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STATUTORY RULES OF NORTHERN IRELAND

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**2016 No. 226**

The Universal Credit (Transitional Provisions)  
Regulations (Northern Ireland) 2016

PART 2

CHAPTER 1

ENTITLEMENT TO OTHER BENEFITS

**Exclusion of entitlement to certain benefits**

- 3.—(1) Except as provided in paragraph (2), a claimant is not entitled to—
- (a) income support;
  - (b) housing benefit;
  - (c) a tax credit; or
  - (d) state pension credit under the State Pension Credit Act (Northern Ireland) 2002<sup>(1)</sup>,
- in respect of any period when the claimant is entitled to universal credit<sup>(2)</sup>.
- (2) Entitlement to universal credit does not preclude the claimant from entitlement—
- (a) to housing benefit in respect of specified accommodation; or
  - (b) during the first assessment period for universal credit, where the claimant is a new claimant partner, to—
    - (i) income support, where an award to which the new claimant partner is entitled terminates, in accordance with regulation 5(4), after the first date of entitlement to universal credit,
    - (ii) housing benefit, where regulation 5(5)(b) applies and an award of housing benefit to which the new claimant partner is entitled terminates after the first date of entitlement to universal credit, or
    - (iii) a tax credit, where an award to which the new claimant partner is entitled terminates, in accordance with the Tax Credits Act 2002, after the first date of entitlement to universal credit.

**Exclusion of claims for certain existing benefits**

- 4.—(1) Except as provided in paragraphs (5) to (9) a universal credit claimant may not make a claim for income support, housing benefit or tax credit.
- (2) For the purposes of this regulation, a person is a universal credit claimant if—

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(1) 2002 c.14 (N.I.).

(2) A person who is entitled to universal credit is not entitled to old style JSA or old style ESA (other than in certain circumstances where the person is a member of a couple at the time of entitlement), by virtue of orders made under Article 2 of the Order, which brings into operation repeals of the legislation relating to those benefits.

- (a) the person is entitled to universal credit;
  - (b) the person has made a claim for universal credit, a decision has not yet been made on that claim and the person has not been informed (in accordance with an order made under Article 2(2) of the Order) that he or she is not entitled to claim universal credit;
  - (c) the person was previously entitled to a joint award of universal credit which terminated because the person ceased to be a member of a couple, he or she is not exempt (by virtue of regulation 8(6) of the Claims and Payments Regulations (claims for universal credit by members of a couple)) from the condition of entitlement to universal credit that he or she makes a claim for it and the period of one month, starting with the date on which the person notified the Department that he or she ceased to be a member of a couple, has not expired;
  - (d) the person may be entitled to an award of universal credit in circumstances where, by virtue of regulation 8(6), (7) or (10) of the Claims and Payments Regulations, it is not a condition of entitlement that he or she makes a claim for it, but no decision has yet been made as to the person's entitlement;
  - (e) the person is treated, under the Claims and Payments Regulations as having made a claim for universal credit, but no decision has yet been made as to the person's entitlement; and
  - (f) a decision has been made that the person is not entitled to universal credit and—
    - (i) the Department is considering whether to revise that decision under Article 10 of the Social Security Order 1998, whether on an application made for that purpose, or on its own initiative, or
    - (ii) the person has appealed against that decision to the Appeal Tribunal and that appeal and any subsequent appeal to the Commissioner or to a court has not been finally determined.
- (3) For the purposes of paragraph (1)—
- (a) a universal credit claimant makes a claim for benefit mentioned in that paragraph if the claimant takes any action which results in a decision on a claim being required under the relevant Regulations; and
  - (b) except as provided in paragraphs (5) to (7), it is irrelevant that the effect of any provision of the relevant Regulations is that, for the purposes of those Regulations, the claim is made or treated as made at a time when the claimant was not a universal credit claimant.
- (4) The relevant Regulations are—
- (a) in relation to a claim for income support, the Claims and Payments Regulations 1987;
  - (b) in relation to a claim for housing benefit, the Housing Benefit Regulations or as the case may be, the Housing Benefit (State Pension Credit) Regulations; and
  - (c) in relation to a claim for tax credit, the Tax Credits (Claims and Notifications) Regulations 2002(3).
- (5) A universal credit claimant is not precluded from making a claim for income support if—
- (a) first notification of the claimant's intention to make that claim was made, or deemed to be made, for the purposes of regulations 6(1A)(c) or 6A of the Claims and Payments Regulations 1987(4), before the date on which the claim for universal credit was made or treated as made; and
  - (b) in accordance with the Claims and Payments Regulations 1987, the claimant's entitlement to income support in connection with the claim will (if the claimant is entitled to income support) pre-date—

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(3) [S.I. 2002/2014](#).

