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STATUTORY RULES OF NORTHERN IRELAND

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**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 <sup>M1</sup>;

“the EEA Regulations” means the [<sup>F1</sup>Immigration (European Economic Area) Regulations 2016]<sup>F2</sup> and references to the EEA Regulations are to be read with Schedule 4 to the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) Regulations 2020];

“the ESA Regulations” means the Employment and Support Allowance Regulations (Northern Ireland) 2016 <sup>M2</sup>;

“the ITEPA” means the Income Tax (Earnings and Pensions) Act 2003 <sup>M3</sup>;

“the Medical Evidence Regulations” means the Social Security (Medical Evidence) Regulations (Northern Ireland) 1976 <sup>M4</sup>;

“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 <sup>M5</sup>;
- (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 <sup>M6</sup> or any analogous payment;
- (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;

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*Changes to legislation: There are currently no known outstanding effects for the The Universal Credit Regulations (Northern Ireland) 2016. (See end of Document for details)*

“authority” has the meaning in Article 2 of the Children (Northern Ireland) Order 1995 <sup>M7</sup>;  
F3  
...  
“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;  
[<sup>F4</sup>“child disability payment” has the meaning given in the DACYP Regulations (see regulation 2 of those Regulations);]  
“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;  
[<sup>F5</sup>“the DACYP Regulations” means the Disability Assistance for Children and Young People (Scotland) Regulations 2021;]  
“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 <sup>M8</sup> 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 <sup>M9</sup>;  
“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 <sup>M10</sup>;  
“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 <sup>M11</sup>;  
“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);

[<sup>F6</sup>“LCWRA element” has 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 <sup>M12</sup>;

“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. <sup>M13</sup>

“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 <sup>M14</sup>,

other than a person who is detained in hospital under the provisions of the Mental Health (Northern Ireland) Order 1986 <sup>M15</sup>;

“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 <sup>M16</sup>;

“Regional Health and Social Care Board” means a Board established under section 7 of the Health and Social Care (Reform) Act (Northern Ireland) 2009 <sup>M17</sup>;

“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 XIIZB of the Contributions and Benefits Act <sup>M18</sup>;

“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 <sup>M19</sup>;

“statutory shared parental pay” means statutory shared parental pay payable in accordance with Part XIIZC of the Contributions and Benefits Act <sup>M20</sup>;

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

[<sup>F7</sup>“step-parent” in relation to a child or qualifying young person (“A”), means a person who is not A's parent but—

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((a) is a member of a couple, the other member of which is a parent of A, where both are responsible for A; or

((b) was previously a member of a couple, the other member of which was a parent of A, where immediately prior to ceasing to be a member of that couple the person was, and has since continued to be, responsible for A;]

“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 <sup>M21</sup>;

“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 <sup>M22</sup>;

“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 <sup>M23</sup>, 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.

#### Textual Amendments

- F1** Words in reg. 2(1) substituted (7.5.2019) by [The Social Security \(Income-related Benefits\) \(Updating and Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/89\)](#), regs. 1, **2(2)**
- F2** Words in reg. 2 inserted (31.12.2020) by [The Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(Consequential, Saving, Transitional and Transitory Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1309\)](#), regs. 1(2), **77(2)**
- F3** Words in reg. 2 omitted (coming into force in accordance with reg. 1(2)(b) of the amending Rule) by virtue of [The Pensions \(2015 Act\) \(Consequential, Supplementary and Incidental Amendments\) Order \(Northern Ireland\) 2017 \(S.R. 2017/66\)](#), arts. 1(2)(b), **28(2)** (with arts. 2, 3)
- F4** Words in reg. 2 inserted (26.7.2021) by [The Social Security \(Scotland\) Act 2018 \(Disability Assistance for Children and Young People\) \(Consequential Modifications\) Order 2021 \(S.I. 2021/786\)](#), art. 1(2), **Sch. 12 para. 2(a)**
- F5** Words in reg. 2 inserted (26.7.2021) by [The Social Security \(Scotland\) Act 2018 \(Disability Assistance for Children and Young People\) \(Consequential Modifications\) Order 2021 \(S.I. 2021/786\)](#), art. 1(2), **Sch. 12 para. 2(b)**
- F6** Words in reg. 2 substituted (coming into force in accordance with reg. 1(2) of the amending Rule) by [The Universal Credit \(Miscellaneous Amendments and Transitional and Savings Provisions\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/146\)](#), regs. 1(2), **2(2)**
- F7** Words in reg. 2 inserted (coming into force in accordance with reg. 1(3) of the amending Rule) by [The Social Security \(Restrictions on Amounts for Children and Qualifying Young Persons\) \(Amendment\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/79\)](#), regs. 1(3), **2(2)**

**Modifications etc. (not altering text)**

- C1** Reg. 2 applied (with modifications) (31.12.2020) by [The Citizens' Rights \(Application Deadline and Temporary Protection\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1209\)](#), regs. 1(1), **3(3)**, **4(4)**, **11(y)**

**Marginal Citations**

- M1** 1992 c. 7 (N.I.).
- M2** S.R. 2016 No. 219.
- M3** 2003 c. 1.
- M4** S.R. 1976 No.175.
- M5** 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.
- M6** [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](#).
- M7** [S.I. 1995/755 \(N.I. 2\)](#).
- M8** 2007 c. 2 (N.I.).
- M9** S.R. 1996 No. 467.
- M10** 1999 c. 8.
- M11** 1991/194 (N.I. 1) (as amended by Schedule 6 to the Health and Social Care (Reform) Act (Northern Ireland) 2009).
- M12** Section 35B was inserted by regulation 2(5) of S.R. [2014 No. 102](#).
- M13** [S.I. 2015/621](#), relevant amending instruments are [S.I. 2015/1724](#) and 2016/68.
- M14** 1953 c. 18.
- M15** [S.I. 1986/595 \(N.I. 4\)](#).
- M16** [S.I. 1996/1919 \(N.I. 16\)](#).
- M17** 2009 c. 1 (N.I.).
- M18** Part XIIIB was inserted by Article 6 of the [Employment \(Northern Ireland\) Order 2002 \(S.I. 2002/2836 \(N.I. 2\)\)](#).
- M19** Part XIIIA was inserted by Article 5 of the Employment (Northern Ireland) Order 2002.
- M20** Part XIIIC was inserted by section 5(2) of the [Work and Families Act \(Northern Ireland\) 2015 \(c. 1\)](#).
- M21** [S.I. 1995/1980 \(N.I. 12\)](#).
- M22** Section 39A was inserted by Article 52(2) of the Welfare Reform and Pensions (Northern Ireland) Order 1999.
- M23** 1954 c. 33 (N.I.).

*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,

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- (c) is a prisoner,
- (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 <sup>M24</sup> (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.

#### **Marginal Citations**

**M24** 1999 c. 33.

### **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 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<sup>M25</sup> 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.

#### **Marginal Citations**

M25 1950 c. 29 (N.I.).

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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.

(2) Where the calculation of an amount for the purposes of the following [F8provisions] results in a fraction of a pound that fraction is to be disregarded—

[F9(z) regulation 82(1)(a) (exceptions – earnings);]

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

(b) regulation 97(6) (circumstances in which requirements must not be imposed). F10...

F10(c) .....

(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.

Textual Amendments

F8 Word in reg. 7(2) substituted (coming into force in accordance with reg. 1 of the amending Rule) by The Universal Credit (Housing Costs Element for claimants aged 18 to 21) (Amendment) Regulations (Northern Ireland) 2017 (S.R. 2017/142), regs. 1, 2(2)(a) (with reg. 3)

F9 Reg. 7(2)(za) inserted (coming into force in accordance with reg. 1 of the amending Rule) by The Universal Credit (Benefit Cap Earnings Exception) (Amendment) Regulations (Northern Ireland) 2017 (S.R. 2017/145), regs. 1, 2(2)

F10 Reg. 7(2)(c) and preceding word omitted (31.12.2018) by virtue of The Universal Credit and Jobseekers Allowance (Miscellaneous Amendments) Regulations (Northern Ireland) 2018 (S.R. 2018/187), regs. 1(3), 3(2)

PART 2

ENTITLEMENT

Minimum age

Cases where the minimum age is 16

8.—(1) For the basic condition in Article 9(1)(a) of the Order (at least 18 years old) the minimum age is 16 years old where a person—

(a) has limited capability for work,

(b) is awaiting an assessment under Part 5 to determine whether the person has limited capability for work and has a statement given by a registered medical practitioner in accordance with the Medical Evidence Regulations which provides that the person is not fit for work,

(c) has regular and substantial caring responsibilities for a severely disabled person,

(d) is responsible for a child,



- (e) is a member of a couple the other member of which is responsible for a child or a qualifying young person (but only where the other member meets the basic conditions in Article 9 of the Order),
  - (f) is pregnant, and it is 11 weeks or less before her expected week of confinement, or was pregnant and it is 15 weeks or less since the date of her confinement, or
  - (g) is without parental support (see paragraph (3)).
- (2) Paragraphs (1)(c), (f) and (g) do not include any person who is a care leaver.
- (3) For the purposes of paragraph (1)(g) a young person is without parental support where that person is not being looked after by an authority and—
- (a) has no parent,
  - (b) cannot live with their parents because—
    - (i) the person is estranged from them, or
    - (ii) there is a serious risk to the person's physical or mental health, or that the person would suffer significant harm if the person lived with them, or
  - (c) is living away from their parents, and neither parent is able to support the person financially because that parent—
    - (i) has a physical or mental impairment,
    - (ii) is detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court, or
    - (iii) is prohibited from entering or re-entering Northern Ireland.
- (4) In this regulation—
- “parent” includes any person acting in the place of a parent;
- “care leaver” means an eligible child for the purposes of Article 34A of the Children (Northern Ireland) Order 1995 <sup>M26</sup> or a relevant child for the purposes of Article 34B of that Order;
- “confinement” means—
- (a) labour resulting in the birth of a living child, or
  - (b) labour after 24 weeks of pregnancy resulting in the birth of a child whether alive or dead, and where a woman's labour begun on one day results in the birth of a child on another day she is to be taken to be confined on the date of the birth.

#### Marginal Citations

**M26** Articles 34A and 34B were inserted by sections 1 and 2 of the [Children \(Leaving Care\) Act \(Northern Ireland\) 2002 \(c. 11 \(N.I.\)\)](#).

*In Northern Ireland*

#### Persons treated as not being in Northern Ireland

9.—(1) For the purposes of determining whether a person meets the basic condition to be in Northern Ireland, except where a person falls within paragraph (4), a person is to be treated as not being in Northern Ireland if the person is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.

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(2) A person must not be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless the person has a right to reside in one of those places.

(3) For the purposes of paragraph (2), a right to reside does not include a right which exists by virtue of, or in accordance with—

- (a) regulation 13 of the EEA Regulations <sup>F11</sup> ...,
- (b) regulation 14 of the EEA Regulations <sup>M27</sup>, but only in cases where the right exists under that regulation because the person is—
  - (i) a qualified person for the purposes of regulation 6(1) of those Regulations as a jobseeker, or
  - (ii) a family member (within the meaning of regulation 7 of those Regulations) of such a jobseeker, <sup>F12</sup> ...
- (c) [<sup>F13</sup>regulation 16] of the EEA Regulations <sup>M28</sup>, but only in cases where the right exists under that regulation because [<sup>F14</sup>the person] satisfies the criteria in [<sup>F15</sup>regulation 16(5)] of those Regulations <sup>F16</sup> ... [<sup>F17</sup>, or]
- [<sup>F18</sup>(d) a person having been granted limited leave to enter, or remain in, the United Kingdom under the Immigration Act 1971 by virtue of—
  - (i) Appendix EU to the immigration rules made under section 3(2) of that Act, <sup>F19</sup> ...
  - (ii) being a person with a Zambrano right to reside as defined in Annex 1 of Appendix EU to the immigration rules made under section 3(2) of that Act][<sup>F20</sup>, or
  - (iii) having arrived in the United Kingdom with an entry clearance that was granted under Appendix EU (Family Permit) to the immigration rules made under section 3(2) of that Act.]
- [<sup>F21</sup>(3A) Paragraph (3)(d)(i) does not apply to a person who—
  - (a) has a right to reside granted by virtue of being a family member of a relevant person of Northern Ireland; and
  - (b) would have a right to reside under the EEA Regulations if the relevant person of Northern Ireland were an EEA national, provided that the right to reside does not fall within paragraph (3)(a) or (c)]
- (4) A person falls within this paragraph if the person is—
  - [<sup>F22</sup>(za) a person granted leave in accordance with the immigration rules made under section 3(2) of the Immigration Act 1971, where such leave is granted by virtue of—
    - (i) the Afghan Relocations and Assistance Policy, or
    - (ii) the previous scheme for locally-employed staff in Afghanistan (sometimes referred to as the ex-gratia scheme),
    - (zb) a person in Northern Ireland not coming within sub-paragraph (za) or (e)(iv) who left Afghanistan in connection with the collapse of the Afghan government that took place on 15th August 2021,]
  - (a) a qualified person for the purposes of regulation 6 of the EEA Regulations as a worker or a self-employed person,
  - (b) a family member of a person referred to in sub-paragraph (a) <sup>F23</sup> ...,
  - (c) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of the EEA Regulations,

- [<sup>F24</sup>(ca) a family member of a relevant person of Northern Ireland, with a right to reside which falls within paragraph (3)(d)(i), provided that the relevant person of Northern Ireland falls within paragraph (4)(a), or would do so but for the fact that they are not an EEA national,]
- [<sup>F25</sup>(cb) a frontier worker within the meaning of regulation 3 of the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020,
- (cc) a family member, of a person referred to in sub-paragraph (cb), who has been granted limited leave to enter, or remain in, the United Kingdom by virtue of Appendix EU to the immigration rules made under section 3(2) of the Immigration Act 1971,]
- (d) a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 <sup>M29</sup>, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967 <sup>M30</sup>,
- (e) a person who has been granted, or who is deemed to have been granted, leave outside the rules made under section 3(2) of the Immigration Act 1971 <sup>M31</sup> where that leave is—
- (i) discretionary leave to enter or remain in the United Kingdom,
- (ii) leave to remain under the Destitution Domestic Violence concession <sup>M32</sup>, <sup>F26</sup> ...
- (iii) leave deemed to have been granted by virtue of regulation 3 of the Displaced Persons (Temporary Protection) Regulations 2005 <sup>M33</sup>,
- [<sup>F27</sup>or
- (iv) granted under the Afghan Citizens Resettlement Scheme,]
- (f) a person who has humanitarian protection granted under those rules, or
- (g) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999 <sup>M34</sup> and who is in the United Kingdom as a result of their deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom.
- [<sup>F28</sup>(5) In this regulation—
- “EEA national” has the same meaning given in regulation 2(1) of the EEA Regulations,
- “family member” has the meaning given in regulation 7(1)(a), (b) or (c) of the EEA Regulations, except that regulation 7(4) does not apply for the purposes of paragraphs (3A) and (4)(ca),
- “relevant person of Northern Ireland” has the meaning given in Annex 1 of Appendix EU to the immigration rules made under section 3(2) of the Immigration Act 1971.]

#### Textual Amendments

- F11** Words in reg. 9(3)(a) omitted (31.12.2020) by virtue of [The Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(Consequential, Saving, Transitional and Transitory Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1309\)](#), regs. 1(2), **77(3)(a)(i)**
- F12** Word in reg. 9(3)(b)(ii) omitted (7.5.2019) by virtue of [The Social Security \(Income-related Benefits\) \(Updating and Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/89\)](#), regs. 1, **2(3)(a)**
- F13** Words in reg. 9(3)(c) substituted (7.5.2019) by [The Social Security \(Income-related Benefits\) \(Updating and Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/89\)](#), regs. 1, **2(3)(b)(i)**
- F14** Words in reg. 9(3)(c) substituted (7.5.2019) by [The Social Security \(Income-related Benefits\) \(Updating and Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/89\)](#), regs. 1, **2(3)(b)(ii)**

*Status: Point in time view as at 25/09/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Universal Credit Regulations (Northern Ireland) 2016. (See end of Document for details)*

- F15** Words in reg. 9(3)(c) substituted (7.5.2019) by The Social Security (Income-related Benefits) (Updating and Amendment) (EU Exit) Regulations (Northern Ireland) 2019 (S.R. 2019/89), regs. 1, **2(3)(b)(iii)**
- F16** Words in reg. 9(3)(c) omitted (31.12.2020) by virtue of The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309), regs. 1(2), **77(3)(a)(ii)**
- F17** Words in reg. 9(3)(c) inserted (7.5.2019) by The Social Security (Income-related Benefits) (Updating and Amendment) (EU Exit) Regulations (Northern Ireland) 2019 (S.R. 2019/89), regs. 1, **2(3)(c)**
- F18** Reg. 9(3)(d) inserted (7.5.2019) by The Social Security (Income-related Benefits) (Updating and Amendment) (EU Exit) Regulations (Northern Ireland) 2019 (S.R. 2019/89), regs. 1, **2(3)(d)**
- F19** Word in reg. 9(3)(d)(i) omitted (31.12.2020 immediately after IP completion day) by virtue of The Immigration (Citizens' Rights etc.) (EU Exit) Regulations 2020 (S.I. 2020/1372), regs. 1(2)(a)(3)(d), **27(2)(a)**
- F20** Reg. 9(3)(d)(iii) and word inserted (31.12.2020 immediately after IP completion day) by The Immigration (Citizens' Rights etc.) (EU Exit) Regulations 2020 (S.I. 2020/1372), regs. 1(2)(a)(3)(d), **27(2)(b)**
- F21** Reg. 9(3A) inserted (24.8.2020) by The Universal Credit (Persons of Northern Ireland - Family Members) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020/130), regs. 1, **2(2)(a)**
- F22** Reg. 9(4)(za) Inserted (25.9.2021) by The Social Security (Habitual Residence and Past Presence) (Amendment) Regulations (Northern Ireland) 2021 (S.R. 2021/269), regs. 1, **3(2)**
- F23** Words in reg. 9(4)(b) omitted (24.8.2020) by virtue of The Universal Credit (Persons of Northern Ireland - Family Members) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020/130), regs. 1, **2(2)(b)**
- F24** Reg. 9(4)(ca) inserted (24.8.2020) by The Universal Credit (Persons of Northern Ireland - Family Members) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020/130), regs. 1, **2(2)(c)**
- F25** Reg. 9(4)(cb)(cc) inserted (31.12.2020) by The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309), regs. 1(2), **77(3)(b)**
- F26** Reg. 9(4)(e)(ii) Word Omitted (25.9.2021) by The Social Security (Habitual Residence and Past Presence) (Amendment) Regulations (Northern Ireland) 2021 (S.R. 2021/269), regs. 1, **3(3)(a)**
- F27** Reg. 9(4)(e)(iv) and word Inserted (25.9.2021) by The Social Security (Habitual Residence and Past Presence) (Amendment) Regulations (Northern Ireland) 2021 (S.R. 2021/269), regs. 1, **3(3)(b)**
- F28** Reg. 9(5) added (24.8.2020) by The Universal Credit (Persons of Northern Ireland - Family Members) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020/130), regs. 1, **2(2)(d)**

#### **Modifications etc. (not altering text)**

- C2** Reg. 9 applied (with modifications) (31.12.2020) by The Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020 (S.I. 2020/1209), regs. 1(1), **3(3), 4(4), 11(y)**

#### **Marginal Citations**

- M27** Regulation 14 was amended by Schedule 1 of S.I. 2012/1547 and S.I. 2013/3032.
- M28** Regulation 15A was inserted by regulation 9 of S.I. 2012/1547 and paragraph (4A) of that regulation was inserted by S.I. 2012/2560.
- M29** Cmnd. 9171.
- M30** Cmnd. 3906.
- M31** 1971 c. 77.
- M32** The Destitution Domestic Violence concession is published by the Home Office at <http://www.ukba.homeoffice.gov.uk/>
- M33** S.I. 2005/1379 as amended by S.I. 2013/630.
- M34** 1999 c. 33.

