatment or convalescence).

Responsibility for children looked after by an authority

5.—(1) There is excluded from regulation 4(6)(a)—

- (a) any period which is in the nature of a planned short term break, or is one of a series of such breaks, for the purpose of providing respite for the person who normally cares for the child or qualifying young person;
- (b) any period during which the child or qualifying young person is placed with, or continues to live with, their parent or a person who has parental responsibility for them.

(2) For the purposes of this regulation, a person has parental responsibility if they are not a foster parent and have parental responsibility within the meaning of Article 6 of the Children (Northern Ireland) Order 1995.

Meaning of “qualifying young person”

6.—(1) A person who has reached the age of 16 but not the age of 20 is a qualifying young person for the purposes of Part 2 of the Order and these Regulations—

- (a) up to, but not including, the 1st September following their 16th birthday, and
- (b) up to, but not including, the 1st September following their 19th birthday, if they are enrolled on, or accepted for, approved training or a course of education—
 - (i) which is not a course of advanced education,
 - (ii) which is provided at a school or college or provided elsewhere but approved by the Department, and
 - (iii) where the average time spent during term time in receiving tuition, engaging in practical work, or supervised study or taking examinations exceeds 12 hours per week.

(2) Where the young person is aged 19, they must have started the education or training or been enrolled on or accepted for it before reaching that age.

(3) The education or training referred to in paragraph (1) does not include education or training provided by means of a contract of employment.

(4) “Approved training” means training provided in Northern Ireland directly or indirectly by a Training Organisation pursuant to its arrangement with the Department for Employment and Learning under the Employment and Training Act (Northern Ireland) 1950⁽²⁷⁾ whether that agreement is known as an operating agreement or by any other name.

(5) A person who is receiving universal credit, an employment and support allowance or a jobseeker’s allowance is not a qualifying young person.

General

Rounding

7.—(1) Where the calculation of an amount for the purposes of these Regulations results in a fraction of a penny, that fraction is to be disregarded if it is less than half a penny and otherwise it is to be treated as a penny.

(27) 1950 c. 29 (N.I.).

(2) Where the calculation of an amount for the purposes of the following regulations results in a fraction of a pound that fraction is to be disregarded—

(a) regulation 89 (claimants subject to no work-related requirements – the earnings thresholds); and

(b) regulation 97(14) (circumstances in which requirements must not be imposed).

(3) This regulation does not apply to the calculation in regulation 108 (daily reduction rate) for a reduction under Article 31 or 32 of the Order.