(4) Regulation 6(1A) was inserted by regulation 3(4)(b) of [S.R. 1997 No. 156](#) and regulation 6A was inserted by paragraph 4 of Schedule 3 to [S.R. 2001 No. 176](#).

- (i) the date, or anticipated date, of the claimant's entitlement to universal credit in connection, with the current award or claim, or
  - (ii) where the claimant is a new claimant partner and regulation 5(4) would apply to the award, the date on which it would terminate in accordance with that provision.
- (6) A universal credit claimant is not precluded from making a claim for housing benefit if—
  - (a) first notification of the claimant's intention to make that claim was given (within the meaning of regulation 81(5)(d) of the Housing Benefit Regulations<sup>(5)</sup> or, as the case may be, regulation 62(6)(d) of the Housing Benefit (State Pension Credit) Regulations<sup>(6)</sup>) before the date on which the claim for universal credit was made or treated as made; and
  - (b) in accordance with the Housing Benefit Regulations or, as the case may be, the Housing Benefit (State Pension Credit) Regulations, the claimant's entitlement to housing benefit in connection with the claim will (if the claimant is entitled to housing benefit) pre-date—
    - (i) the date, or anticipated date, of the claimant's entitlement to universal credit in connection with the current award or claim, or
    - (ii) where the claimant is a new claimant partner and regulation 5(5)(b) would apply to the award, the date on which it would terminate in accordance with the Housing Benefit Regulations or, as the case may be, the Housing Benefit (State Pension Credit) Regulations.
- (7) A universal credit claimant is not precluded from correcting or completing a claim for housing benefit which was defective within the meaning of the Housing Benefit Regulations or the Housing Benefit (State Pension Credit) Regulations if—
  - (a) the defective claim was made before the date on which the claim for universal credit was made or treated as made; and
  - (b) in accordance with the Housing Benefit Regulations or, as the case may be, the Housing Benefit (State Pension Credit) Regulations, the claimant's entitlement to housing benefit in connection with the claim will (if the claimant is entitled to housing benefit) pre-date—
    - (i) the date, or anticipated date, of the claimant's entitlement to universal credit in connection with the current award or claim, or
    - (ii) where the claimant is a new claimant partner and regulation 5(5)(b) would apply to the award, the date on which it would terminate in accordance with the Housing Benefit Regulations or, as the case may be, the Housing Benefit (State Pension Credit) Regulations.
- (8) A universal credit claimant is not precluded from making a claim for housing benefit in respect of specified accommodation.
- (9) A universal credit claimant is not precluded from making a claim for a tax credit which the claimant is treated as having made by virtue of regulation 5(7) or 6(4)(a).

**Termination of awards of certain existing benefits: new claimant partners**

- 5.—(1) This regulation applies where—
- (a) a person (“A”) who was previously entitled to universal credit ceases to be so entitled on becoming a member of a couple;
  - (b) the other member of the couple (“the new claimant partner”) was not entitled to universal credit immediately before formation of the couple;

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(5) Regulation 81(5)(d) was substituted by regulation 2(2)(j) of [S.R. 2008 No.371](#).

(6) Regulation 62(6)(d) was substituted by regulation 3(2)(j) of [S.R. 2008 No.371](#).