### Crown servants and members of Her Majesty's forces posted overseas

10.—(1) The following persons do not have to meet the basic condition to be in Northern Ireland—

- (a) a Crown servant or member of Her Majesty's forces posted overseas;
- (b) in the case of joint claimants, the partner of a person mentioned in sub-paragraph (a) while they are accompanying the person on that posting.

(2) A person mentioned in paragraph (1)(a) is posted overseas if the person is performing overseas the duties of a Crown servant or member of Her Majesty's forces and was, immediately before their posting or the first of consecutive postings, habitually resident in the United Kingdom.

(3) In this regulation—

“Crown servant” means a person holding an office or employment under the Crown, and

“Her Majesty's forces” has the meaning in the Armed Forces Act 2006 <sup>M35</sup>.

#### Marginal Citations

M35 2006 c. 52.

### Temporary absence from Northern Ireland

11.—(1) A person's temporary absence from Northern Ireland is disregarded in determining whether they meet the basic condition to be in Northern Ireland if—

- (a) the person is entitled to universal credit immediately before the beginning of the period of temporary absence, and
- (b) either—
  - (i) the absence is not expected to exceed, and does not exceed, one month, or
  - (ii) paragraph (3) or (4) applies.

(2) The period of one month in paragraph (1)(b) may be extended by up to a further month if the temporary absence is in connection with the death of —

- (a) the person's partner or a child or qualifying young person for whom the person was responsible, or
- (b) a close relative of the person, or of their partner or of a child or qualifying young person for whom the person or their partner was responsible,

and the Department considers that it would be unreasonable to expect the person to return to Northern Ireland within the first month.

(3) This paragraph applies where the absence is not expected to exceed, and does not exceed, 6 months and is solely in connection with—

- (a) the person undergoing—
  - (i) treatment for an illness or physical or mental impairment by, or under the supervision of, a qualified practitioner, or
  - (ii) medically approved convalescence or care as a result of treatment for an illness or physical or mental impairment, where the person had that illness or impairment before leaving Northern Ireland, or
- (b) the person accompanying their partner or a child or qualifying young person for whom they are responsible for treatment or convalescence or care as mentioned in sub-paragraph (a).

*Status: Point in time view as at 25/09/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Universal Credit Regulations (Northern Ireland) 2016. (See end of Document for details)*

(4) This paragraph applies where the absence is not expected to exceed, and does not exceed, 6 months and the person is—

- (a) a mariner, or
- (b) continental shelf worker who is in a designated area or a prescribed area.

(5) In this regulation—

“continental shelf worker” means a person who is employed, whether under a contract of service or not, in a designated area or a prescribed area in connection with any activity mentioned in section 11(2) of the Petroleum Act 1998 <sup>M36</sup>;

“designated area” means any area which may from time to time be designated by Order in Council under the Continental Shelf Act 1964 <sup>M37</sup> as an area within which the rights of the United Kingdom with respect to the seabed and subsoil and their natural resources may be exercised;

“mariner” means a person who is employed under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel where—

- (a) the employment in that other capacity is for the purposes of that ship or vessel or its crew or any passengers or cargo or mails carried by the ship or vessel, and
- (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on its voyage;

“medically approved” means certified by a registered medical practitioner;

“prescribed area” means any area over which Norway or any member State <sup>F29</sup>... exercises sovereign rights for the purpose of exploring the seabed and subsoil and exploiting their natural resources, being an area outside the territorial seas of Norway or such member State, or any other area which is from time to time specified under section 10(8) of the Petroleum Act 1998;

“qualified practitioner” means a person qualified to provide medical treatment, physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment.

#### Textual Amendments

**F29** Words in [reg. 11\(5\)](#) omitted (31.12.2020) by virtue of [The Social Security \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/129\)](#), [reg. 1\(2\)](#), [Sch. para. 10](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

#### Marginal Citations

**M36** 1998 c. 17.

**M37** 1964 c. 29.

### *Receiving education*

#### Meaning of “receiving education”

**12.—(1)** For the basic condition in Article 9(1)(d) of the Order (not receiving education) a qualifying young person is to be treated as receiving education.

(2) In any other case “receiving education” means—

- (a) undertaking a full-time course of advanced education, or

- (b) undertaking any other full-time course of study or training at an educational establishment for which a student loan or grant is provided for the person's maintenance.
- (3) “course of advanced education” means—
  - (a) a course of study leading to—
    - (i) a postgraduate degree or comparable qualification,
    - (ii) a first degree or comparable qualification,
    - (iii) a diploma of higher education,
    - (iv) a higher national diploma, or
  - (b) any other course of study which is of a standard above advanced GNVQ or equivalent, including a course which is of a standard above a general certificate of education (advanced level), or above a Scottish national qualification (higher or advanced higher).
- (4) A claimant who is not a qualifying young person and is not undertaking a course described in [F30 paragraph (2)] is nevertheless to be treated as receiving education if the claimant is undertaking a course of study or training that is not compatible with any work-related requirement imposed on the claimant by the Department.

#### Textual Amendments

- F30** Words in [reg. 12\(4\)](#) substituted (coming into force in accordance with [reg. 1\(3\)](#) of the amending Rule) by [The Social Security \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/116\)](#), [regs. 1\(3\), 9\(2\)](#)

#### Meaning of “undertaking a course”

- 13.—**(1) For the purposes of these Regulations a person is to be regarded as undertaking a course of education, study or training—
- (a) throughout the period beginning on the date on which the person starts undertaking the course and ending on the last day of the course or on such earlier date (if any) as the person finally abandons it or is dismissed from it, or
  - (b) where a person is undertaking a part of a modular course, for the period beginning on the day on which that part of the course starts and ending —
    - (i) on the last day, on which the person is registered as undertaking that part, or
    - (ii) on such earlier date (if any) as the person finally abandons the course or is dismissed from it.
- (2) The period referred to in paragraph (1)(b) includes—
- (a) where a person has failed examinations or has failed to complete successfully a module relating to a period when the person was undertaking a part of the course, any period in respect of which the person undertakes the course for the purpose of retaking those examinations or completing that module, and
  - (b) any period of vacation within the period specified in paragraph (1)(b) or immediately following that period except where the person has registered to attend or undertake the final module in the course and the vacation immediately follows the last day on which the person is to attend or undertake the course.
- (3) In this regulation “modular course” means a course which consists of two or more modules, the successful completion of a specified number of which is required before a person is considered by the educational establishment to have completed the course.

*Status: Point in time view as at 25/09/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Universal Credit Regulations (Northern Ireland) 2016. (See end of Document for details)*

(4) A person is not to be regarded as undertaking a course for any part of the period mentioned in paragraph (1) during which the following conditions are met—

- (a) the person has, with the consent of the relevant educational establishment, ceased to attend or undertake the course because they are ill or caring for another person,
- (b) the person has recovered from that illness or ceased caring for that person within the past year, but not yet resumed the course, and
- (c) the person is not eligible for a grant or student loan.

### **Exceptions to the requirement not to be receiving education**

**14.**—<sup>[F31]</sup>(1) A person does not have to meet the basic condition in Article 9(1)(d) of the Order (not receiving education) if —

- (a) the person —
  - (i) is undertaking, a full-time course of study or training which is not a course of advanced education,
  - (ii) is under the age of 21, or is 21 and reached that age whilst undertaking the course, and
  - (iii) is without parental support (as defined in regulation 8(3)),
- <sup>[F32]</sup>(b) the person is entitled to attendance allowance, disability living allowance <sup>[F33]</sup>, child disability payment] or personal independence payment and it has been determined—
  - (i) that the person has limited capability for work or limited capability for work and work-related activity on the basis of an assessment under Part 5 of these Regulations or Part 4 or 5 of the ESA Regulations;
  - (ii) that the person is to be treated as having limited capability for work under Schedule 8 or limited capability for work and work-related activity under Schedule 9; or
  - (iii) that the person is to be treated as having limited capability for work or limited capability for work and work-related activity under regulation 19(2)(b) of the Universal Credit (Transitional Provisions) Regulations Northern Ireland 2016, and that determination was made on or before the date of claim to universal credit, where the person is receiving education on the date the claim is made, or the date on which the person starts receiving education, where the person starts receiving education after the date of claim to universal credit;]
- (c) the person is responsible for a child or a qualifying young person,
- (d) the person is a single person and a foster parent with whom a child is placed,
- (e) the person is a member of a couple, both of whom are receiving education, and the other member is—
  - (i) responsible for a child or qualifying young person, or
  - (ii) a foster parent with whom a child is placed, or
- (f) the person—
  - (i) has reached the qualifying age for state pension credit, and
  - (ii) is a member of a couple the other member of which has not reached that age.

<sup>[F34]</sup>(2) Where regulation 8(6)(a) or 8(10) of the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016 (award of universal credit without a claim) applies to a person who is receiving education, paragraph (1)(b) is to be read as if each reference to “date of claim” was a reference to “date of award”.]



### Textual Amendments

- F31** Reg. 14 renumbered as reg. 14(1) (5.8.2020) by The Universal Credit (Exceptions to the Requirement not to be receiving Education) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020/166), regs. 1(1), **2(1)(a)** (with reg. 1(2))
- F32** Reg. 14(1)(b) substituted (5.8.2020) by The Universal Credit (Exceptions to the Requirement not to be receiving Education) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020/166), regs. 1(1), **2(1)(b)** (with reg. 1(2))
- F33** Words in reg. 14(1)(b) inserted (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance for Children and Young People) (Consequential Modifications) Order 2021 (S.I. 2021/786), art. 1(2), **Sch. 12 para. 3**
- F34** Reg. 14(2) inserted (5.8.2020) by The Universal Credit (Exceptions to the Requirement not to be receiving Education) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020/166), regs. 1(1), **2(1)(c)** (with reg. 1(2))

### *Accepting a claimant commitment*

#### **Claimant commitment – date and method of acceptance**

**15.**—(1) For the basic condition in Article 9(1)(e) of the Order, a person who has accepted a claimant commitment within such period after making a claim as the Department specifies is to be treated as having accepted that claimant commitment on the first day of the period in respect of which the claim is made.

(2) In a case where an award may be made without a claim, a person who accepts a claimant commitment within such period as the Department specifies is to be treated as having accepted a claimant commitment on the day that would be the first day of the first assessment period in relation to the award in accordance with regulation 22(3) or (4) (assessment periods).

(3) The Department may extend the period within which a person is required to accept a claimant commitment or an updated claimant commitment where the person requests that it review—

- (a) any action proposed as a work search requirement or a work availability requirement, or
- (b) whether any limitation should apply to those requirements,

and it considers that the request is reasonable.

(4) A person must accept a claimant commitment by one of the following methods, as specified by the Department—

- (a) electronically,
- (b) by telephone, or
- (c) in writing.

#### **Claimant commitment – exceptions**

**16.** A person does not have to meet the basic condition to have accepted a claimant commitment if the Department considers that—

- (a) the person cannot accept a claimant commitment because they lack the capacity to do so, or
- (b) there are exceptional circumstances in which it would be unreasonable to expect the person to accept a claimant commitment.

*Status: Point in time view as at 25/09/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Universal Credit Regulations (Northern Ireland) 2016. (See end of Document for details)*

### *Financial conditions*

#### **Minimum amount**

17. For the purposes of Article 10(1)(b) and (2)(b) of the Order (financial conditions: amount payable not less than any prescribed minimum) the minimum is one penny.

#### **Capital limit**

18.—(1) For the purposes of Article 10(1)(a) and (2)(a) of the Order (financial conditions: capital limit)—

- (a) the prescribed amount for a single claimant is £16,000, and
- (b) the prescribed amount for joint claimants is £16,000.

(2) In a case where the person is a member of a couple, but makes a claim as a single person, the claimant's capital is to be treated as including the capital of the other member of the couple.

### *Restrictions on entitlement*

#### **Restrictions on entitlement – prisoners etc.**

19.—(1) Entitlement to universal credit does not arise where a person is—

- (a) a member of a religious order who is fully maintained by their order,
- (b) a prisoner, or
- (c) serving a sentence of imprisonment detained in hospital.

(2) Paragraph (1)(b) does not apply during the first 6 months when the claimant is a prisoner where—

- (a) the person was entitled to universal credit as a single person immediately before becoming a prisoner, and the calculation of their award included an amount for the housing costs element, and
- (b) the person has not been sentenced to a term in custody that is expected to extend beyond that 6 months.

(3) In the case of a prisoner to whom paragraph (2) applies, an award of universal credit is not to include any element other than the housing costs element.

(4) In paragraph (1)(c) a person serving a sentence of imprisonment detained in hospital is a person who is—

- (a) being detained—
  - (i) under Article 53 of the Mental Health (Northern Ireland) Order 1986<sup>M38</sup>, and
  - (ii) before the day which the Secretary of State certifies to be that person's release date within the meaning of Article 56(3) of that Order (in any case where there is such a release date).

#### **Marginal Citations**

**M38** S.I. 1986/595 (N.I. 4); Article 53(5)(a) was amended by paragraph 27 of Schedule 5 to the [Criminal Justice \(Children\) \(Northern Ireland\) Order 1998 \(S.I. 1998/1504 \(N.I. 9\)\)](#) and paragraph 38 of Schedule 12 to the [Justice \(Northern Ireland\) Act 2002 \(c. 26 \(N.I.\)\)](#) and Article 56(3) was amended

by paragraph 5(2) to Schedule 5 to the [Criminal Justice \(Northern Ireland\) Order 2008 \(S.I. 2008/1216 \(N.I. 1\)\)](#).

## Waiting days

<sup>F35</sup>20. ....

### Textual Amendments

**F35** [Reg. 20](#) omitted (8.5.2018) by virtue of [The Universal Credit \(Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/92\)](#), regs. 1(2), **6(3)**

## PART 3 AWARDS

## Awards

<sup>F36</sup>21. ....

### Textual Amendments

**F36** [Reg. 21](#) omitted (8.5.2018) by virtue of [The Universal Credit \(Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/92\)](#), regs. 1(2), **6(4)**

## Assessment periods

**22.—**(1) An assessment period is a period of one month beginning with the first date of entitlement and each subsequent period of one month during which entitlement subsists.

<sup>F37</sup>(2) ....

(3) Each assessment period begins on the same day of each month except as follows—

- (a) if the first date of entitlement falls on the 31st day of a month, each assessment period begins on the last day of the month, and
- (b) if the first date of entitlement falls on the 29th or 30th day of a month, each assessment period will begin on the 29th or 30th day of the month (as above) except in February when it begins on the 27th day or, in a leap year, the 28th day.

[<sup>F38</sup>(3A) But paragraphs (1) and (3) are subject to regulation 22A (assessment period cycle to remain the same following change in the first date of entitlement).]

(4) Where a new award is made to a single person without a claim by virtue of regulation 8(6) (a) or (10) of the Claims and Payments Regulations (old award has ended when the claimant ceased to be a member of a couple) each assessment period for the new award begins on the same day of each month as the assessment period for the old award.

(5) Where a new award is made to members of a couple jointly without claim by virtue of regulation 8(6)(b) or (7) of the Claims and Payments Regulations (two previous awards have ended

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*Changes to legislation: There are currently no known outstanding effects for the The Universal Credit Regulations (Northern Ireland) 2016. (See end of Document for details)*

when the claimants formed a couple) each assessment period for the new award begins on the same day of each month as the assessment period for whichever of the old awards ended earlier.

(6) Where a claim is treated as made by virtue of regulation 8(8) of the Claims and Payments Regulations, (old award ended when a claimant formed a couple with a person not entitled to universal credit) each assessment period in relation to the new award begins on the same day of each month as the assessment period for the old award.

(7) Where a claim is made by a single person or members of a couple jointly and the claimant (or either joint claimant) meets the following conditions—

- (a) the claimant was previously entitled to an award of universal credit the last day of which fell within the 6 months preceding the date on which the claim is made, and
- (b) during that 6 months—
  - (i) the claimant has continued to meet the basic conditions in Article 9 of the Order (disregarding the requirement to have accepted a claimant commitment and any temporary period of absence from Northern Ireland that would be disregarded during a period of entitlement to universal credit), and
  - (ii) the claimant was not excluded from entitlement by regulation 19 (restrictions on entitlement - prisoners etc.),

each assessment period for the new award begins on the same day of each month as the assessment period for the old award or, if there was an old award in respect of each joint claimant, the assessment period that ends earlier in relation to the date on which the claim is made.

(8) For the purposes of this regulation it does not matter if at the beginning of the first assessment period of the new award, the following persons do not meet the basic conditions in Article 9(1)(a) and (c) of the Order (at least 18 years old and in Northern Ireland) or if they are excluded from entitlement under regulation 19 (restrictions on entitlement – prisoners etc.) provided they meet those conditions (and are not so excluded) at the end of that assessment period—

- (a) in a case to which paragraph (6) applies, the member of the couple who was not entitled to universal credit, or
- (b) in a case to which paragraph (7) applies, the member of the couple who does not meet the conditions mentioned in that paragraph.

(9) In this regulation “the Claims and Payments Regulations” means the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016 <sup>M39</sup>.

#### Textual Amendments

- F37** Reg. 22(2) omitted (8.5.2018) by virtue of [The Universal Credit \(Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/92\)](#), regs. 1(2), **6(5)(a)**
- F38** Reg. 22(3A) inserted (8.5.2018) by [The Universal Credit \(Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/92\)](#), regs. 1(2), **6(5)(b)**

#### Marginal Citations

- M39** S.R. 2016 No. 220.

**[<sup>F39</sup>Assessment period cycle to remain the same following change in the first date of entitlement**

**22A.**—(1) This regulation applies where—

- (a) the first date of entitlement has been determined;
- (b) it is subsequently determined that the first date of entitlement falls on a different date (the “start date”); and
- (c) applying regulations 22(1) and (3) following that subsequent determination (and thereby changing the beginning of each assessment period) would, in the opinion of the Department, cause unnecessary disruption to the administration of the claim.

(2) Where this regulations applies—

- (a) the first assessment period is to be a period of a length determined by the Department beginning with the start date;
- (b) the amount payable in respect of that first assessment period is to be calculated as follows—

$$N \times (A \times 12365)$$

where—

N is the number of days in the period; and

A is the amount calculated in relation to that period as if it were an assessment period of one month; and

- (c) regulation 22(1) and (3) apply to the second and subsequent assessment periods as if the day after the end of the first assessment period were the first date of entitlement.]