- (c) the couple is treated, in accordance with regulation 8(8) of the Claims and Payments Regulations, as having made a claim for universal credit; and
  - (d) the Department is satisfied that the claimants meet the basic conditions specified in Article 9(1)(a) to (d) of the Order (other than any of those conditions which they are not required to meet by virtue of regulations made under Article 9(2) of the Order).
- (2) Subject to paragraphs (4) and (5), where this regulation applies, all awards of income support or housing benefit to which the new claimant partner would (were it not for the effect of these Regulations) have been entitled during the relevant period are to terminate, by virtue of this regulation—
- (a) on the day before the first date on which the joint claimants are entitled to universal credit in connection with the claim; or
  - (b) if the joint claimants are not entitled to universal credit, on the day before the first date on which they would have been so entitled, if all of the basic and financial conditions applicable to them had been met; or
  - (c) if the new claimant partner became entitled to an award after the date on which it would otherwise terminate under sub-paragraph (a) or (b) at the beginning of the first day of entitlement to that award.
- (3) For the purposes of this regulation, “the relevant period” is the period starting with the first day of assessment period (in relation to A’s award of universal credit) during which A and the new claimant partner formed a couple and ending with the date of formation of the couple.
- (4) Where the new claimant partner was entitled during the relevant period to income support, he or she was at that time a member of a couple and the award included an amount in respect of the new claimant partner and their partner at that time (“P”), the award of income support terminates, by virtue of this regulation, on the date on which the new claimant partner and P ceased to be a couple for the purposes of the Income Support (General) Regulations (Northern Ireland) 1987(7), unless it terminates on that date in accordance with other legislative provision, or terminated on an earlier date.
- (5) An award of housing benefit to which the new claimant partner is entitled does not terminate by virtue of this regulation where—
- (a) the award is in respect of specified accommodation; or
  - (b) the new claimant partner leaves the accommodation in respect of which housing benefit was paid, in order to live with A(8).
- (6) Where an award terminates by virtue of this regulation, any legislative provision under which the award terminates on a later date does not apply.
- (7) Where the new claimant partner was, immediately before forming a couple with A, treated by regulation 9 (ongoing awards of tax credits) as being entitled to a tax credit, the new claimant partner is to be treated, for the purposes of the Tax Credits Act 2002, as having made a claim for the tax credit in question for the current tax year.

#### **Termination of awards of certain existing benefits: other claimants**

- 6.—(1) This regulation applies where—
- (a) a claim for universal credit (other than a claim which is treated, in accordance with regulation 8(8) of the Claims and Payments Regulations, as having been made) is made; and

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(7) [S.R. 1987 No. 459](#).

(8) In which case, *see* regulation 77 of the 2006 Regulations as amended and regulation 57 of the 2006 (SPC) Regulations as amended.

- (b) the Department is satisfied that the claimant meets the basic conditions specified in Article 9(1)(a) to (d) of the Order (other than any of those conditions which they are not required to meet by virtue of regulations under Article 9(2) of the Order).
- (2) Subject to paragraph (3), where this paragraph applies, all awards of income support, housing benefit or a tax credit to which the claimant (or, in the case of joint claimants, either of them) is entitled on the date on which the claim is made are to terminate, by virtue of this regulation—
  - (a) on the day before the first date on which the claimant is entitled to universal credit in connection with the claim; or
  - (b) if the claimant is not entitled to universal credit, on the day before the first date on which they would have been so entitled, if all of the basic and financial conditions applicable to the claimant had been met.
- (3) An award of housing benefit to which a claimant is entitled in respect of specified accommodation does not terminate by virtue of this regulation.
- (4) Where this regulation applies and the claimant (or, in the case of joint claimants, either of them) is treated by regulation 9 (ongoing awards of tax credits) as being entitled to a tax credit—
  - (a) the claimant (or, as the case may be, the relevant claimant) is to be treated, for the purposes of the Tax Credits Act 2002 and this regulation, as having made a claim for the tax credit in question for the current year; and
  - (b) if the claimant (or the relevant claimant) is entitled on the date on which the claim for universal credit was made to an award of a tax credit which is made in respect of a claim which is treated as having been made by virtue of sub-paragraph (a), that award is to terminate, by virtue of this regulation—
    - (i) on the day before the first date on which the claimant is entitled to universal credit, or
    - (ii) if the claimant is not entitled to universal credit, on the day before the first date on which he or she would have been so entitled, if all of the basic and financial conditions applicable to the claimant had been met.
- (5) Where an award terminates by virtue of this regulation, any legislative provision under which the award terminates on a later date does not apply.

**Treatment of ongoing entitlement to certain benefits: benefit cap**

- 7.—(1) This regulation applies where a claimant who is a new claimant partner, or who has (in accordance with regulation 27 of the Universal Credit Regulations) been awarded universal credit in respect of a period preceding the date on which the claim for universal credit was made or treated as made—
- (a) is entitled, in respect of the whole or part of the first assessment period for universal credit, or a welfare benefit (other than universal credit) mentioned in regulation 79(4) of the Universal Credit Regulations (circumstances where the benefit cap applies); and
  - (b) is entitled to housing benefit at any time during the first assessment period for universal credit, or would be so entitled were it not for the effect of these Regulations.
- (2) Where this regulation applies, regulation 79 of the Universal Credit Regulations applies, in relation to the claimant, as if the benefit in question was not included in the list of welfare benefits in paragraph (4) of that regulation.