**Textual Amendments**

**F39** Reg. 22A inserted (8.5.2018) by [The Universal Credit \(Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/92\)](#), regs. 1(2), **6(6)**

**Deduction of income and work allowance**

**23.**—(1) The amounts to be deducted from the maximum amount in accordance with Article 13(3) of the Order (calculation of awards) to determine the amount of an award of universal credit are—

- (a) all of the claimant's unearned income (or in the case of joint claimants all of their combined unearned income) in respect of the assessment period, and
- (b) the following amount of the claimant's earned income (or, in the case of joint claimants, their combined earned income) in respect of the assessment period—
  - (i) in a case where no work allowance is specified in the table below (that is where a single claimant does not have, or neither of joint claimants has, responsibility for a child or qualifying young person or limited capability for work), [<sup>F40</sup>63%] of that earned income, or
  - (ii) in any other case, [<sup>F40</sup>63%] of the amount by which that earned income exceeds the work allowance specified in the table.

(2) The amount of the work allowance is—

*Status: Point in time view as at 25/09/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Universal Credit Regulations (Northern Ireland) 2016. (See end of Document for details)*

- (a) if the award contains no amount for the housing costs element, the applicable amount of the higher work allowance specified in the table below, and
- (b) if the award does contain an amount for the housing costs element, the applicable amount of the lower work allowance specified in that table.
- (3) In the case of an award where the claimant is a member of a couple, but makes a claim as a single person, the amount to be deducted from the maximum amount in accordance with Article 13(3) of the Order is the same as the amount that would be deducted in accordance with paragraph (1) if the couple were joint claimants.

### **Higher work allowance**

Single claimant—

responsible for one or more children or qualifying young persons and/or has limited capability for work [F41]£515]

Joint claimants—

responsible for one or more children or qualifying young persons and/or where one or both have limited capability for work [F41]£515]

### **Lower work allowance**

Single claimant—

responsible for one or more children or qualifying young persons and/or has limited capability for work [F42]£293]

Joint claimants—

responsible for one or more children or qualifying young persons and/or where one or both have limited capability for work [F42]£293]

### **Textual Amendments**

- F40** Word in reg. 23(1)(b)(i)(ii) substituted (coming into force in accordance with reg. 1(2) of the amending Rule) by [The Universal Credit \(Reduction of the Earnings Taper Rate\) \(Amendment\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/147\)](#), regs. 1(2), **2(2)**
- F41** Sum in reg. 23 Table substituted (coming into operation in accordance with art. 1(1)(p) of the amending Rule) by [The Social Security Benefits Up-rating Order \(Northern Ireland\) 2021 \(S.R. 2021/82\)](#), arts. 1(1)(p), **33(1)(a)**
- F42** Sum in reg. 23 Table substituted (coming into operation in accordance with art. 1(1)(p) of the amending Rule) by [The Social Security Benefits Up-rating Order \(Northern Ireland\) 2021 \(S.R. 2021/82\)](#), arts. 1(1)(p), **33(1)(b)**

### **Apportionment where re-claim is delayed after loss of employment**

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

- (a) a new award is made in a case to which regulation 22(7) (new claim within 6 months of a previous award) applies, and
- (b) the claimant (or either joint claimant) is not in paid work and has ceased being in paid work since the previous award ended, other than in the 7 days ending with the date on which the claim is made.

(2) In calculating the amount of the award for the first assessment period in accordance with Article 13 of the Order—

- (a) the amount of each element that is to be included in the maximum amount, and
- (b) the amount of earned and unearned income that is to be deducted from the maximum amount,

are each to be reduced to an amount produced by the following formula—

$$N \times \left[ \frac{A \times 12}{365} \right]$$

Where—

N is the number of days in the period beginning with the date on which the claim is made and ending with the last day of the assessment period, and

A is the amount of the element that would otherwise be payable for that assessment period or, as the case may be, the amount of earned and unearned income that would otherwise be deducted for that assessment period.

(3) The period of 7 days in paragraph (1)(b) may be extended if the Department considers there is good reason for the delay in making the claim.

## PART 4

### ELEMENTS OF AN AWARD

#### *Responsibility for children or young persons*

##### **The child element**

**25.**—(1) The amount to be included in an award of universal credit for each child or qualifying young person for whom a claimant is responsible [<sup>F43</sup>and in respect of whom an amount may be included under Article 15] (“the child element”) is given in the table in regulation 38 (amounts of elements).

(2) An additional amount as shown in that table is to be included in respect of each child or qualifying young person who is disabled and that amount is—

- (a) the lower rate where the child or qualifying young person is entitled to disability living allowance [<sup>F44</sup>, child disability payment] or personal independence payment (unless subparagraph (b) applies), or
- (b) the higher rate where the child or qualifying young person is—
  - (i) entitled to the care component of disability living allowance at the highest rate [<sup>F45</sup>, the care component of child disability payment at the highest rate in accordance with regulation 11(5) of the DACYP Regulations] or the daily living component of personal independence payment at the enhanced rate, or
  - (ii) blind.

##### **Textual Amendments**

**F43** Words in reg. 25(1) inserted (11.3.2017) by The Welfare Reform and Work (Northern Ireland) Order 2016 (S.I. 2016/999 (N.I. 1)), arts. 2(1), **10(5)(a)**; S.R. 2017/46, art. 2(b)

*Status: Point in time view as at 25/09/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Universal Credit Regulations (Northern Ireland) 2016. (See end of Document for details)*

- F44** Words in reg. 25(2)(a) inserted (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance for Children and Young People) (Consequential Modifications) Order 2021 (S.I. 2021/786), art. 1(2), **Sch. 12 para. 4(a)**
- F45** Words in reg. 25(2)(b)(i) inserted (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance for Children and Young People) (Consequential Modifications) Order 2021 (S.I. 2021/786), art. 1(2), **Sch. 12 para. 4(b)**

**[<sup>F46</sup>Availability of the child element where maximum exceeded**

**25A.—(1)** Where a claimant is responsible for more than two children or qualifying young persons, the amount mentioned in Article 15(1) of the Order is to be available in respect of—

[ any child or qualifying young person to whom an exception applies in the circumstances <sup>F47</sup>(za) set out in—

- (i) paragraph 3 (adoptions) or paragraph 4 (non-parental caring arrangements) of Schedule 12; or
- (ii) paragraph 6 of Schedule 12 (continuation of existing exception in a subsequent award) by virtue of an exception under paragraph 3 of that Schedule having applied in relation to a previous award;]
- (a) the first and second children or qualifying young persons in the claimant's household; and
- (b) the third and any subsequent child or qualifying young person in the claimant's household if—
  - (i) the child or qualifying young person is transitionally protected; or
  - (ii) an exception applies in relation to that child or qualifying young person [<sup>F48</sup>in the circumstances set out in paragraph 2 (multiple births), paragraph 5 (non-consensual conception) or, except where sub-paragraph (za) applies, paragraph 6 (continuation of existing exception in a subsequent award) of Schedule 12].

(2) A reference in paragraph (1) to a child or qualifying young person being the first, second, third or subsequent child or qualifying young person in the claimant's household is a reference to the position of that child or qualifying young person in the order determined in accordance with regulation 25B.

(3) A child or qualifying young person is “transitionally protected” [<sup>F49</sup>“if the child or qualifying young person was born before 6th April 2017].

<sup>F50</sup>(4) .....

**Textual Amendments**

- F46** Regs. 25A, 25B inserted (coming into force in accordance with reg. 1(3) of the amending Rule) by The Social Security (Restrictions on Amounts for Children and Qualifying Young Persons) (Amendment) Regulations (Northern Ireland) 2017 (S.R. 2017/79), regs. 1(3), **2(3)**
- F47** Reg. 25A(1)(za) inserted (28.11.2018) by The Universal Credit and Jobseekers Allowance (Miscellaneous Amendments) Regulations (Northern Ireland) 2018 (S.R. 2018/187), regs. 1(2), **3(3)(a)(i)**
- F48** Words in reg. 25A(1)(b)(ii) inserted (28.11.2018) by The Universal Credit and Jobseekers Allowance (Miscellaneous Amendments) Regulations (Northern Ireland) 2018 (S.R. 2018/187), regs. 1(2), **3(3)(a)(ii)**
- F49** Words in reg. 25A(3) substituted (1.2.2019) by The Universal Credit (Restriction on Amounts for Children and Qualifying Young Persons) (Transitional Provisions) (Amendment) Regulations (Northern Ireland) 2019 (S.R. 2019/3), regs. 1(2), **2**



**F50** Reg. 25A(4) omitted (28.11.2018) by virtue of [The Universal Credit and Jobseekers Allowance \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/187\)](#), regs. 1(2), **3(3)(b)**

**Order of children and qualifying young persons**

**25B.**—(1) Subject to [<sup>F51</sup>paragraphs (2) and (2A)], the order of children or qualifying young persons in a claimant's household is to be determined by reference to [<sup>F52</sup>the date of birth of each child or qualifying young person for whom the claimant is responsible, taking the earliest date first.]

(2) In a case where—

(a) the date in relation to two or more children or qualifying young persons for whom the claimant is responsible (as determined under paragraph (1)) is the same date, <sup>F53</sup>...

<sup>F53</sup>(b) .....

the order of those children or qualifying young persons (as between themselves only) in the claimant's household is the order determined by the Department that ensures that the amount mentioned in Article 15(1) of the Order is available in respect of the greatest number of children or qualifying young persons.

[<sup>F54</sup>(2A) Any child or qualifying young person to whom regulation 25A(1)(za) applies is to be disregarded when determining the order of children and qualifying young persons under this regulation.]

(3) In this regulation and Schedule 12, “claimant” means a single claimant or either of joint claimants.]

**Textual Amendments**

- F46** Regs. 25A, 25B inserted (coming into force in accordance with reg. 1(3) of the amending Rule) by [The Social Security \(Restrictions on Amounts for Children and Qualifying Young Persons\) \(Amendment\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/79\)](#), regs. 1(3), **2(3)**
- F51** Words in reg. 25B(1) substituted (28.11.2018) by [The Universal Credit and Jobseekers Allowance \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/187\)](#), regs. 1(2), **3(4)(a)(i)**
- F52** Words in reg. 25B(1) substituted (28.11.2018) by [The Universal Credit and Jobseekers Allowance \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/187\)](#), regs. 1(2), **3(4)(a)(ii)**
- F53** Reg. 25B(2)(b) and preceding word omitted (28.11.2018) by virtue of [The Universal Credit and Jobseekers Allowance \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/187\)](#), regs. 1(2), **3(4)(b)**
- F54** Reg. 25B(2A) inserted (28.11.2018) by [The Universal Credit and Jobseekers Allowance \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/187\)](#), regs. 1(2), **3(4)(c)**

*Housing costs*

**The housing costs element**

**26.**—(1) Paragraphs (2) to (4) specify for the purposes of Article 16 of the Order (housing costs)

(a) what is meant by payments in respect of accommodation (see paragraph (2)),

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- (b) the circumstances in which a claimant is to be treated as liable or not liable to make such payments (see paragraph (3)),
  - (c) the circumstances in which a claimant is to be treated as occupying or not occupying accommodation and in which land used for the purposes of any accommodation is to be treated as included in the accommodation (see paragraph (4)).
- (2) The payments in respect of accommodation must be—
- (a) payments within the meaning of paragraph 2 of Schedule 1 (“rent payments”);
  - <sup>F55</sup>(b) . . . . .
  - (c) payments within the meaning of paragraph 8 of that Schedule (“service charge payments”).
- (3) The circumstances of the liability to make the payments must be such that—
- (a) the claimant (or either joint claimant)—
    - (i) has a liability to make the payments which is on a commercial basis, or
    - (ii) is treated under Part 1 of Schedule 2 as having a liability to make the payments, and
  - (b) none of the provisions in Part 2 of that Schedule applies to treat the claimant (or either joint claimant) as not being liable to make the payments.
- (4) The circumstances in which the accommodation is occupied must be such that—
- (a) the claimant is treated under Part 1 of Schedule 3 as occupying the accommodation as their home (including any land used for the purposes of the accommodation which is treated under that Part as included in the accommodation), and
  - (b) none of the provisions in Part 2 of that Schedule applies to treat the claimant as not occupying that accommodation.
- (5) References in these Regulations—
- (a) to the housing costs element are to the amount to be included in a claimant's award under Article 16 of the Order,
  - (b) to a claimant who meets the payment condition, the liability condition or the occupation condition are, respectively, to any claimant in whose case the requirements of paragraph (2), (3) or (4) are met (and any reference to a claimant who meets all of the conditions specified in this regulation is to be read accordingly).

**Textual Amendments**

**F55** Reg. 26(2)(b) omitted (6.4.2018) by virtue of [The Loans for Mortgage Interest Regulations \(Northern Ireland\) 2017 \(S.R. 2017/176\)](#), reg. 1(2)(a), **Sch. 5 para. 5(a)** (with regs. 18(2), 19, 19A, 20)

**Amount of the housing costs element – renters and owner-occupiers**

- 27.—**(1) This regulation provides for the amount to be included in an award in respect of an assessment period in which the claimant meets all the conditions specified in regulation 26.
- (2) Schedule 4 has effect in relation to any claimant where—
- (a) the claimant meets all of those conditions, and
  - (b) the payments for which the claimant is liable are rent payments (whether or not service charge payments are also payable).
- (3) Schedule 5 has effect in relation to any claimant where—
- (a) the claimant meets all of those conditions, and
  - (b) the payments for which the claimant is liable are—

<sup>F56</sup>(i) .....

(ii) service charge payments <sup>F57</sup>....

(4) Where both paragraphs (2) and (3) apply in relation to a claimant who occupies accommodation under an equity-sharing lease—

(a) an amount is to be calculated under each of Schedules 4 and 5, and

(b) the amount of the claimant's housing costs element is the aggregate of those amounts.

(5) Where, in a case to which paragraph (4) applies, there is a liability for service charge payments, the amount in respect of those payments is to be calculated under Schedule 4.

(6) “Equity-sharing lease” means a lease of land, the general effect of which is to provide—

(a) that, in consideration for the granting of the lease, the lessee shall pay a capital sum, representing a part payment in respect of the cost of acquisition of the premises demised, and a rent, and

(b) that the lessee may make additional part payments towards the said cost of acquisition and may exercise an option to purchase the whole or part of the lessor's reversion in the premises demised.

**Textual Amendments**

**F56** Reg. 27(3)(b)(i) omitted (6.4.2018) by virtue of [The Loans for Mortgage Interest Regulations \(Northern Ireland\) 2017 \(S.R. 2017/176\)](#), reg. 1(2)(a), **Sch. 5 para. 5(b)** (with regs. 18(2), 19, 19A, 20)

**F57** Word in reg. 27(3)(b)(ii) omitted (6.4.2018) by virtue of [The Loans for Mortgage Interest Regulations \(Northern Ireland\) 2017 \(S.R. 2017/176\)](#), reg. 1(2)(a), **Sch. 5 para. 5(c)** (with regs. 18(2), 19, 19A, 20)

*Particular needs or circumstances – capability for work*

**Award to include [<sup>F58</sup>LCWRA element]**

**28.**—<sup>F59</sup>(1) An award of universal credit is to include an amount in respect of the fact that a claimant has limited capability for work and work-related activity (“the LCWRA element”).]

(2) The [<sup>F60</sup>amount of that element is] given in the table in regulation 38.

(3) Whether a claimant has limited capability for <sup>F61</sup>... work and work-related activity is determined in accordance with Part 5.

<sup>F62</sup>(4) In the case of joint claimants, where each of them has limited capability for work and work-related activity, the award is only to include one LCWRA element.]

**Textual Amendments**

**F58** Words in [reg. 28 heading](#) substituted (coming into force in accordance with reg. 1(2) of the amending Rule) by [The Universal Credit \(Miscellaneous Amendments and Transitional and Savings Provisions\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/146\)](#), regs. 1(2), **2(3)(a)**

**F59** Reg. 28(1) substituted (coming into force in accordance with reg. 1(2) of the amending Rule) by [The Universal Credit \(Miscellaneous Amendments and Transitional and Savings Provisions\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/146\)](#), regs. 1(2), **2(3)(b)**

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*Changes to legislation: There are currently no known outstanding effects for the The Universal Credit Regulations (Northern Ireland) 2016. (See end of Document for details)*

- F60** Words in reg. 28(2) substituted (coming into force in accordance with reg. 1(2) of the amending Rule) by [The Universal Credit \(Miscellaneous Amendments and Transitional and Savings Provisions\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/146\)](#), regs. 1(2), **2(3)(c)**
- F61** Words in reg. 28(3) omitted (coming into force in accordance with reg. 1(2) of the amending Rule) by virtue of [The Universal Credit \(Miscellaneous Amendments and Transitional and Savings Provisions\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/146\)](#), regs. 1(2), **2(3)(d)**
- F62** Reg. 28(4) substituted (coming into force in accordance with reg. 1(2) of the amending Rule) by [The Universal Credit \(Miscellaneous Amendments and Transitional and Savings Provisions\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/146\)](#), regs. 1(2), **2(3)(e)**

#### **Modifications etc. (not altering text)**

- C3** Reg. 28(3) excluded (coming into force in accordance with reg.1 of the amending Rule) by [The Universal Credit \(Transitional Provisions\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/226\)](#), regs. 1, **25(4)(a)**
- C4** Reg. 28(3) excluded (coming into force in accordance with reg.1 of the amending Rule) by [The Universal Credit \(Transitional Provisions\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/226\)](#), regs. 1, **22(2)(a)**
- C5** Reg. 28(3) excluded (coming into force in accordance with reg.1 of the amending Rule) by [The Universal Credit \(Transitional Provisions\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/226\)](#), regs. 1, **25(2)(a)**
- C6** Reg. 28(3) excluded (coming into force in accordance with reg.1 of the amending Rule) by [The Universal Credit \(Transitional Provisions\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/226\)](#), regs. 1, **24(2)**
- C7** Reg. 28(3) excluded (coming into force in accordance with reg.1 of the amending Rule) by [The Universal Credit \(Transitional Provisions\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/226\)](#), regs. 1, **27(3)(a)**
- C8** Reg. 28(3) excluded (coming into force in accordance with reg.1 of the amending Rule) by [The Universal Credit \(Transitional Provisions\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/226\)](#), regs. 1, **22(4)(a)**
- C9** Reg. 28(3) excluded (coming into force in accordance with reg.1 of the amending Rule) by [The Universal Credit \(Transitional Provisions\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/226\)](#), regs. 1, **27(2)(a)**
- C10** Reg. 28(3) excluded (coming into force in accordance with reg.1 of the amending Rule) by [The Universal Credit \(Transitional Provisions\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/226\)](#), regs. 1, **19(4)(a)**
- C11** Reg. 28(3) excluded (coming into force in accordance with reg.1 of the amending Rule) by [The Universal Credit \(Transitional Provisions\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/226\)](#), regs. 1, **19(2)(a)**

#### **Period for which the <sup>F63</sup>... LCWRA element is not to be included**

**29.**—(1) An award of universal credit is not to include the <sup>F64</sup>... LCWRA element until the beginning of the assessment period that follows the assessment period in which the relevant period ends.

- (2) The relevant period is the period of 3 months beginning with—
- if regulation 42(2) applies (claimant with monthly earnings equal to or above the relevant threshold) the date on which the award of universal credit commences or, if later, the date on which the claimant applies for the <sup>F65</sup>... LCWRA element to be included in the award, or
  - in any other case, the first day on which the claimant provides evidence of their having limited capability for work in accordance with the Medical Evidence Regulations.

(3) Where, in the circumstances referred to in paragraph (4), there has been a previous award of universal credit—

- (a) if the previous award included the <sup>F66</sup>... LCWRA element, paragraph (1) does not apply, and
- (b) if the relevant period in relation to that award has begun but not ended, the relevant period ends on the date it would have ended in relation to the previous award.

(4) The circumstances are where—

- (a) immediately before the award commences, the previous award has ceased because the claimant ceased to be a member of a couple or became a member of a couple, or
- (b) within the six months before the award commences, the previous award has ceased because the financial condition in Article 10(1)(b) (or if it was a joint claim, Article 10(2)(b)) of the Order was not met.

(5) Paragraph (1) also does not apply if—

- (a) the claimant is terminally ill, or
- (b) the claimant—
  - (i) is entitled to an employment and support allowance that includes the support component <sup>F67</sup> ..., or
  - (ii) was so entitled on the day before the award of universal credit commenced and has ceased to be so entitled by virtue of section 1A of the Welfare Reform Act (Northern Ireland) 2007 <sup>M40</sup> (duration of contributory allowance).

<sup>F68</sup>(6) .....

(7) Where, by virtue of this regulation, the condition in Article 10(1)(b) or 10(2)(b) of the Order is not met, the amount of the claimant's income (or, in the case of joint claimants, their combined income) is to be treated during the relevant period as such that the amount payable is the prescribed minimum (see regulation 17).

**Textual Amendments**

- F63** Words in [reg. 29 heading](#) omitted (coming into force in accordance with reg. 1(2) of the amending Rule) by virtue of [The Universal Credit \(Miscellaneous Amendments and Transitional and Savings Provisions\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/146\)](#), regs. 1(2), **2(4)(a)**
- F64** Words in reg. 29(1) omitted (coming into force in accordance with reg. 1(2) of the amending Rule) by virtue of [The Universal Credit \(Miscellaneous Amendments and Transitional and Savings Provisions\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/146\)](#), regs. 1(2), **2(4)(a)**
- F65** Words in reg. 29(2)(a) omitted (coming into force in accordance with reg. 1(2) of the amending Rule) by virtue of [The Universal Credit \(Miscellaneous Amendments and Transitional and Savings Provisions\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/146\)](#), regs. 1(2), **2(4)(a)**
- F66** Words in reg. 29(3)(a) omitted (coming into force in accordance with reg. 1(2) of the amending Rule) by virtue of [The Universal Credit \(Miscellaneous Amendments and Transitional and Savings Provisions\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/146\)](#), regs. 1(2), **2(4)(a)**
- F67** Words in reg. 29(5)(b)(i) omitted (coming into force in accordance with reg. 1(2) of the amending Rule) by virtue of [The Universal Credit \(Miscellaneous Amendments and Transitional and Savings Provisions\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/146\)](#), regs. 1(2), **2(4)(b)**
- F68** Reg. 29(6) omitted (coming into force in accordance with reg. 1(2) of the amending Rule) by virtue of [The Universal Credit \(Miscellaneous Amendments and Transitional and Savings Provisions\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/146\)](#), regs. 1(2), **2(4)(c)**

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**Modifications etc. (not altering text)**

- C12** Reg. 29 excluded (coming into force in accordance with reg.1 of the amending Rule) by The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/226), regs. 1, **23(2)(b)(ii)**
- C13** Reg. 29 excluded (coming into force in accordance with reg.1 of the amending Rule) by The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/226), regs. 1, **23(2)(a)(ii)**
- C14** Reg. 29 excluded (coming into force in accordance with reg.1 of the amending Rule) by The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/226), regs. 1, **22(3)(a)**
- C15** Reg. 29 excluded (coming into force in accordance with reg.1 of the amending Rule) by The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/226), regs. 1, **27(4)(a)(ii)**
- C16** Reg. 29 excluded (coming into force in accordance with reg.1 of the amending Rule) by The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/226), regs. 1, **22(5)(a)**
- C17** Reg. 29 excluded (coming into force in accordance with reg.1 of the amending Rule) by The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/226), regs. 1, **28(2)(b)(ii)**
- C18** Reg. 29 excluded (coming into force in accordance with reg.1 of the amending Rule) by The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/226), regs. 1, **27(4)(b)(ii)**
- C19** Reg. 29 excluded (coming into force in accordance with reg.1 of the amending Rule) by The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/226), regs. 1, **28(2)(a)(ii)**
- C20** Reg. 29 excluded (coming into force in accordance with reg.1 of the amending Rule) by The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/226), regs. 1, **19(5)(a)**
- C21** Reg. 29 excluded (coming into force in accordance with reg.1 of the amending Rule) by The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/226), regs. 1, **19(3)(a)**
- C22** Reg. 29 excluded (coming into force in accordance with reg.1 of the amending Rule) by The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/226), regs. 1, **22(7)(a)**
- C23** Reg. 29 excluded (coming into force in accordance with reg.1 of the amending Rule) by The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/226), regs. 1, **20(3)(a)**
- C24** Reg. 29(1) excluded (coming into force in accordance with reg.1 of the amending Rule) by The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/226), regs. 1, **27(3)(c)**
- C25** Reg. 29(1) excluded (coming into force in accordance with reg.1 of the amending Rule) by The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/226), regs. 1, **25(4)(c)**
- C26** Reg. 29(1) excluded (coming into force in accordance with reg.1 of the amending Rule) by The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/226), regs. 1, **24(4)(b)**
- C27** Reg. 29(1) excluded (coming into force in accordance with reg.1 of the amending Rule) by The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/226), regs. 1, **25(2)(c)**
- C28** Reg. 29(1) excluded (coming into force in accordance with reg.1 of the amending Rule) by The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/226), regs. 1, **24(3)(b)**
- C29** Reg. 29(1) excluded (coming into force in accordance with reg.1 of the amending Rule) by The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/226), regs. 1, **27(2)(c)**
- C30** Reg. 29(2) excluded (coming into force in accordance with reg.1 of the amending Rule) by The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/226), regs. 1, **22(6)(a)**

- C31** Reg. 29(2) excluded (coming into force in accordance with reg.1 of the amending Rule) by [The Universal Credit \(Transitional Provisions\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/226\)](#), regs. 1, **21(2)(a)**
- C32** Reg. 29(2) excluded (coming into force in accordance with reg.1 of the amending Rule) by [The Universal Credit \(Transitional Provisions\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/226\)](#), regs. 1, **20(2)(a)**

#### Marginal Citations

- M40** Section 1A was inserted by Article 57 of the Order.

### *Particular needs or circumstances - carers*

#### **Award to include the carer element**

**30.**—(1) An award of universal credit is to include an amount (“the carer element”) specified in the table in regulation 38 where a claimant has regular and substantial caring responsibilities for a severely disabled person, subject to paragraphs (2) to (4) and section 70(7) of the Contributions and Benefits Act (entitlement by different persons to the carer element and to carer's allowance in respect of the same severely disabled person).

(2) In the case of joint claimants, an award is to include the carer element for both joint claimants if they both qualify for it, but only if they are not caring for the same severely disabled person.

(3) Where two or more persons have regular and substantial caring responsibilities for the same severely disabled person, an award of universal credit may only include the carer element in respect of one of them and that is the one they jointly elect or, in default of election, the one the Department determines.

[<sup>F69</sup>(4) Where an amount would, apart from this paragraph, be included in an award in relation to a claimant by virtue of paragraphs (1) to (3), and the claimant has limited capability for work and work-related activity (and, in the case of joint claimants, the LCWRA element has not been included in respect of the other claimant), only the LCWRA element may be included in respect of the claimant.]

#### Textual Amendments

- F69** [Reg. 30\(4\)](#) substituted (coming into force in accordance with reg. 1(2) of the amending Rule) by [The Universal Credit \(Miscellaneous Amendments and Transitional and Savings Provisions\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/146\)](#), regs. 1(2), **2(5)**

#### **Meaning of “regular and substantial caring responsibilities for a severely disabled person”**

**31.**—(1) For the purposes of Part 2 of the Order and these Regulations, a person has regular and substantial caring responsibilities for a severely disabled person if they satisfy the conditions for entitlement to a carer's allowance or would do so but for the fact that their earnings have exceeded the limit prescribed for the purposes of that allowance.

(2) Paragraph (1) applies whether or not the person has made a claim for a carer's allowance.

(3) A person does not have regular and substantial caring responsibilities for a severely disabled person if the person derives earned income from those caring responsibilities.

*Particular needs or circumstances – childcare costs***Award to include childcare costs element**

**32.** An award of universal credit is to include an amount in respect of childcare costs (“the childcare costs element”) in respect of an assessment period in which the claimant meets both—

- (a) the work condition (see regulation 33), and
- (b) the childcare costs condition (see regulation 34).

**The work condition**

**33.—**(1) The work condition is met in respect of an assessment period if—

- (a) the claimant is in paid work or has an offer of paid work that is due to start before the end of the next assessment period, and
- (b) if the claimant is a member of a couple (whether claiming jointly or as a single person), the other member is either in paid work or is unable to provide childcare because that person—
  - (i) has limited capability for work,
  - (ii) has regular and substantial caring responsibilities for a severely disabled person, or
  - (iii) is temporarily absent from the claimant's household.

(2) For the purposes of meeting the work condition in relation to an assessment period a claimant is to be treated as being in paid work if—

- (a) the claimant has ceased paid work—
  - (i) in that assessment period,
  - (ii) in the previous assessment period, or
  - (iii) if the assessment period in question is the first or second assessment period in relation to an award, in that assessment period or in the month immediately preceding the commencement of the award, or
- (b) the claimant is receiving statutory sick pay, statutory maternity pay, statutory paternity pay, statutory adoption pay, statutory shared parental pay or a maternity allowance.

**The childcare costs condition**

**34.—**(1) The childcare costs condition is met in respect of an assessment period if—

- (a) the claimant has paid charges for relevant childcare that are attributable to that assessment period (see regulation 36) and those charges have been reported to the Department [<sup>F70</sup>before the end of the assessment period that follows the assessment period in which they are paid],
- (b) the charges are in respect of—
  - (i) a child, or
  - (ii) a qualifying young person who has not reached the 1st September following their 16th birthday,
 for whom the claimant is responsible, and
- (c) the charges are for childcare arrangements—
  - (i) that are to enable the claimant to take up paid work or to continue in paid work, or



- (ii) where the claimant is treated as being in paid work by virtue of regulation 33(2), that are to enable the claimant to maintain childcare arrangements that were in place when the claimant ceased paid work or began to receive those benefits.

(2) The late reporting of charges for relevant childcare may be accepted in the same circumstances as late notification of a change of circumstances may be accepted under regulation 36 of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2016 <sup>M41</sup> and in such cases, subject to regulation 36 below, all or part of any such charges may be taken into account in any assessment period to which they relate.

[<sup>F71</sup>(3) For the purposes of paragraph (2), “the relevant notification period” in regulation 36 of the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations (Northern Ireland) 2016 (effective dates for superseding decisions where changes notified late) means a period of time ending on the last day of the assessment period that follows the assessment period in which the charges for relevant childcare were paid.]

#### Textual Amendments

- F70** Words in [reg. 34\(1\)\(a\)](#) substituted (16.10.2019) by [The Universal Credit \(Childcare Costs and Minimum Income Floor\) \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/173\)](#), regs. 1(3), **2(a)**
- F71** [Reg. 34\(3\)](#) inserted (16.10.2019) by [The Universal Credit \(Childcare Costs and Minimum Income Floor\) \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/173\)](#), regs. 1(3), **2(b)**

#### Marginal Citations

- M41** [S.R.2016 No. 221](#).

### Amount of childcare costs element

- 35.—**(1) The amount of the childcare costs element for an assessment period is the lesser of—
- 85 percent of the charges paid for relevant childcare that are attributable to that assessment period, or
  - the maximum amount specified in the table in regulation 38.
- (2) In determining the amount of charges paid for relevant childcare, there is to be left out of the account any amount—
- that the Department considers excessive having regard to the extent to which the claimant (or, if the claimant is a member of a couple, the other member) is engaged in paid work, or
  - that is met or reimbursed by an employer or some other person or is covered by other relevant support.
- (3) “Other relevant support” means payments out of funds provided by the Department in connection with the claimant's participation in work-related activity or training.

#### Modifications etc. (not altering text)

- C33** Percentage in [reg. 35\(1\)\(a\)](#) confirmed (24.3.2018) by [The Social Security \(2017 Benefits Up-rating\) Order \(Northern Ireland\) 2018 \(S.R. 2018/56\)](#), arts. 1, **27(1)**

*Status: Point in time view as at 25/09/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Universal Credit Regulations (Northern Ireland) 2016. (See end of Document for details)*

### Charges attributable to an assessment period

36.—(1) Charges paid for relevant childcare are attributable to an assessment period where those charges —

- (a) are paid in that assessment period for relevant childcare in respect of that assessment period, or
- (b) are paid in that assessment period for relevant childcare in respect of a previous assessment period, or
- (c) were paid in either of the two previous assessment periods for relevant childcare in respect of that assessment period.

(2) For the purposes of paragraph (1)(c), where a claimant pays charges for relevant childcare in advance, the amount which they have paid in respect of any assessment period is to be calculated as follows:

#### *Step 1*

Take the total amount of the advance payment (leaving out of account any amount referred to in regulation 35(2)).

#### *Step 2*

Apply the formula—

$$\left[ \frac{PA}{D} \right] \times AP$$

Where—

PA is the amount resulting from Step 1,

D is the total number of days covered by the payment referred to in Step 1, and

AP is the number of days covered by the payment which also fall within the assessment period in question.

(3) In this regulation, reference to an assessment period in which charges are paid, or in respect of which charges are paid, includes any month preceding the commencement of the award that begins on the same day as each assessment period in relation to a claimant's current award.

#### **Modifications etc. (not altering text)**

**C34** Sum in reg. 36(2) specified (24.3.2018) by [The Social Security \(2017 Benefits Up-rating\) Order \(Northern Ireland\) 2018 \(S.R. 2018/56\)](#), arts. 1, 27(4), **Sch. 17**

### Meaning of “relevant childcare”

37.—(1) “Relevant childcare” means any of the care described in paragraphs (2) and (3) and other than care excluded by paragraph (4) or (5).

(2) Care provided in Northern Ireland for a child—

- (a) by a person registered under Part XI of the Children (Northern Ireland) Order 1995,
- (b) out of school hours by a school as part of the school activities, or
- (c) by a childcare provider approved in accordance with a scheme under the Tax Credits (Approval of Home Child Care Providers) Scheme (Northern Ireland) 2006<sup>M42</sup>.

- [<sup>F72</sup>(d) by a home based childcare provider approved by a Health and Social Care Trust in Northern Ireland in line with Department of Health for Northern Ireland Approved Home Childcare guidance.]
- [<sup>F73</sup>(3) Care provided for a child outside Northern Ireland—
- (a) by a childcare provider approved by an organisation accredited by the Secretary of State; or
  - (b) in any other case, by a childcare provider approved or accredited under the legislation of the relevant state, where evidence of such approval or accreditation is provided to the Department by the claimant.]
- (4) The following are not relevant childcare—
- (a) care provided for a child by a close relative of the child, wholly or mainly in the child's home, and
  - (b) care provided by a person who is a foster parent of the child.
- (5) Care is not within paragraph (2)(a) if it is provided in breach of a requirement to register under Part 2 of the Children (Northern Ireland) Order 1995.
- (6) In this regulation—
- “child” includes a qualifying young person specified in regulation 34(1)(b)(ii) (the childcare costs condition);
- “school” means a school as defined by Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986 <sup>M43</sup>.

#### Textual Amendments

- F72** Reg. 37(2)(d) added (13.7.2020) by The Universal Credit (Miscellaneous Amendments) Regulations (Northern Ireland) 2020 (S.R. 2020/107), regs. 1(2), **2(1)(a)**
- F73** Reg. 37(3) substituted (13.7.2020) by The Universal Credit (Miscellaneous Amendments) Regulations (Northern Ireland) 2020 (S.R. 2020/107), regs. 1(2), **2(1)(b)**

#### Marginal Citations

- M42** S.R. 2006 No. 64
- M43** S.I. 1986/594 (N.I. 3).

### General

#### Amounts of elements

**38.**—(1) The amounts of the standard allowance, the child element, the [<sup>F74</sup>LCWRA element] and the carer element (which are all fixed amounts) and the maximum amounts of the childcare costs element are given in the following table.

(2) The amount of the housing costs element is dealt with in regulation 27.

(3) In the case of an award where the claimant is a member of a couple, but claims as a single person, the amounts are those shown in the table for a single claimant.