**Treatment of overpayments**

- 8.—(1) This regulation applies where—

- (a) an award of universal credit is made to a claimant who was previously entitled to an existing benefit other than a tax credit or a joint-claim jobseeker's allowance; and
  - (b) a payment of the existing benefit is made which includes payment ("the overpayment") in respect of a period—
    - (i) during which the claimant is not entitled to that benefit (including non-entitlement which arises from termination of an award by virtue of an order made under Article 2(2) of the Order or regulation 5, 6 or 13), and
    - (ii) which falls within an assessment period for universal credit.
- (2) Where this regulation applies, for the purposes of calculating the amount of an award of universal credit in respect of an assessment period—
- (a) regulation 66 of the Universal Credit Regulations (what is included in unearned income?) applies as if the overpayment which was made in respect of that assessment period were added to the descriptions of unearned income in paragraph (1)(b) of that regulation; and
  - (b) regulation 73 of the Universal Credit Regulations (unearned income calculated monthly) does not apply to the overpayment.
- (3) In so far as any overpayment is taken into account in calculating the amount of an award of universal credit in accordance with this regulation, that payment may not be recovered as an overpayment under—
- (a) the Social Security (Payments on Account, Overpayments and Recovery) Regulations (Northern Ireland) 1988(9);
  - (b) regulations 96 to 104 of the Housing Benefit Regulations;
  - (c) regulations 77 to 85 of the Housing Benefit (State Pension Credit) Regulations.

### **Ongoing awards of tax credits**

- 9.—(1) For the purposes of regulations 5(7) and 6(4)—
- (a) a person is to be treated as being entitled to working tax credit with effect from the start of the current tax year even though a decision has not been made under section 14 of the Tax Credits Act 2002 in respect of a claim for that tax credit for that tax year, if the person was entitled to working tax credit for the previous tax year and any of the cases specified in paragraph (2) applies; and
  - (b) a person is to be treated as being entitled to child tax credit with effect from the start of the current tax year even though a decision has not been made under section 14 of the Tax Credits Act 2002 in respect of a claim for that tax credit for that tax year, if the person was entitled to child tax credit for the previous tax year and any of the cases specified in paragraph (2) applies.
- (2) The cases are—
- (a) a final notice has not been given to a person under section 17 of the Tax Credits Act 2002 in respect of the previous tax year;
  - (b) a final notice has been given, which includes provision by virtue of subsection (2) or (4) of section 17, or a combination of those subsections and subsection (6) of the Tax Credits Act 2002 and—
    - (i) the date specified in the notice for the purposes of section 17(2) and (4) of the Tax Credits Act 2002 or, where different dates are specified, the later of them, has not yet passed and no claim for a tax credit for the current tax year has been made, or treated as made, or

- (ii) a claim for a tax credit has been made, or treated as made, on or before the date mentioned in sub-paragraph (i), but no decision has been made in relation to that claim under section 14(1) of the Tax Credits Act 2002;
- (c) a final notice has been given, no claim for a tax credit for the current year has been made or treated as made, and no decision has been made under section 18(1) of the Tax Credits Act 2002 in respect of entitlement to a tax credit for the previous year; or
- (d) a final notice has been given and—
  - (i) the person did not make a declaration in response to provision included in that notice by virtue of section 17(2)(a), (4)(a) or (6)(a) of the Tax Credits Act 2002, or any combination of those provisions, by the date specified in the notice,
  - (ii) the person was given due notice that payments of tax credit under section 24(4) of the Tax Credits Act 2002 had ceased due to his or her failure to make the declaration, and
  - (iii) the person's claim for universal credit is made during the period of 30 days starting with the date on the notice referred to in sub-paragraph (ii) or, where the person is a new claimant partner, notification of formation of a couple with a person entitled to universal credit is given to the Department during that period.

#### **Modification of tax credits legislation: overpayments and penalties**

- 10.**—(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 Department is satisfied that the claimant meets the basic conditions specified in Article 9(1)(a) to (d) of the Order (other than any of those conditions which the claimant is not required to meet by virtue of regulations under Article 9(2) of the Order).
- (2) Where this regulation applies the Tax Credits Act 2002 applies in relation to the claimant with the following modifications.
- (3) In section 28 —
- (a) In subsection (1)—
    - (i) after “tax year” in both places where it occurs, insert “or part tax year”,
    - (ii) at the end insert “or treated as an overpayment of universal credit”;
  - (b) in subsections (3) and (4) after “repaid” insert “to the Board or, as the case may be to the Department”;
  - (c) omit subsection (5);
  - (d) in subsection (6) omit “(apart from subsection(5))”.
- (4) Where a notice states that this subsection applies in relation to an amount (or part of an amount), it may be recovered—
- (a) Subject to provision made by regulations, by deduction from payments of any tax credit under an award made for any period to the person, or either or both of the persons, to whom the notice was given; or
  - (b) Subject to regulation made by the Department for Social Development under the Social Security (Northern Ireland) Act 1992(10)

- (i) by deductions under section 69ZC of that Act(**11**) (deduction from benefit)
  - (ii) by deductions under section 69ZD of that Act(**12**) (deduction from earnings); or
  - (iii) as set out in section 69ZE of that Act(**13**) (court action etc).
- (5) In section 48 after the definition of “overpayment” 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 tax credit terminated,”.
- (6) In paragraph 6(1)(a) and (c) and (2)(a) of Schedule 2 after “for the tax year” insert “or part tax year”.

### **Modification of tax credits legislation: finalisation of tax credits**

**11.**—(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 Department is satisfied that the claimant meets the basic conditions specified in Article 9(1)(a) to (d) of the Order (other than any of those conditions which the claimant is not required to meet by virtue of regulations under Article 9(2) of the Order).

(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 Tax Credits Act 2002 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 Tax Credits Act 2002 and regulations made under that Act are to apply without modification in that case or category of cases.

### **Appeals etc relating to certain existing benefits**

**12.**—(1) This regulation applies where, after an award of universal credit has been made to a claimant—

- (a) an appeal against a decision relating to the entitlement of the claimant to income support, housing benefit or a tax credit (a “relevant benefit”) is finally determined;
- (b) a decision relating to the claimant’s entitlement to income support is revised under Article 10 of the Social Security Order 1998 or superseded under Article 11 of that Order;
- (c) a decision relating to the claimant’s entitlement to housing benefit is revised or superseded under Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**14**); or
- (d) a decision relating to the claimant’s entitlement to tax credit is revised under section 19 or 20 of the Tax Credits Act 2002, or regulations made under section 21 of that Act, or is varied or cancelled under section 21A of that Act(**15**).

(2) Where the claimant is a new claimant partner and, as a result of determination of the appeal or, as the case may be, revision or supersession of the decision the claimant would (were it not for the effect of these Regulations) be entitled to income support or housing benefit during the relevant

(11) section 69ZC was inserted by Article 109 of the Order.

(12) section 69ZD was inserted by Article 109 of the Order.

(13) section 69ZE was inserted by Article 109 of the Order.

(14) 2000 c.4 (N.I.).

(15) Section 21A was inserted by S.I. 2014/886.



period mentioned in regulation 5(3), awards of those benefits are to terminate in accordance with regulation 5.

(3) Where the claimant is a not a new claimant partner and, as a result of determination of the appeal or, as the case may be, revision or supersession, variation or cancellation of the decision, the claimant would (were it not for the effect of these Regulations) be entitled to a relevant benefit on the date on which the claim for universal credit was made, awards of relevant benefits are to terminate in accordance with regulation 6.

(4) The Department is to consider whether it is appropriate to revise under Article 10 of the Social Security Order 1998 the decision in relation to entitlement to universal credit or, if that decision has been superseded under Article 11 of that Order, the decision as so superseded (in either case, “the UC decision”).

(5) Where it appears to the Department to be appropriate to revise the UC decision, it is to be revised in such manner as appears to the Department to be necessary to take account of—

- (a) the decision of the Appeal Tribunal, the Commissioner or court, or as the case may be the decision relating to entitlement to a relevant benefit, as revised, superseded, varied or cancelled; and
- (b) any finding of fact by the Appeal Tribunal, Commissioner or court.

#### **Appeals etc relating to universal credit**

**13.**—(1) This regulation applies where—

- (a) a decision is made that a claimant is not entitled to universal credit (“the UC decision”);
- (b) the claimant becomes entitled to income support, housing benefit or a tax credit (a “relevant benefit”);
- (c) an appeal against the UC decision is finally determined, or the decision is revised under Article 10 of the Social Security Order 1998;
- (d) an award of universal credit is made to the claimant in consequence of entitlement arising from the appeal, or from the decision as revised; and
- (e) the claimant would (were it not for the effect of regulation 3 and this regulation) be entitled to both universal credit and a relevant benefit in respect of the same period.

(2) Subject to paragraph (3), where this regulation applies—

- (a) all awards of a relevant benefit to which the claimant would (were it not for the effect of these Regulations) be entitled are to terminate, by virtue of this regulation, at the beginning of the first day of entitlement to that award; and
- (b) any legislative provision under which an award would otherwise terminate on a later date does not apply.

(3) An award of housing benefit to which a claimant is entitled in respect of specified accommodation does not terminate by virtue of this regulation.