<i>Element</i>	<i>Amount for each assessment period</i>
Standard allowance—	
single claimant aged under 25	[ <sup>F75</sup> £251.77][ <sup>F75</sup> £342.72]

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single claimant aged 25 or over	[ <sup>F76</sup> £317.82][ <sup>F76</sup> £409.89]
joint claimants both aged under 25	[ <sup>F77</sup> £395.20][ <sup>F77</sup> £488.59]
joint claimants where either is aged 25 or over	[ <sup>F78</sup> £498.89][ <sup>F78</sup> £594.04]
Child element—	
<sup>F79</sup>	<sup>F79</sup>
...	...
[ <sup>F80</sup> each] child or qualifying young person	£231.67
Additional amount for disabled child or qualifying young person—	
lower rate	£126.11
higher rate	£367.92
[ <sup>F81</sup> LCWRA element]—	
<sup>F82</sup>	<sup>F82</sup>
...	...
limited capability for work and work-related activity	£315.60
Carer element	£150.39
Childcare costs element—	
maximum amount for one child	£646.35
maximum amount for 2 or more children	£1,108.04

### Textual Amendments

- F74** Words in reg. 38(1) substituted (coming into force in accordance with reg. 1(2) of the amending Rule) by [The Universal Credit \(Miscellaneous Amendments and Transitional and Savings Provisions\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/146\)](#), regs. 1(2), **2(6)(a)**
- F75** Sum in reg. 38 substituted (temp.) (with effect in accordance with reg. 3(2) of the amending Rule) by virtue of [The Social Security \(Coronavirus\) \(Further Measures\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/53\)](#), regs. 1(1), **3(1)(a)** (as amended by [The Social Security \(Coronavirus\) \(Further Measures\) Amendment Regulations \(Northern Ireland\) 2020 \(S.R. 2020/61\)](#), regs. 1, 2(1))
- F76** Sum in reg. 38 substituted (temp.) (with effect in accordance with reg. 3(2) of the amending Rule) by virtue of [The Social Security \(Coronavirus\) \(Further Measures\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/53\)](#), regs. 1(1), **3(1)(b)** (as amended by [The Social Security \(Coronavirus\) \(Further Measures\) Amendment Regulations \(Northern Ireland\) 2020 \(S.R. 2020/61\)](#), regs. 1, 2(1))
- F77** Sum in reg. 38 substituted (temp.) (with effect in accordance with reg. 3(2) of the amending Rule) by virtue of [The Social Security \(Coronavirus\) \(Further Measures\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/53\)](#), regs. 1(1), **3(1)(c)** (as amended by [The Social Security \(Coronavirus\) \(Further Measures\) Amendment Regulations \(Northern Ireland\) 2020 \(S.R. 2020/61\)](#), regs. 1, 2(1))
- F78** Sum in reg. 38 substituted (temp.) (with effect in accordance with reg. 3(2) of the amending Rule) by virtue of [The Social Security \(Coronavirus\) \(Further Measures\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/53\)](#), regs. 1(1), **3(1)(d)** (as amended by [The Social Security \(Coronavirus\) \(Further Measures\) Amendment Regulations \(Northern Ireland\) 2020 \(S.R. 2020/61\)](#), regs. 1, 2(1))
- F79** Words in reg. 38 Table omitted (11.3.2017) by virtue of [The Welfare Reform and Work \(Northern Ireland\) Order 2016 \(S.I. 2016/999 \(N.I. 1\)\)](#), arts. 2(1), **10(5)(b)(i)**; [S.R. 2017/46](#), art. 2(b)

- F80** Word in reg. 38 Table substituted (11.3.2017) by The Welfare Reform and Work (Northern Ireland) Order 2016 (S.I. 2016/999 (N.I. 1)), arts. 2(1), **10(5)(b)(ii)**; S.R. 2017/46, art. 2(b)
- F81** Words in reg. 38 Table substituted (coming into force in accordance with reg. 1(2) of the amending Rule) by The Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations (Northern Ireland) 2017 (S.R. 2017/146), regs. 1(2), **2(6)(b)(i)**
- F82** Words in reg. 38 Table omitted (coming into force in accordance with reg. 1(2) of the amending Rule) by virtue of The Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations (Northern Ireland) 2017 (S.R. 2017/146), regs. 1(2), **2(6)(b)(ii)**

**Modifications etc. (not altering text)**

- C35** Sums in reg. 38 Table amended (coming into force in accordance with art. 1(1)(o) of the amending Rule) by The Social Security Benefits Up-rating Order (Northern Ireland) 2020 (S.R. 2020/40), arts. 1(1)(o), 33(2), **Sch. 13**
- C36** Reg. 38 modified (temp.) (6.4.2021) by The Universal Credit (Extension of Coronavirus Measures) Regulations (Northern Ireland) 2021 (S.R. 2021/67), regs. 1, **2(1)**
- C37** Sums in reg. 38 Table amended (coming into operation in accordance with art. 1(1)(p) of the amending Rule) by The Social Security Benefits Up-rating Order (Northern Ireland) 2021 (S.R. 2021/82), arts. 1(1)(p), **33(2)**, **Sch. 13**

**Run-on after a death**

**39.** In calculating the maximum amount of an award where any of the following persons has died—

- (a) in the case of a joint award, one member of the couple,
- (b) a child or qualifying young person for whom a claimant was responsible,
- (c) in the case of a claimant who had regular and substantial caring responsibilities for a severely disabled person, that person, or
- (d) a person who was a non dependant within the meaning of paragraph 8(2) of Schedule 4,

the award is to continue to be calculated as if the person had not died for the assessment period in which the death occurs and the following two assessment periods.

## PART 5

### CAPABILITY FOR WORK OR WORK-RELATED ACTIVITY

**Modifications etc. (not altering text)**

- C38** Pt. 5 excluded (coming into force in accordance with reg.1 of the amending Rule) by The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/226), regs. 1, **24(2)**

**Limited capability for work**

**40.—(1)** A claimant has limited capability for work if—

- (a) it has been determined that the claimant has limited capability for work on the basis of an assessment under this Part or under Part 4 of the ESA Regulations, or
- (b) the claimant is to be treated as having limited capability for work (see paragraph (6)).

(2) An assessment under this Part is an assessment as to the extent to which a claimant who has some specific disease or bodily or mental disablement is capable of performing the activities

*Status: Point in time view as at 25/09/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Universal Credit Regulations (Northern Ireland) 2016. (See end of Document for details)*

prescribed in Schedule 6 or is incapable by reason of such disease or bodily or mental disablement of performing those activities.

(3) A claimant has limited capability for work on the basis of an assessment under this Part if, by adding the points listed in column (3) of Schedule 6 against each descriptor listed in column (2) of that Schedule that applies in the claimant's case, the claimant obtains a total score of at least—

- (a) 15 points whether singly or by a combination of descriptors specified in Part 1 of that Schedule,
- (b) 15 points whether singly or by a combination of descriptors specified in Part 2 of that Schedule, or
- (c) 15 points by a combination of descriptors specified in Parts 1 and 2 of that Schedule.

(4) In assessing the extent of a claimant's capability to perform any activity listed in Schedule 6, it is a condition that the claimant's incapability to perform the activity arises—

- (a) in respect of any descriptor listed in Part 1 of that Schedule, from a specific bodily disease or disablement,
- (b) in respect of any descriptor listed in Part 2 of that Schedule, from a specific mental illness or disablement, or
- (c) in respect of any descriptor or descriptors listed in—
  - (i) Part 1 of that Schedule, as a direct result of treatment provided by a registered medical practitioner for a specific physical disease or disablement, or
  - (ii) Part 2 of that Schedule, as a direct result of treatment provided by a registered medical practitioner for a specific mental illness or disablement.

(5) Where more than one descriptor specified for an activity applies to a claimant, only the descriptor with the highest score in respect of each activity which applies is to be counted.

(6) Subject to paragraph (7) a claimant is to be treated as having limited capability for work if any of the circumstances set out in Schedule 8 applies.

(7) Where the circumstances set out in paragraph 4 or 5 of Schedule 8 apply, a claimant may only be treated as having limited capability for work if the claimant does not have limited capability for work as determined in accordance with an assessment under this Part.

### **Limited capability for work and work-related activity**

**41.—**(1) A claimant has limited capability for work and work-related activity if—

- (a) it has been determined that—
  - (i) the claimant has limited capability for work and work-related activity on the basis of an assessment under this Part, or
  - (ii) the claimant has limited capability for work-related activity on the basis of an assessment under Part 5 of the ESA Regulations, or
- (b) the claimant is to be treated as having limited capability for work and work-related activity (see paragraph (5)).

(2) A claimant has limited capability for work and work-related activity on the basis of an assessment under this Part if, by reason of the claimant's physical or mental condition—

- (a) at least one of the descriptors set out in Schedule 7 applies to the claimant,
- (b) the claimant's capability for work and work-related activity is limited, and
- (c) the limitation is such that it is not reasonable to require that claimant to undertake such activity.

(3) In assessing the extent of a claimant's capability to perform any activity listed in Schedule 7, it is a condition that the claimant's incapability to perform the activity arises—

- (a) in respect of descriptors 1 to 8, 15(a), 15(b), 16(a) and 16(b)—
  - (i) from a specific bodily disease or disablement, or
  - (ii) as a direct result of treatment provided by a registered medical practitioner for a specific physical disease or disablement, or
- (b) in respect of descriptors 9 to 14, 15(c), 15(d), 16(c) and 16(d)—
  - (i) from a specific mental illness or disablement, or
  - (ii) as a direct result of treatment provided by a registered medical practitioner for a specific mental illness or disablement.

(4) A descriptor applies to a claimant if that descriptor applies to the claimant for the majority of the time or, as the case may be, on the majority of the occasions on which the claimant undertakes or attempts to undertake the activity described by that descriptor.

(5) Subject to paragraph (6), a claimant is to be treated as having limited capability for work and work-related activity if any of the circumstances set out in Schedule 9 applies.

(6) Where the circumstances set out in paragraph 4 of Schedule 9 apply, a claimant may only be treated as having limited capability for work and work-related activity if the claimant does not have limited capability for work and work-related activity as determined in accordance with an assessment under this Part.

### *Work Capability Assessment*

#### **When an assessment may be carried out**

**42.**—(1) The Department may carry out an assessment under this Part where—

- (a) it falls to be determined for the first time whether a claimant has limited capability for work or for work and work-related activity, or
- (b) there has been a previous determination and the Department wishes to determine whether there has been a relevant change of circumstances in relation to the claimant's physical or mental condition or whether that determination was made in ignorance of, or was based on a mistake as to, some material fact,

but subject to paragraphs (2) to (4).

(2) If the claimant has monthly earnings that are equal to or exceed the relevant threshold, the Department may not carry out an assessment under this Part unless—

- (a) the claimant is entitled to attendance allowance, disability living allowance [<sup>F83</sup>, child disability payment] or personal independence payment, or
- (b) the assessment is for the purposes of reviewing a previous determination that a claimant has limited capability for work or for work and work-related activity that was made on the basis of an assessment under this Part or under Part 4 or 5 of the ESA Regulations,

and, in a case where no assessment may be carried out by virtue of this paragraph, the claimant is to be treated as not having limited capability for work unless they are treated as having limited capability for work or for work and work-related activity by virtue of regulation 40(6) or 41(5).

(3) The relevant threshold for the purposes of paragraph (2) is the amount that a person would be paid at the hourly rate set out in regulation 4 of the National Minimum Wage Regulations for 16 hours per week converted to a monthly amount by multiplying by 52 and dividing by 12.

*Status: Point in time view as at 25/09/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Universal Credit Regulations (Northern Ireland) 2016. (See end of Document for details)*

(4) If it has previously been determined on the basis of an assessment under this Part or under Part 4 or 5 of the ESA Regulations that the claimant does not have limited capability for work, no further assessment is to be carried out unless there is evidence to suggest that—

- (a) the determination was made in ignorance of, or was based on a mistake as to, some material fact, or
- (b) there has been a relevant change of circumstances in relation to the claimant's physical or mental condition.

#### Textual Amendments

**F83** Words in reg. 42(2)(a) inserted (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance for Children and Young People) (Consequential Modifications) Order 2021 (S.I. 2021/786), art. 1(2), **Sch. 12 para. 5**

#### Assessment - supplementary

**43.**—(1) The following provisions apply to an assessment under this Part.

(2) The claimant is to be assessed as if the claimant were fitted with or wearing any prosthesis with which the claimant is normally fitted or normally wears or, as the case may be, wearing or using any aid or appliance which is normally, or could reasonably be expected to be, worn or used.

(3) If a descriptor applies in the case of the claimant as a direct result of treatment provided by a registered medical practitioner for a specific disease, illness or disablement, it is to be treated as applying by reason of the disease, illness or disablement.

#### Information requirement

**44.**—(1) The information required to determine whether a claimant has limited capability for work or for work and work-related activity is—

- (a) any information relating to the descriptors specified in Schedule 6 or 7 requested by the Department in the form of a questionnaire, and
- (b) any additional information that may be requested by it.

(2) Where the Department is satisfied that there is enough information to make the determination without the information mentioned in paragraph (1)(a), that information is not required.

(3) Where a claimant fails without a good reason to comply with a request under paragraph (1), the claimant is to be treated as not having limited capability for work or, as the case may be, for work and work-related activity.

(4) Paragraph (3) does not apply unless the claimant was sent a further request to provide the information, at least 3 weeks after the date of the first request and at least one week has passed since the further request was sent.

#### Medical examinations

**45.**—(1) Where it falls to be determined whether a claimant has limited capability for work or for work and work-related activity, the claimant may be called by or on behalf of a health care professional approved by the Department to attend a medical examination [<sup>F84</sup> in person, by telephone or by video].

(2) Where a claimant who is called by or on behalf of such a health care professional to attend a medical examination fails without a good reason to attend or submit to the examination, the claimant



is to be treated as not having limited capability for work or, as the case may be, for work and work-related activity.

- (3) Paragraph (2) does not apply unless—
- (a) notice of the date, time and place of the examination was given to the claimant at least 7 days in advance, or
  - (b) notice was given less than 7 days in advance and the claimant agreed to accept it.

#### Textual Amendments

**F84** Words in [reg. 45\(1\)](#) inserted (25.3.2021) by [The Social Security \(Claims and Payments, Employment and Support Allowance, Personal Independence Payment and Universal Credit\) \(Telephone and Video Assessment\) \(Amendment\) Regulations \(Northern Ireland\) 2021 \(S.R. 2021/64\)](#), regs. 1, 4

## PART 6

### CALCULATION OF CAPITAL AND INCOME

#### CHAPTER 1

#### CAPITAL

#### What is included in capital?

**46.**—(1) The whole of a person's capital is to be taken into account unless—

- (a) it is to be treated as income (see paragraphs (3) and (4)), or
- (b) it is to be disregarded (see regulation 48).

(2) A person's personal possessions are not to be treated as capital.

(3) Subject to paragraph (4), any sums that are paid regularly and by reference to a period, for example payments under an annuity, are to be treated as income even if they would, apart from this provision, be regarded, as capital or as having a capital element.

(4) Where capital is payable by instalments, each payment of an instalment is to be treated as income if the amount outstanding, combined with any other capital of the person (and, if the person is a member of a couple the other member), exceeds £16,000, but otherwise such payments are to be treated as capital.

#### Jointly held capital

**47.**—<sup>[F85]</sup>(1) Where a person and one or more other persons have a beneficial interest in a capital asset, those persons are to be treated, in the absence of evidence to the contrary, as if they were each entitled to an equal share of the whole of that beneficial interest.

<sup>[F86]</sup>(2) Any premises or land not wholly owned by the claimant are to be disregarded for such period as is reasonable in the circumstances to enable the collection of such information as is necessary to determine the treatment of capital in accordance with paragraph (1).]

*Status: Point in time view as at 25/09/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Universal Credit Regulations (Northern Ireland) 2016. (See end of Document for details)*

### Textual Amendments

- F85** Reg. 47 renumbered as reg. 47(1) (coming into force in accordance with reg. 1(3) of the amending Rule) by [The Social Security \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/116\)](#), regs. 1(3), **9(3)(a)**
- F86** Reg. 47(2) added (coming into force in accordance with reg. 1(3) of the amending Rule) by [The Social Security \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/116\)](#), regs. 1(3), **9(3)(b)**

### Capital disregarded

**48.**—(1) Any capital specified in Schedule 10 is to be disregarded from the calculation of a person's capital (see also regulations 75 to 77).

(2) Where a period of 6 months is specified in that Schedule, that period may be extended by the Department where it is reasonable to do so in the circumstances of the case.

### Valuation of capital

**49.**—(1) Capital is to be calculated at its current market value or surrender value less—

- (a) where there would be expenses attributable to sale, 10 percent, and
- (b) the amount of any encumbrances secured on it.

(2) The market value of a capital asset possessed by a person in a country outside the United Kingdom is—

- (a) if there is no prohibition in that country against the transfer of an amount equal to the value of that asset to the United Kingdom, the market value in that country, or
- (b) if there is such a prohibition, the amount it would raise if sold in the United Kingdom to a willing buyer.

(3) Where capital is held in currency other than sterling, it is to be calculated after the deduction of any banking charge or commission payable in converting that capital into sterling.

### Notional capital

**50.**—(1) A person is to be treated as possessing capital of which the person has deprived themselves for the purpose of securing entitlement to universal credit or to an increased amount of universal credit.

(2) A person is not to be treated as depriving themselves of capital if the person disposes of it for the purposes of—

- (a) reducing or paying a debt owed by the person, or
- (b) purchasing goods or services if the expenditure was reasonable in the circumstances of the person's case.

(3) Where a person is treated as possessing capital in accordance with this regulation, then for each subsequent assessment period (or, in a case where the award has terminated, each subsequent month) the amount of capital the person is treated as possessing (“the notional capital”) reduces—

- (a) in a case where the notional capital exceeds £16,000, by the amount which the Department considers would be the amount of an award of universal credit that would be made to the person (assuming they met the conditions in Article 9 and 10 of the Order) if it were not for the notional capital, or

- (b) in a case where the notional capital exceeds £6,000 but not £16,000 (including where the notional capital has reduced to an amount equal to or less than £16,000 in accordance with sub-paragraph (a) by the amount of unearned income that the notional capital is treated as yielding under regulation 72.

## CHAPTER 2 EARNED INCOME

### Modifications etc. (not altering text)

**C39** Pt. 6 Ch. 2 applied (coming into force in accordance with reg. 1(3) of the amending Rule) by [The Social Security \(Payments on Account of Benefit\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/223\)](#), regs. 1(3)(h), **13(7)**

### Meaning of “earned income”

**51.** “Earned income” means—

- (a) the remuneration or profits derived from—
- (i) employment under a contract of service or in an office, including elective office,
  - (ii) a trade, profession or vocation, or
  - (iii) any other paid work; or
- (b) any income treated as earned income in accordance with this Chapter.

### Meaning of other terms relating to earned income

**52.**—(1) In this Chapter—

- “car” has the meaning in section 268A of the Capital Allowances Act 2001 <sup>M44</sup>;
- “employed earnings” has the meaning in regulation 55;
- “gainful self-employment” has the meaning in regulation 65;
- “HMRC” means Her Majesty's Revenue and Customs;
- “motor cycle” has the meaning in section 268A of the Capital Allowances Act 2001;
- “the PAYE Regulations” means the Income Tax (Pay As You Earn) Regulations 2003 <sup>M45</sup>;
- “relievable pension contributions” has the meaning in section 188 of the Finance Act 2004 <sup>M46</sup>;
- “self-employed earnings” has the meaning in regulation 57;
- “start-up period” has the meaning in regulation 64.

(2) References in this Chapter to a person participating as a service user are to—

- (a) a person who is being consulted by or on behalf of—
- (i) a body which has a statutory duty to provide services in the field of health, social care or social housing, or
  - (ii) a body which conducts research or undertakes monitoring for the purpose of planning or improving such services,
- in their capacity as a user, potential user, carer of a user or person otherwise affected by the provision of those services,
- (b) a person who is being consulted by or on behalf of—

*Status: Point in time view as at 25/09/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Universal Credit Regulations (Northern Ireland) 2016. (See end of Document for details)*

- (i) the Department in relation to any of its functions in the field of social security or child support or under section 1 of the Employment and Training Act (Northern Ireland) 1950 <sup>M47</sup> (general functions of the Department as to employment and training for employment), or
- (ii) a body which conducts research or undertakes monitoring for the purpose of planning or improving such functions,  
in their capacity as a person affected or potentially affected by the exercise of those functions or the carer of such a person, or
- (c) the carer of a person consulted under sub-paragraph (a) or (b).

#### Marginal Citations

**M44** 2001 c. 2; section 268A was inserted by section 30 of the Finance Act 2009 c. 10.

**M45** S.I. 2003/2682.

**M46** 2004 c. 12.

**M47** 1950 c. 29.

#### Calculation of earned income – general principles

**53.**—(1) The calculation of a person's earned income in respect of an assessment period is, unless otherwise provided in this Chapter, to be based on the actual amounts received in that period.

(2) Where the Department—

- (a) makes a determination as to whether the financial conditions in Article 10 of the Order are met before the expiry of the first assessment period in relation to a claim for universal credit, or
- (b) makes a determination as to the amount of a person's [<sup>F87</sup>earned] income in relation to an assessment period where a person has failed to report information in relation to that earned income,

that determination may be based on an estimate of the amounts received or expected to be received in that assessment period.

#### Textual Amendments

**F87** Word in reg. 53(2)(b) substituted (28.11.2018) by The Universal Credit and Jobseekers Allowance (Miscellaneous Amendments) Regulations (Northern Ireland) 2018 (S.R. 2018/187), regs. 1(2), 3(5)

#### Surplus earnings

[<sup>F88</sup>54.—(1) This regulation applies in relation to a claim for universal credit where—

- (a) the claimant, or either of joint claimants, had an award of universal credit that terminated within the 6 months ending on the first day in respect of which the claim is made (“the old award”);
- (b) the claimant has not, or neither of joint claimants has, been entitled to universal credit since the old award terminated; and
- (c) the total earned income in the month that would have been the final assessment period for the old award, had it not terminated, exceeded the relevant threshold.

(2) Where this regulation applies, any surplus earnings that are to be taken into account in relation to the claim in accordance with paragraph (3) are to be treated as earned income for the purposes of determining whether there is entitlement to a new award and, if there is entitlement, calculating the amount of the award.

(3) Surplus earnings are—

- (a) if the claim in question is the first since the termination of the old award, the amount of the excess referred to in paragraph (1)(c) (“the original surplus”);
- (b) if the claim in question is the second since the termination of the old award, the amount, if any, by which —
  - (i) the original surplus, plus
  - (ii) the total earned income in the month that would have been the first assessment period in relation to the first claim, exceeded the relevant threshold (“the adjusted surplus”);
- (c) if the claim in question is the third since the termination of the old award, the amount, if any, by which —
  - (i) the adjusted surplus from the second claim, plus
  - (ii) the total earned income in the month that would have been the first assessment period in relation to the second claim, exceeded the relevant threshold;
- (d) if the claim in question is the fourth or fifth since the termination of the old award, an amount calculated in the same manner as for the third claim (that is by taking the adjusted surplus from the previous claim).

(4) For the purposes of paragraph (3)—

- (a) if the claim in question is the first joint claim by members of a couple, each of whom had an old award (because each was previously entitled to universal credit as a single person or as a member of a different couple), the amounts of any surplus earnings from the old award, or from a previous claim, that would have been taken into account if they had each claimed as a single person are to be aggregated; and
- (b) if the claim in question is —
  - (i) a single claim where the claimant had an old award, or made a subsequent claim, as a joint claimant, or
  - (ii) a joint claim where either claimant had an old award, or made a subsequent claim, as a member of a different couple,

the original surplus, or any adjusted surplus, is to be apportioned in the manner determined by the Department.

(5) No amount of surplus earnings is to be taken into account in respect of a claimant who has, or had at the time old award terminated, recently been a victim of domestic violence (within the meaning given by regulation 96).

(6) In this regulation—

“total earned income” is the earned income of the claimant or, if the claimant is a member of a couple, the couple’s combined earned income, but does not include any amount a claimant would be treated as having by virtue of regulation 63 (the minimum income floor);

“the nil UC threshold” is the amount of total earned income above which there would be no entitlement to universal credit, expressed by the following formula—

$$(M-U)63 \times 100 + WA$$

*Status: Point in time view as at 25/09/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Universal Credit Regulations (Northern Ireland) 2016. (See end of Document for details)*

where—

M is the maximum amount of an award of universal credit;

U is unearned income;

WA is the work allowance.

“the old award” does not include an award the last day of which falls before [<sup>F89</sup>8th May 2018].

“the relevant threshold” is the nil UC threshold plus £300.]

#### Textual Amendments

**F88** Reg. 54 substituted (8.5.2018) by [The Universal Credit \(Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/92\)](#), regs. 1(2), **6(8)**

**F89** Words in [reg. 54\(6\)](#) substituted (28.11.2018) by [The Universal Credit and Jobseekers Allowance \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/187\)](#), regs. 1(2), **3(6)**

#### [<sup>F90</sup>Transitional provision – temporary de minimis period

**54A.**—(1) For the purposes of applying regulation 54 (surplus earnings) in relation to a claim for universal credit made in respect of a period that begins before the end of the temporary de minimis period, the meaning of “relevant threshold” in paragraph (6) of that regulation is modified by substituting “£2,500” for “£300”.

(2) For the purposes of paragraph (1), the “temporary de minimis period” is the period beginning with the coming into force of regulation 54 and ending on 31st March 2019, but may be extended by the Department if the Department considers it necessary to do so to safeguard the efficient administration of universal credit.]

#### Textual Amendments

**F90** [Reg. 54A](#) inserted (8.5.2018) by [The Universal Credit \(Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/92\)](#), regs. 1(2), **6(9)**

#### Employed earnings

**55.**—(1) This regulation applies for the purposes of calculating earned income from employment under a contract of service or in an office including elective office (“employed earnings”).

(2) Employed earnings comprise any amounts that are general earnings as defined in section 7(3) of the ITEPA but excluding—

- (a) amounts that are treated as earnings under Chapters 2 to 11 of Part 3 of that Act (employment income: earnings and benefit etc treated as income), and
- (b) amounts that are exempt from income tax under Part 4 of that Act (employment income: exemptions).

(3) In the calculation of employed earnings the following are to be disregarded—

- (a) expenses that are allowed to be deducted under Chapter 2 of Part 5 of the ITEPA (employment income: deductions allowed from earnings), and
- (b) expenses arising from participation as a service user (see regulation 52(2)).

(4) The following benefits are to be treated as employed earnings—

- (a) statutory sick pay;
- (b) statutory maternity pay;
- (c) statutory paternity pay;
- (d) statutory adoption pay; and
- (e) statutory shared parental pay.

(5) A repayment of income tax or national insurance contributions received by a claimant from HMRC in respect of a tax year in which the person was in paid work is to be treated as employed earnings unless it is taken into account as self-employed earnings under regulation 57(3).

(6) In calculating the amount of a person's employed earnings in respect of an assessment period, there are to be deducted from the amount of general earnings or benefits specified in paragraphs (2) to (4)—

- (a) any relievable pension contributions made by the person in that period,
- (b) any amounts paid by the person in that period in respect of the employment by way of income tax or primary Class 1 contributions under section 6(1) of the Contributions and Benefits Act, and
- (c) any sums withheld as donations to an approved scheme under Part 12 of the ITEPA (payroll giving) by a person required to make deductions or repayments of income tax under the PAYE Regulations.

(7) Employed earnings also comprise any payment made under the legislation of, or under any scheme operating in, the Republic of Ireland which is analogous to any income to which paragraph (2) relates.

#### **Employee involved in trade dispute**

**56.** A person who has had employed earnings and has withdrawn their labour in furtherance of a trade dispute is, unless their contract of service has been terminated, to be assumed to have employed earnings at the same level as he would have had were it not for the trade dispute.

#### **Self-employed earnings — treatment of losses**

**57.—(1)** This regulation applies for the purpose of calculating earned income that is not employed earnings and is derived from carrying on a trade, profession or vocation (“self employed earnings”).

(2) A person's self-employed earnings in respect of an assessment period are to be calculated as follows—

##### *Step 1*

Calculate the amount of the person's profit or loss in respect of each trade, profession or vocation carried on by the person by—

- (a) (a) taking the actual receipts in that assessment period, and
- (b) (b) deducting any amounts allowed as expenses under regulation 59 or 60.

Where a trade, profession or vocation is carried on in a partnership, take the amount of the profit or loss attributable to the person's share in the partnership.

##### *Step 2*

If the person has carried on more than one trade, profession or vocation in the assessment period, add together the amounts resulting from step 1 in respect of each trade, profession or vocation.

*Status: Point in time view as at 25/09/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Universal Credit Regulations (Northern Ireland) 2016. (See end of Document for details)*

### <sup>F91</sup>Step 3

Deduct from the amount resulting from Step 1 or (if applicable) Step 2 any payment made by the person to HMRC in the assessment period by way of national insurance contributions or income tax in respect of any trade, profession or vocation carried on by the person.

If the amount resulting from Steps 1 to 3 is nil or a negative amount, the amount of the person's self-employed earnings in respect of the assessment period is nil (and ignore the following steps).]

### Step 4

If the amount resulting from step 3 is greater than nil, deduct from that amount any relievable pension contributions made by the person in the assessment period (unless a deduction has been made in respect of those contributions in calculating the person's employed earnings).

If the amount resulting from this step is nil or a negative amount, the person's self-employed earnings in respect of the assessment period are nil (and ignore the following step).

### Step 5

If the amount resulting from step 4 is greater than nil, deduct from that amount any unused losses (see regulation 58), taking the oldest first.

If the amount resulting from this step is greater than nil, that is the amount of the person's self-employed earnings for the assessment period.

If the amount resulting from this step is nil or a negative amount, the amount of the person's self-employed earnings in respect of the assessment period is nil.

(3) The receipts referred to in paragraph (2) include receipts in kind and any refund or repayment of income tax, value added tax or national insurance contributions relating to the trade, profession or vocation.

(4) Where the purchase of an asset has been deducted as an expense in any assessment period and, in a subsequent assessment period, the asset is sold or ceases to be used for the purposes of a trade, profession or vocation carried on by the person, the proceeds of sale (or, as the case may be, the amount that would be received for the asset if it were sold at its current market value) are to be treated as a receipt in that subsequent assessment period.

(5) Where the person is a self-employed earner in the Republic of Ireland the amounts to be deducted for income tax and National Insurance contributions under this regulation shall be such amounts as, in the opinion of the Department, would have been deducted had that person been employed in Northern Ireland.

#### Textual Amendments

**F91** Words in [reg. 57\(2\)](#) substituted (8.5.2018) by [The Universal Credit \(Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/92\)](#), regs. 1(2), **6(10)**

#### Unused losses

**58.**—(1) For the purpose of regulation 57(2), a person has an unused loss if—

- (a) in calculating the person's self-employed earnings for any of the previous <sup>F92</sup>... assessment periods, the amount resulting from steps 1 to 3 in regulation 57(2) was a negative amount (a “loss”), and
- (b) the loss has not been extinguished in a subsequent assessment period.



[<sup>F93</sup>(1A) In this regulation “unused loss” does not include the loss from an assessment period that ends before 2nd April 2018.]

(2) For the purposes of paragraph (1)(b) a loss is extinguished if no amount of that loss remains after it has been deducted at step 5 in regulation 57(2).

(3) Where a person was entitled to a previous award of universal credit and the last day of entitlement in respect of that award fell within the 6 months preceding the first day of entitlement in respect of the new award, the Department may, for the purposes of this regulation (provided the person provides such information as it requires), [<sup>F94</sup>treat—

- (a) the assessment periods under the previous award; and
- (b) any months between that award and the current award in respect of which a claim has been made,

as assessment periods under the current award.]

#### Textual Amendments

- F92** Word in reg. 58(1)(a) omitted (8.5.2018) by virtue of [The Universal Credit \(Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/92\)](#), regs. 1(2), **6(1)(a)**
- F93** Reg. 58(1A) inserted (coming into force in accordance with reg. 1(3) of the amending Rule) by [The Social Security \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/116\)](#), regs. 1(3), **9(6)**
- F94** Words in reg. 58(3) substituted (8.5.2018) by [The Universal Credit \(Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/92\)](#), regs. 1(2), **6(1)(b)**

#### Permitted expenses

**59.**—(1) The deductions allowed in the calculation of self-employed earnings are amounts paid in the assessment period in respect of—

- (a) expenses that have been wholly and exclusively incurred for purposes of the trade, profession or vocation, or
- (b) in the case of expenses that have been incurred for more than one purpose, an identifiable part or proportion that has been wholly and exclusively incurred for the purposes of the trade, profession or vocation,

excluding any expenses that were incurred unreasonably.

(2) Payments deducted under paragraph (1) may include value added tax.

(3) No deduction may be made for payments in respect of—

- (a) expenditure on non-depreciating assets (including property, shares or other assets held for investment purposes);
- (b) repayment of capital in relation to a loan taken out for the purposes of the trade, profession or vocation;
- (c) expenses for business entertainment.

(4) A deduction for a payment of interest in relation to a loan taken out for the purposes of the trade, profession or vocation may not exceed £41.

(5) This regulation is subject to regulation 60.

### **Flat rate deductions for mileage and use of home and adjustment for personal use of business premises**

**60.**—(1) This regulation provides for alternatives to the deductions that would otherwise be allowed under regulation 59.

(2) Instead of a deduction in respect of the actual expenses incurred in relation to the acquisition or use of a motor vehicle, the following deductions are to be allowed according to the mileage covered on journeys undertaken in the assessment period for the purposes of the trade, profession or vocation—

- (a) in a car, van or other motor vehicle (apart from a motorcycle), 45 pence per mile for the first 833 miles and 25 pence per mile thereafter, and
- (b) on a motorcycle, 24 pence per mile,

and, if the motor vehicle is a car, the only deduction allowed for the acquisition or use of that vehicle is a deduction under this paragraph.

(3) Where a person carrying on a trade, profession or vocation incurs expenses in relation to the use of accommodation occupied as their home, instead of a deduction in respect of the actual expenses, a deduction is allowed according to the number of hours spent in the assessment period on income generating activities related to the trade, profession or vocation as follows—

- (a) at least 25 hours but no more than 50 hours, £10;
- (b) more than 50 hours but no more than 100 hours, £18;
- (c) more than 100 hours, £26.

(4) Where premises which are used by a person mainly for the purposes of a trade, profession or vocation are also occupied by that person for his personal use, whether alone or with other persons, the deduction allowed for expenses in relation to those premises is the amount that would be allowed under regulation 59(1) if the premises were used wholly and exclusively for purposes of the trade, profession or vocation, but reduced by the following amount according to the number of persons occupying the premises for his personal use—

- (a) £350 for one person;
- (b) £500 for 2 persons;
- (c) £650 for 3 or more persons.

### **Notional earned income**

**61.**—(1) A person who has deprived himself of earned income, or whose employer has arranged for them to be so deprived, for the purpose of securing entitlement to universal credit or to an increased amount of universal credit is to be treated as possessing that earned income.

(2) Such a purpose is to be treated as existing if, in fact, entitlement or higher entitlement to universal credit did result and, in the opinion of the Department, this was a foreseeable and intended consequence of the deprivation.

(3) If a person provides services for another person and—

- (a) the other person makes no payment for those services or pays less than would be paid for comparable services in the same location, and
- (b) the means of the other person were sufficient to pay for, or pay more for, those services,

the person who provides the services is to be treated as having received the remuneration that would be reasonable for the provision of those services.

(4) Paragraph (3) does not apply where—

- (a) the person is engaged to provide the services by a charitable or voluntary organisation and the Department is satisfied that it is reasonable to provide the services free of charge or at less than the rate that would be paid for comparable services in the same location;
- (b) the services are provided by a person who is participating as a service user (see regulation 52(2)), or
- (c) the services are provided under or in connection with a person's participation in an employment or training programme approved by the Department for Employment and Learning.

**[<sup>F95</sup>Information for calculating earned income – real time information etc.**

**62.**—(1) Unless, paragraph (2) applies, a person shall provide such information for the purposes of calculating their earned income at such times as the Department may require.

*Real time information*

(2) Where a person is, or has been, engaged in an employment in respect of which their employer is a Real Time Information employer—

- (a) the amount of the person's employed earnings from that employment in respect of each assessment period is to be based on the information reported to HMRC under the PAYE Regulations and received by the Department from HMRC in that assessment period; and
- (b) in respect of an assessment period in which no information is received from HMRC, the amount of employed earnings in relation to that employment is to be taken to be nil.

*Exceptions to use of Real Time Information*

(3) Paragraph (2) does not apply where—

- (a) in relation to a particular employment the Department considers that the employer is unlikely to report information to HMRC in a sufficiently accurate or timely manner;
- (b) it appears to the Department that the amount of a payment reported to HMRC is incorrect, or fails to reflect the definition of employed earnings in regulation 55 (employed earnings) in some material respect; or
- (c) no information is received from HMRC in an assessment period and the Department considers that this is likely to be because of a failure to report information (which includes the failure of a computer system operated by HMRC, the employer or any other person).

(4) Where paragraph (2) does not apply by virtue of any of the exceptions in paragraph (3) the Department shall determine the amount of employed earnings for the assessment period in question (or, where the exception in paragraph (3)(a) applies, for each assessment period in which the person is engaged in that employment) in accordance with regulation 55 (employed earnings) using such information or evidence as the Department thinks fit.

*Reallocation of reported payments*

(5) Where it appears to the Department that a payment of employed earnings has been reported late, or otherwise reported in the wrong assessment period, the Department may determine that the payment is to be treated as employed earnings in the assessment period in which it was received.

(6) Where a person is engaged in an employment where they are paid on a regular monthly basis and more than one payment in relation to that employment is reported in the same assessment period, the Department may, for the purposes of maintaining a regular pattern, determine that one of those payments is to be treated as employed earnings in respect of a different assessment period.

*Consequential adjustments*

*Status: Point in time view as at 25/09/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Universal Credit Regulations (Northern Ireland) 2016. (See end of Document for details)*

(7) Where the Department makes a determination under any of paragraphs (4) to (6), the Department may make such other adjustments to the calculation of the person's employed earnings as may be necessary to avoid duplication or to maintain a regular payment pattern.

(8) In this regulation "Real Time Information Employer" has the meaning in regulation 2A (1) of the PAYE Regulations.]

#### Textual Amendments

**F95** Reg. 62 substituted (16.11.2020) by [The Universal Credit \(Earned Income\) \(Amendment\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/226\)](#), regs. 1(1), 2

### *Gainful self-employment*

#### Minimum income floor

**63.**—(1) This regulation applies to a claimant who—

- (a) is in gainful self-employment (see regulation 65), and
- (b) would apart from this regulation [<sup>F96</sup>or regulation 89 (claimants subject to no work-related requirements – the earnings threshold)], fall within Article 27 of the Order (claimants subject to all work related requirements).

(2) Where this regulation applies to a single claimant, for any assessment period in respect of which the claimant's earned income is less than their individual threshold, the claimant is to be treated as having earned income equal to that threshold.

(3) Where this regulation applies to a claimant who is a member of a couple, for any assessment period in respect of which—

- (a) the claimant's earned income is less than their individual threshold, and
- (b) the couple's combined earned income is less than the couple threshold,

the claimant is to be treated as having earned income equal to their individual threshold minus any amount by which that amount of earned income combined with their partner's earned income would exceed the couple threshold.

(4) In this regulation references to the claimant's individual threshold and to the couple threshold are to the amounts set out in regulation 89(2) and 89(3) respectively, converted to net amounts by deducting such amount for income tax and national insurance contributions as the Department considers appropriate.

(5) Where this regulation applies in respect of an assessment period in which surplus earnings are treated as an amount of earned income under regulation 54 (surplus earnings), that amount is to be added to the claimant's earned income before this regulation is applied and, in the case of joint claimants, it is to be added to the earned income of either member of the couple so as to produce the lowest possible amount of combined earned income after this regulation is applied.

(6) An assessment period referred to in this regulation does not include an assessment period which falls wholly within a start-up period or begins or ends in a start-up period.

#### Textual Amendments

**F96** Words in reg. 63(1)(b) inserted (3.10.2019) by [The Universal Credit \(Childcare Costs and Minimum Income Floor\) \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/173\)](#), regs. 1(2), 3

#### Modifications etc. (not altering text)

- C40** Reg. 63 excluded (coming into force in accordance with reg. 1(3) of the amending Rule) by [The Social Security \(Payments on Account of Benefit\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/223\)](#), regs. 1(3)(h), **13(7)**
- C41** Reg. 63 restricted (temp.) (13.3.2020) by [The Employment and Support Allowance and Universal Credit \(Coronavirus\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/33\)](#), regs. 1(1), **4** (with reg. 5) (as amended by [The Social Security \(Coronavirus\) \(Further Measures\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/53\)](#))regs. 1(1), **10(3)**)

#### Start-up period

**64.**—(1) A “start-up period” is a period of 12 months and applies from the beginning of the assessment period in which the Department determines that a claimant is in gainful self-employment where—

- [<sup>F97</sup>(a) regulation 63 (minimum income floor) has not previously applied to the claimant in relation to the trade, profession or vocation which is currently the claimant's main employment (whether in relation to the current award or a previous award); and]
- (b) the claimant is taking active steps to increase their earnings from that employment to the level of the claimant's individual threshold (see regulation 89).

(2) No start-up period may apply in relation to a claimant where a start-up period has previously applied in relation to that claimant, whether in relation to the current award or any previous award of universal credit, unless that previous start-up period—

- (a) began more than 5 years before the beginning of the assessment period referred to in paragraph (1), and
- (b) applied in relation to a different trade, profession or vocation which the claimant has ceased to carry on.

(3) The Department may terminate a start-up period at any time if the person is no longer in gainful self-employment or is no longer taking the steps referred to in paragraph (1)(b).

#### Textual Amendments

- F97** [Reg. 64\(1\)\(a\)](#) substituted (23.9.2020) by [The Universal Credit \(Managed Migration and Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/152\)](#), regs. 1(4), **5(1)**

#### Meaning of “gainful self-employment”

**65.** A claimant is in gainful self-employment for the purposes of regulations 63 and 64 where the Department has determined that—

- (a) the claimant is carrying on a trade, profession or vocation as their main employment,
- (b) their earnings from that trade, profession or vocation are self-employed earnings, and
- (c) the trade, profession or vocation is organised, developed, regular and carried on in expectation of profit.

## CHAPTER 3

## UNEARNED INCOME

**What is included in unearned income?**

**66.**—(1) A person's unearned income is any of his income, including income the person is treated as having by virtue of regulation 74 (notional unearned income), falling within the following descriptions—

- (a) retirement pension income (see regulation 67) [<sup>F98</sup>to which the person is entitled, subject to any adjustment to the amount payable in accordance with regulations under section 71 of the Social Security Administration (Northern Ireland) Act 1992 (overlapping benefits)];
- (b) any of the following benefits to which the person is entitled, subject to any adjustment to the amount payable in accordance with regulations under section 71 of the Social Security Administration (Northern Ireland) Act 1992 <sup>M48</sup> (overlapping benefits)—
  - (i) jobseeker's allowance,
  - (ii) employment and support allowance,
  - (iii) carer's allowance,
  - <sup>F99</sup>(iv) . . . . .
  - (v) widowed mother's allowance,
  - (vi) widowed parent's allowance,
  - (vii) widow's pension,
  - (viii) maternity allowance, or
  - (ix) industrial injuries benefit, excluding any increase in that benefit under section 104 or 105 of the Contributions and Benefits Act (increases where constant attendance needed and for exceptionally severe disablement);
- (c) any benefit, allowance, or other payment which is paid under the law of a country outside the United Kingdom and is analogous to a benefit mentioned in sub-paragraph (b);
- (d) payments made towards the maintenance of the person by his spouse, civil partner, former spouse or former civil partner under a court order or an agreement for maintenance;
- [<sup>F100</sup>(da) foreign state retirement pension;]
- (e) student income (see regulation 68);
- (f) a payment made under section 1 of the Employment and Training Act (Northern Ireland) 1950 which is a substitute for universal credit or is for a person's living expenses;
- (g) a payment made by one of the sports councils named in section 23(2) of the National Lottery etc. Act 1993 <sup>M49</sup> out of sums allocated to it for distribution where the payment is for the person's living expenses;
- (h) a payment received under an insurance policy to insure against—
  - (i) the risk of losing income due to illness, accident or redundancy; <sup>F101</sup>...
  - <sup>F102</sup>(ii) . . . . .
- (i) income from an annuity (other than retirement pension income), unless disregarded under regulation 75 (compensation for personal injury);
- (j) income from a trust, unless disregarded under regulation 75 (compensation for personal injury) or 76 (special schemes for compensation);
- (k) income that is treated as the yield from a person's capital by virtue of regulation 72;

- (l) capital that is treated as income by virtue of regulation 46(3) or (4);
- [<sup>F103</sup>(la) PPF periodic payments;]
- (m) income that does not fall within sub-paragraphs [<sup>F104</sup>(a) to (la)] and is taxable under Part 5 of the Income Tax (Trading and Other Income) Act 2005 (miscellaneous income) <sup>M50</sup>.
- [<sup>F105</sup>(2) In this regulation—
- (a) in paragraph (1)(da) “foreign state retirement pension” means any pension which is paid under the law of a country outside the United Kingdom and is in the nature of social security;
- (b) in paragraph (1)(f) and (g) a person’s “living expenses” are the cost of—
- (i) food,
- (ii) ordinary clothing or footwear,
- (iii) household fuel, rent or other housing costs (including rates),
- for the person, their partner and any child or qualifying young person for whom the person is responsible; and
- (c) in paragraph (1)(la) “PPF periodic payments” has the meaning given in Article 17(1) of the State Pension Credit Act (Northern Ireland) 2002.]

#### Textual Amendments

- F98** Words in reg. 66(1)(a) inserted (8.5.2018) by The Universal Credit (Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision) Regulations (Northern Ireland) 2018 (S.R. 2018/92), regs. 1(2), **6(12)(a)**
- F99** Reg. 66(1)(b)(iv) omitted (coming into force in accordance with reg. 1(2)(b) of the amending Rule) by virtue of The Pensions (2015 Act) (Consequential, Supplementary and Incidental Amendments) Order (Northern Ireland) 2017 (S.R. 2017/66), arts. 1(2)(b), **28(3)** (with arts. 2, 3)
- F100** Reg. 66(1)(da) inserted (8.5.2018) by The Universal Credit (Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision) Regulations (Northern Ireland) 2018 (S.R. 2018/92), regs. 1(2), **6(12)(b)**
- F101** Word in reg. 66(1)(h)(i) omitted (6.4.2018) by virtue of The Loans for Mortgage Interest Regulations (Northern Ireland) 2017 (S.R. 2017/176), reg. 1(2)(a), **Sch. 5 para. 5(d)(i)** (with regs. 18(2), 19, 19A, 20)
- F102** Reg. 66(1)(h)(ii) omitted (6.4.2018) by virtue of The Loans for Mortgage Interest Regulations (Northern Ireland) 2017 (S.R. 2017/176), reg. 1(2)(a), **Sch. 5 para. 5(d)(ii)** (with regs. 18(2), 19, 19A, 20)
- F103** Reg. 66(1)(la) inserted (8.5.2018) by The Universal Credit (Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision) Regulations (Northern Ireland) 2018 (S.R. 2018/92), regs. 1(2), **6(12)(c)**
- F104** Words in reg. 66(1)(m) substituted (8.5.2018) by The Universal Credit (Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision) Regulations (Northern Ireland) 2018 (S.R. 2018/92), regs. 1(2), **6(12)(d)**
- F105** Reg. 66(2) substituted (8.5.2018) by The Universal Credit (Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision) Regulations (Northern Ireland) 2018 (S.R. 2018/92), regs. 1(2), **6(12)(e)**

#### Marginal Citations

- M48** 1992 c. 8.
- M49** 1993 c. 39.
- M50** 2005 c. 5.

**Meaning of “retirement pension income”**

**67.**—(1) Subject to paragraph (2), in regulation 66(1)(a) “retirement pension income” has the same meaning as in section 16 of the State Pension Credit Act (Northern Ireland) 2002 as extended by regulation 16 of the State Pension Credit Regulations (Northern Ireland) 2003 <sup>M51</sup>.

(2) Retirement pension income includes any increase in a Category A or Category B retirement pension mentioned in section 16(1)(a) of the State Pension Credit Act (Northern Ireland) 2002 which is payable under Part 4 of the Contributions and Benefits Act in respect of a person's partner.

**Marginal Citations**

**M51** S.R. 2003 No. 28; regulation 16 was amended by regulation 6(4) of S.R. 2004 No. 394 and regulation 2(3) of S.R. 2005 No. 513.

**Person treated as having student income**

**68.**—(1) A person who is undertaking a course of education, study or training (see regulation 13) and has a student loan [<sup>F106</sup>, a postgraduate loan] or a grant in respect of that course, is to be treated as having student income in respect of—

- (a) an assessment period in which the course begins;
- (b) in the case of a course which lasts for 2 or more years, an assessment period in which the second or subsequent year begins;
- (c) any other assessment period in which, or in any part of which, the person is undertaking the course, excluding—
  - (i) an assessment period in which the long vacation begins or which falls within the long vacation, or
  - (ii) an assessment period in which the course ends.

(2) Where a person has a student loan [<sup>F107</sup> or a postgraduate loan], the student income for any assessment period referred to in paragraph (1) is to be based on the amount of that loan.

(3) Where paragraph (2) applies, any grant in relation to the period to which the loan applies is to be disregarded except for—

- (a) any specific amount included in the grant to cover payments which are rent payments in respect of which an amount is included in an award of universal credit for the housing costs element;
- (b) any amount intended for the maintenance of another person in respect of whom an amount is included in the award.

(4) Where paragraph (2) does not apply, the person's student income for any assessment period in which they are treated as having that income is to be based on the amount of their grant.

(5) A person is to be treated as having a student loan [<sup>F108</sup> or a postgraduate loan] where the person could acquire [<sup>F109</sup> a student loan or postgraduate loan] by taking reasonable steps to do so.

(6) Student income does not include any payment referred to in regulation 66(1)(f) (training allowances).

(7) In this regulation and regulations 69 to 71—

“grant” means any kind of educational grant or award, excluding a student loan or a payment made under a scheme to enable persons under the age of 21 to complete courses of education or training that are not advanced education;



“the long vacation” is a period of no less than one month which, in the opinion of the Department, is the longest vacation during a course which is intended to last for 2 or more years;

[<sup>F110</sup>“postgraduate loan” means a loan to a student undertaking a postgraduate master’s degree course or a postgraduate doctoral degree course pursuant to regulations made under section 22 of the Teachers Higher Education Act 1998;]

“student loan” means a loan towards a student's maintenance pursuant to any regulations made under section 22 of the Teaching and Higher Education Act <sup>M52</sup>, section 73 of the Education (Scotland) Act 1980 <sup>M53</sup> or Article 3 of the Education (Student Support) (Northern Ireland) Order) 1998 <sup>M54</sup> and includes in Scotland, a young student's bursary paid under regulation 4(1) (c) of the Students' Allowances (Scotland) Regulations 2007 <sup>M55</sup>.

#### Textual Amendments

- F106** Words in reg. 68(1) inserted (15.7.2020) by [The Social Security \(Income and Capital\) \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/108\)](#), regs. 1(1), **8(2)(a)**
- F107** Words in reg. 68(2) inserted (15.7.2020) by [The Social Security \(Income and Capital\) \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/108\)](#), regs. 1(1), **8(2)(b)**
- F108** Words in reg. 68(5) inserted (15.7.2020) by [The Social Security \(Income and Capital\) \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/108\)](#), regs. 1(1), **8(2)(c)(i)**
- F109** Words in reg. 68(5) substituted (15.7.2020) by [The Social Security \(Income and Capital\) \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/108\)](#), regs. 1(1), **8(2)(c)(ii)**
- F110** Words in reg. 68(7) inserted (15.7.2020) by [The Social Security \(Income and Capital\) \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/108\)](#), regs. 1(1), **8(2)(d)**

#### Marginal Citations

- M52** 1998 c. 30.
- M53** 1980 c. 44.
- M54** S.I. 1998/1760(N.I. 14).
- M55** S.S.I. 2007/153.

### Calculation of student income - student loans [<sup>F111</sup> and postgraduate loans]

**69.**—(1) Where, in accordance with regulation 68(2) a person's student income is to be based on the amount of a student loan for a year the amount to be taken into account is the maximum student loan (including any increases for additional weeks) that the person would be able to acquire in respect of that year by taking reasonable steps to do so.

[<sup>F112</sup>(1A) Where, in accordance with regulation 68(2), a person’s student income is to be based on the amount of a postgraduate loan for a year, the amount to be taken into account is 30 per cent. of the maximum postgraduate loan that the person would be able to acquire by taking reasonable steps to do so.]

(2) For the purposes of calculating the maximum student loan in paragraph (1) [<sup>F113</sup> or the maximum postgraduate loan in paragraph (1A)] it is to be assumed no reduction has been made on account of—

- (a) the person's means or the means of their partner, parent or any other person; or
- (b) any grant made to the person.

*Status: Point in time view as at 25/09/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Universal Credit Regulations (Northern Ireland) 2016. (See end of Document for details)*

### Textual Amendments

- F111** Words in [reg. 69](#) heading inserted (15.7.2020) by [The Social Security \(Income and Capital\) \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/108\)](#), regs. 1(1), **8(3)(a)**
- F112** [Reg. 69\(1A\)](#) inserted (15.7.2020) by [The Social Security \(Income and Capital\) \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/108\)](#), regs. 1(1), **8(3)(b)**
- F113** Words in [reg. 69\(2\)](#) inserted (15.7.2020) by [The Social Security \(Income and Capital\) \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/108\)](#), regs. 1(1), **8(3)(c)**

### Calculation of student income - grants

**70.**—(1) Where, in accordance with regulation 68(4), a person's student income is to be based on the amount of a grant, the amount to be taken into account is the whole of the grant excluding any payment—

- (a) intended to meet tuition fees or examination fees,
- (b) in respect of the person's disability,
- (c) intended to meet additional expenditure connected with term time residential study away from the person's educational establishment,
- (d) intended to meet the cost of the person maintaining a home at a place other than that at which he resides during the course, except where an award of universal credit includes an amount for the housing costs element in respect of those costs,
- (e) intended for the maintenance of another person, but only if an award of universal credit does not include any amount in respect of that person,
- (f) intended to meet the cost of books and equipment,
- (g) intended to meet travel expenses incurred as a result of the person's attendance on the course, or
- (h) intended to meet childcare costs.

### Calculation of student income – amount for an assessment period

**71.** The amount of a person's student income in relation to each assessment period in which the person is to be treated as having student income in accordance with regulation 68(1) is calculated as follows—

#### Step 1

Determine whichever of the following amounts is applicable—

- (a) (a) [<sup>F114</sup>in so far as regulation 68(2) applies to a person with a student loan,] the amount of the loan (and, if applicable, the amount of any grant) in relation to the year of the course in which the assessment period falls, <sup>F115</sup>...
- [<sup>F116</sup>(aa) [<sup>F116</sup>(aa) in so far as regulation 68(2) applies to a person with a postgraduate loan, 30 per cent. of the amount of the loan in relation to the year of the course in which the assessment period falls; or]
- (b) (b) if regulation 68(4) applies (person with a grant but no student loan [<sup>F117</sup>or postgraduate loan] ) the amount of the grant in relation to the year of the course in which the assessment period falls.

If the period of the course is less than a year determine the amount of the grant or loan in relation to the course.

*Step 2*

Determine in relation to—

- (c) (c) the year of the course in which the assessment period falls, or
- (d) (d) if the period of the course is less than a year, the period of the course,

the number of assessment periods for which the person is to be treated as having student income under regulation 68(1).

*Step 3*

Divide the amount produced by step 1 by the number of assessment periods produced by step 2.

*Step 4*

Deduct £110.

**Textual Amendments**

- F114** Words in [reg. 71](#) substituted (15.7.2020) by [The Social Security \(Income and Capital\) \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/108\)](#), regs. 1(1), **8(4)(a)**
- F115** Word in [reg. 71](#) omitted (15.7.2020) by virtue of [The Social Security \(Income and Capital\) \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/108\)](#), regs. 1(1), **8(4)(b)**
- F116** Words in [reg. 71](#) inserted (15.7.2020) by [The Social Security \(Income and Capital\) \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/108\)](#), regs. 1(1), **8(4)(c)**
- F117** Words in [reg. 71](#) inserted (15.7.2020) by [The Social Security \(Income and Capital\) \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/108\)](#), regs. 1(1), **8(4)(d)**

*General*

**Assumed yield from capital**

**72.**—(1) A person's capital is to be treated as yielding a monthly income of £4.35 for each £250 in excess of £6,000 and £4.35 for any excess which is not a complete £250.

(2) Paragraph (1) does not apply where the capital is disregarded or the actual income from that capital is taken into account under regulation 66(1)(i) (income from an annuity) or (j) (income from a trust).

(3) Where a person's capital is treated as yielding income, any actual income derived from that capital, is to be treated as part of the person's capital from the day it is due to be paid to the person.

**Unearned income calculated monthly**

**73.**—(1) A person's unearned income is to be calculated as a monthly amount.

(2) Where the period in respect of which a payment of income is made is not a month, an amount is to be calculated as the monthly equivalent—

- (a) weekly payments are multiplied by 52 and divided by 12,
- (b) four-weekly payments are multiplied by 13 and divided by 12,
- (c) three-monthly payments are multiplied by 4 and divided by 12, and
- (d) annual payments are divided by 12.

(3) Where the period in respect of which unearned income is paid begins or ends during an assessment period the amount of unearned income for that assessment period is to be calculated as follows:

*Status: Point in time view as at 25/09/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Universal Credit Regulations (Northern Ireland) 2016. (See end of Document for details)*

$$N \times \left[ \frac{M \times 12}{365} \right]$$

Where N is the number of days of which unearned income is paid that fall within the assessment period and M the monthly amount referred to in paragraph (1) or, as the case may be the monthly equivalent referred to in paragraph (2).

(4) Where the amount of a person's unearned income fluctuates, the monthly equivalent is to be calculated—

- (a) where there is an identifiable cycle, over the duration of one such cycle, or
  - (b) where there is no identifiable cycle, over 3 months or such other period as may, in the particular case, enable the monthly equivalent of the person's income to be determined more accurately.
- (5) This regulation does not apply to student income.

#### **Notional unearned income**

**74.**—(1) If unearned income would be available to a person upon the making of an application for it, the person is to be treated as having that unearned income.

(2) Paragraph (1) does not apply to the benefits listed in regulation 66(1)(b).

(3) A person who has reached the qualifying age for state pension credit is to be treated as possessing the amount of any retirement pension income for which no application has been made and to which the person might expect to be entitled if a claim were made.

(4) The circumstances in which a person is to be treated as possessing retirement pension income for the purposes of universal credit are the same as the circumstances set out in regulation 18 of the State Pension Credit Regulations (Northern Ireland) 2003 <sup>M56</sup> in which a person is treated as receiving retirement pension income for the purposes of state pension credit.

#### **Marginal Citations**

**M56** Regulation 18 was amended by regulation 14(4) of S.R. 2006 No. 359, regulation 8(3) of S.R. 2007 No. 396, regulation 5(4) of S.R. 2009 No. 338 and regulation 6(6) of S.R. 2010 No. 69.

## CHAPTER 4

### MISCELLANEOUS

#### **Compensation for personal injury**

**75.**—(1) This regulation applies where a sum has been awarded to a person, or has been agreed by or on behalf of a person, in consequence of a personal injury to that person.

(2) If, in accordance with an order of the court or an agreement, the person receives all or part of that sum by way of regular payments, those payments are to be disregarded in the calculation of the person's unearned income.

(3) If the sum has been used to purchase an annuity, payments under the annuity are to be disregarded in the calculation of the person's unearned income.

(4) If the sum is held in trust, any capital of the trust derived from that sum is to be disregarded in the calculation of the person's capital and any income from the trust is to be disregarded in the calculation of the person's unearned income.

(5) If the sum is administered by the court on behalf of the person or can only be disposed of by direction of the court, it is to be disregarded in the calculation of the person's capital and any regular payments from that amount are to be disregarded from the calculation of the person's unearned income.

(6) If the sum is not held in trust or has not been used to purchase an annuity or otherwise disposed of, but has been paid to the person within the past 12 months that sum is to be disregarded in the calculation of the person's capital.

### Special schemes for compensation etc.

**76.**—(1) This regulation applies where a person receives a payment from a scheme established or approved by the Secretary of State or from a trust established with funds provided by the Secretary of State for the purpose of—

- (a) providing compensation [<sup>F118</sup>or support] in respect of—
  - (i) a person having been diagnosed with variant Creutzfeldt-Jacob disease or infected from contaminated blood products,
  - (ii) the bombings in London on 7th July 2005,
  - (iii) person's who have been interned or suffered forced labour, injury, property loss or loss of a child during the Second World War, <sup>F119</sup> ...
  - [<sup>F120</sup>(iv) the terrorist attacks in London on 22nd March 2017 or 3rd June 2017,
  - (v) the bombing in Manchester on 22nd May 2017, <sup>F121</sup> ...]
  - [<sup>F122</sup>(vi) the fire at Grenfell Tower on 14th June 2017; or]
- (b) supporting persons with a disability to live independently in their accommodation.

[<sup>F123</sup>(1A) This regulation also applies where a person receives a payment from—

- (a) the National Emergences Trust, registered charity number 1182809;
- (b) the Child Migrants Trust, registered charity number 1171479;
- (c) the Royal Borough of Kensington or Chelsea or a registered charity where the payment is made because a person was affected by the Grenfell Tower on 14th June 2017 or is a personal representative of such a person.]

(2) Any such payment, if it is capital, is to be disregarded in the calculation of the person's capital and, if it is income, is to be disregarded in the calculation of the person's income.

(3) In relation to a claim for universal credit made by the partner, parent, son or daughter of a diagnosed or infected person referred to in paragraph (1)(a)(i) a payment received from the scheme or trust or from the diagnosed or infected person or from that person's estate is to be disregarded if it would be disregarded in relation to an award of state pension credit by virtue of paragraph 13 or 15 of Schedule 5 to the State Pension Credit Regulations (Northern Ireland) 2003.

#### Textual Amendments

**F118** Words in reg. 76(1)(a) inserted (8.5.2018) by [The Universal Credit \(Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/92\)](#), regs. 1(2), **6(13)(a)**

**F119** Word in reg. 76(1)(a)(iii) omitted (8.5.2018) by virtue of [The Universal Credit \(Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/92\)](#), regs. 1(2), **6(13)(b)**

*Status: Point in time view as at 25/09/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Universal Credit Regulations (Northern Ireland) 2016. (See end of Document for details)*

- F120** Reg. 76(1)(a)(iv)(v) inserted (8.5.2018) by The Universal Credit (Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision) Regulations (Northern Ireland) 2018 (S.R. 2018/92), regs. 1(2), **6(13)(c)**
- F121** Word in reg. 76(1)(a)(v) omitted (15.7.2020) by virtue of The Social Security (Income and Capital) (Miscellaneous Amendments) Regulations (Northern Ireland) 2020 (S.R. 2020/108), regs. 1(1), **8(5)(a)(i)**
- F122** Reg. 76(1)(a)(vi) inserted (15.7.2020) by The Social Security (Income and Capital) (Miscellaneous Amendments) Regulations (Northern Ireland) 2020 (S.R. 2020/108), regs. 1(1), **8(5)(a)(ii)**
- F123** Reg. 76(1A) inserted (15.7.2020) by The Social Security (Income and Capital) (Miscellaneous Amendments) Regulations (Northern Ireland) 2020 (S.R. 2020/108), regs. 1(1), **8(5)(b)**

### Company analogous to a partnership or one person business

77.—(1) Where a person stands in a position analogous to that of a sole owner or partner in relation to a company which is carrying on a trade or a property business, the person is to be treated, for the purposes of this Part, as the sole owner or partner.

(2) Where paragraph (1) applies, the person is to be treated, subject to paragraph (3)(a), as possessing an amount of capital equal to the value, or the person's share of the value, of the capital of the company and the value of the person's holding in the company is to be disregarded.

(3) Where paragraph (1) applies in relation to a company which is carrying on a trade—

- (a) any assets of the company that are used wholly and exclusively for the purposes of the trade are to be disregarded from the person's capital while they are engaged in activities in the course of that trade,
- (b) the income of the company or the person's share of that income is to be treated as the person's income and calculated in the manner set out in regulation 57 (self-employed earnings) as if it were self-employed earnings, and
- (c) where the person's activities in the course of the trade are their main employment, the person is to be treated as if they were in gainful self employment and, accordingly, regulation 63 (minimum income floor) applies.

(4) Any self-employed earnings which the person is treated as having by virtue of paragraph (3) (b) are in addition to any employed earnings the person receives as a director or employee of the company.

(5) This regulation does not apply where the person derives income from the company that is employed earnings by virtue of Chapter 8 (workers under arrangements made by intermediaries)<sup>F124</sup>, Chapter 9 (managed service companies) or Chapter 10 (workers' services provided to public sector through intermediaries) of Part 2 of ITEPA and that income is derived from activities that are the person's main employment].

(6) In paragraph (1) "property business" has the meaning in section 204 of the Corporation Tax Act 2009<sup>M57</sup>.

#### Textual Amendments

- F124** Words in reg. 77(5) substituted (28.11.2018) by The Universal Credit and Jobseekers Allowance (Miscellaneous Amendments) Regulations (Northern Ireland) 2018 (S.R. 2018/187), regs. 1(2), **3(7)**

#### Marginal Citations

- M57** 2009 c. 4.

## PART 7

### THE BENEFIT CAP

#### Definition of Couple

78. In this Part “couple” means—

- (a) joint claimants, or
- (b) a single claimant who is a member of a couple within the meaning of Article 45 of the Order and the other member of that couple,

and references to a couple include each member of that couple individually.

#### Circumstances where the benefit cap applies

79.—(1) Unless regulation 82 or 83 applies, the benefit cap applies where the welfare benefits to which a single person or couple is entitled during the reference period exceed the relevant amount [<sup>F125</sup>determined under regulation 80A (relevant amount)].

(2) The reference period for the purposes of the benefit cap is the assessment period for an award of universal credit.

<sup>F126</sup>(3) . . . . .

<sup>F126</sup>(4) . . . . .

#### Textual Amendments

**F125** Words in reg. 79(1) inserted (coming into force in accordance with reg. 1(3) of the amending Rule) by [The Benefit Cap \(Housing Benefit and Universal Credit\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/375\)](#), regs. 1(3), **3(2)(a)**

**F126** Reg. 79(3)(4) omitted (coming into force in accordance with reg. 1(3) of the amending Rule) by virtue of [The Benefit Cap \(Housing Benefit and Universal Credit\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/375\)](#), regs. 1(3), **3(2)(b)**

#### Manner of determining total entitlement to welfare benefits

80.—(1) Subject to the following provisions of this regulation, the amount of a welfare benefit to be used when determining total entitlement to welfare benefits is the amount to which the single person or couple is entitled during the reference period subject to any adjustment to the amount payable in accordance with regulations under section 71 of the Social Security Administration (Northern Ireland) 1992 (overlapping benefits).

(2) Where the welfare benefit is universal credit, the amount to be used is the amount to which the claimant is entitled before any reduction under regulation 81 or under Article 31 or 32 of the Order.

[<sup>F127</sup>(2A) Where the welfare benefit is housing benefit under section 129 of the Contributions and Benefits Act, the amount to be used is nil.]

(3) Where a person is disqualified for receiving an employment and support allowance by virtue of section 18 of the Welfare Reform Act (Northern Ireland) 2007, it is disregarded as a welfare benefit.

(4) Where an amount of a welfare benefit is taken into account in assessing a single person or a couple's unearned income for the purposes of an award of universal credit the amount to be used is the amount taken into account as unearned income in accordance with regulation 66.

*Status: Point in time view as at 25/09/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Universal Credit Regulations (Northern Ireland) 2016. (See end of Document for details)*

(5) Where a welfare benefit is awarded in respect of a period that is not a month, the amount is to be calculated as the monthly equivalent as set out in regulation 73 (unearned income calculated monthly).

#### Textual Amendments

**F127** Reg. 80(2A) inserted (coming into force in accordance with reg. 1(3) of the amending Rule) by [The Benefit Cap \(Housing Benefit and Universal Credit\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/375\)](#), regs. 1(3), **3(3)**

#### [<sup>F128</sup> Relevant amount

- 80A.**—(1) The relevant amount is determined by dividing the applicable annual limit by 12.
- (2) The applicable annual limit is—
- (a) £13,400 for a single claimant who is not responsible for a child or qualifying young person;
  - (b) £20,000 for—
    - (i) joint claimants;
    - (ii) a single claimant who is responsible for a child or qualifying young person.]

#### Textual Amendments

**F128** Reg. 80A inserted (coming into force in accordance with reg. 1(3) of the amending Rule) by [The Benefit Cap \(Housing Benefit and Universal Credit\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/375\)](#), regs. 1(3), **3(4)**

#### Reduction of universal credit

**81.**—(1) Where the benefit cap applies in relation to an assessment period for an award of universal credit, the amount of the award for that period is to be reduced by—

- (a) the excess, minus
- (b) any amount included in the award for the childcare costs element in relation to that assessment period.

(2) No reduction is to be applied where the amount of the childcare costs element is greater than the excess.

(3) The excess is the total amount of welfare benefits that the single person or the couple are entitled to in the reference period, minus the relevant amount [<sup>F129</sup>determined under regulation 80A (relevant amount)].

#### Textual Amendments

**F129** Words in reg. 81(3) substituted (coming into force in accordance with reg. 1(3) of the amending Rule) by [The Benefit Cap \(Housing Benefit and Universal Credit\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/375\)](#), regs. 1(3), **3(5)**



**Exceptions - earnings**

**82.**—(1) The benefit cap does not apply to an award of universal credit in relation to an assessment period where—

- (a) the claimant's earned income, or if the claimant is a member of a couple, the couple's combined earned income, is equal to or exceeds [<sup>F130</sup>the amount of earnings that a person would be paid at the hourly rate set out in regulation 4 of the National Minimum Wage Regulations 2015 for 16 hours per week, converted to a monthly amount by multiplying by 52 and dividing by 12]; or
- (b) the assessment period falls within a grace period or is an assessment period in which a grace period begins or ends.

(2) A grace period is a period of 9 consecutive months that begins on the most recent of the following days in respect of which the condition in paragraph (3) is met—

- (a) a day falling within the current period of entitlement to universal credit which is the first day of an assessment period in which the claimant's earned income (or, if the claimant is a member of a couple, the couple's combined earned income) is less than the amount mentioned in paragraph (1)(a);
- (b) a day falling before the current period of entitlement to universal credit which is the day after a day on which the claimant has ceased paid work.

(3) The condition is that, in each of the 12 months immediately preceding that day, the claimant's earned income or, if the claimant was a member of a couple, the couple's combined earned income was equal to or [<sup>F131</sup>exceeded—

<sup>F132</sup>(a) .....

(b) <sup>F133</sup>... the amount calculated in accordance with paragraph (1)(a).]

(4) “Earned income” for the purposes of this regulation does not include income a person is treated as having by virtue of regulation 63 (minimum income floor).

[<sup>F134</sup>(5) For the purposes of paragraphs (2)(a) and (3), when calculating the amount in accordance with paragraph (1)(a) the reference to regulation 4 of the National Minimum Wage Regulations is a reference to regulation 4 as in force at the beginning of the assessment period or month for which the calculation is performed.]

**Textual Amendments**

**F130** Words in reg. 82(1)(a) substituted (coming into force in accordance with reg. 1 of the amending Rule) by [The Universal Credit \(Benefit Cap Earnings Exception\) \(Amendment\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/145\)](#), regs. 1, **2(3)(a)**

**F131** Reg. 82(3)(a)(b) and word substituted for words (coming into force in accordance with reg. 1 of the amending Rule) by [The Universal Credit \(Benefit Cap Earnings Exception\) \(Amendment\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/145\)](#), regs. 1, **2(3)(b)**

**F132** Reg. 82(3)(a) omitted (13.7.2020) by virtue of [The Universal Credit \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/107\)](#), regs. 1(2), **2(2)(a)**

**F133** Words in reg. 82(3)(b) omitted (13.7.2020) by virtue of [The Universal Credit \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/107\)](#), regs. 1(2), **2(2)(b)**

**F134** Reg. 82(5) added (13.7.2020) by [The Universal Credit \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/107\)](#), regs. 1(2), **2(2)(c)**

**Exceptions - entitlement or receipt of certain benefits**

**83.**—(1) The benefit cap does not apply in relation to any assessment period where—

*Status: Point in time view as at 25/09/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Universal Credit Regulations (Northern Ireland) 2016. (See end of Document for details)*

- (a) the LCWRA element is included in the award of universal credit or the claimant is receiving an employment and support allowance that includes the support component;
  - (b) the carer element is included in the award of universal credit;
  - (c) a claimant is receiving industrial injuries benefit;
  - (d) a claimant is receiving attendance allowance;
  - (e) a claimant is receiving a war pension;
  - (f) a claimant is receiving a payment under Article 15(1)(c) or 29(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 <sup>M58</sup>;
  - (g) a claimant, or a child or qualifying young person for whom a claimant is responsible, is receiving disability living allowance;
  - (h) a claimant, or a qualifying young person for whom a claimant is responsible, is receiving personal independence payment;
  - (i) a claimant, or a child or qualifying young person for whom a claimant is responsible, is entitled to a payment listed in [<sup>F135</sup>sub-paragraphs (c) to (h)] but—
    - (i) is not receiving it by virtue of regulation 6 (hospitalisation) or regulation 7 (persons in care homes) of the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992 <sup>M59</sup>,
    - (ii) it is being withheld by virtue of Article 53 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 <sup>M60</sup> (maintenance in a hospital or institution),
    - (iii) is not receiving it by virtue of regulation 8 (hospitalisation) or 9 (persons in care homes) of the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992 <sup>M61</sup>, or
    - (iv) in the case of personal independence payment, is not receiving it by virtue of regulations under Article 90 (care home residents) or 91 (hospital in-patients) of the Order;
  - <sup>F136</sup>(ia) a claimant, or a child or qualifying young person for whom a claimant is responsible, is receiving child disability payment;
  - (j) a claimant<sup>F137</sup>, or a qualifying young person for whom a claimant is responsible,] is entitled to a carer's allowance;
  - (k) a claimant is entitled to guardian's allowance under section 77 of the Contributions and Benefits Act.
- (2) For the purposes of this regulation “war pension” means—
- (a) any pension or allowance payable under any of the instruments listed in section 639(2) of the ITEPA Act—
    - (i) to a widow, widower or a surviving civil partner, or
    - (ii) in respect of disablement;
  - (b) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under a statutory provision to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of Her Majesty's forces;
  - (c) a payment which is made under any of—
    - (i) the Order in Council of 19th December 1881,
    - (ii) the Royal Warrant of 27th October 1884, or

- (iii) the Order by His Majesty of 14th January 1922,  
to a widow, widower or surviving civil partner of a person whose death was attributable to service in a capacity analogous to service as a member of Her Majesty's forces and whose service in such capacity terminated before 31st March 1973;
- (d) a pension paid by the government of a country outside the United Kingdom which is analogous to any of the pensions, allowances or payments mentioned in sub-paragraphs (a) to (c).

#### Textual Amendments

- F135** Words in reg. 83(1)(i) substituted (8.5.2018) by [The Universal Credit \(Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/92\)](#), regs. 1(2), **6(14)**
- F136** Reg. 83(1)(ia) inserted (26.7.2021) by [The Social Security \(Scotland\) Act 2018 \(Disability Assistance for Children and Young People\) \(Consequential Modifications\) Order 2021 \(S.I. 2021/786\)](#), art. 1(2), **Sch. 12 para. 6**
- F137** Words in reg. 83(1)(j) inserted (coming into force in accordance with reg. 1(3) of the amending Rule) by [The Benefit Cap \(Housing Benefit and Universal Credit\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/375\)](#), regs. 1(3), **3(6)**

#### Marginal Citations

- M58** [S.I. 2011/517](#).
- M59** [S.R. 1992 No. 20](#); regulation 6 was amended by regulation 2 of [S.R. 1992 No. 481](#), **regulation 3** of [S.R. 1999 No. 221](#), **regulation 2(3)** of [S.R. 2000 No. 195](#); regulation 7 was amended by regulation 2(2) of [S.R. 2007 No. 431](#).
- M60** [S.I. 2006/606](#).
- M61** [S.R. 1992 No. 32](#); regulation 8 was amended by regulation 3(2) of [S.R. 1992 No. 481](#), **regulation 4(2)** of [S.R. 1999 No. 221](#), **regulation 3(2)** of [S.R. 2000 No. 195](#); regulation 9 was amended by regulation 3(2) of [S.R. 2007 No. 431](#).

## PART 8

### CLAIMANT RESPONSIBILITIES

#### CHAPTER 1

#### WORK-RELATED REQUIREMENTS

##### *Introductory*

#### Definition of carer

**84.** In this Chapter—

“relevant carer” means—

- (a) a parent of a child who is not the responsible carer, but has caring responsibilities for the child, or
- (b) a person who has caring responsibilities for a person who has a physical or mental impairment; and

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*Status: Point in time view as at 25/09/2021.*

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“responsible foster parent” in relation to a child means a person who is the only foster parent in relation to that child or, in the case of a couple both members of which are foster parents in relation to that child, the member who is nominated by them in accordance with regulation 85.

#### **Nomination of responsible carer and responsible foster parent**

**85.**—(1) This regulation makes provision for the nomination of the responsible carer or the responsible foster parent in relation to a child.

(2) Only one of joint claimants may be nominated as a responsible carer or a responsible foster parent.

(3) The nomination applies to all the children, where there is more than one, for whom either of the joint claimants is responsible.

(4) Joint claimants may change which member is nominated—

- (a) once in a 12 month period, starting from the date of the previous nomination, or
- (b) on any occasion where the Department considers that there has been a change of circumstances which is relevant to the nomination.

#### **References to paid work**

**86.** References in this Chapter to obtaining paid work include obtaining more paid work or better paid work.

#### **Expected hours**

**87.**—(1) The “expected number of hours per week” in relation to a claimant for the purposes of determining their individual threshold in regulation 89 or for the purposes of regulation 93 or 95 is 35 unless some lesser number of hours applies under paragraph (2).

(2) The lesser number of hours is—

- (a) where—
  - (i) the claimant is a relevant carer, a responsible carer or a responsible foster parent, and
  - (ii) the Department is satisfied that the claimant has reasonable prospects of obtaining paid work,
 the number of hours that the Department considers is compatible with those caring responsibilities;
- (b) where the claimant is a responsible carer for a child under the age of 13, the number of hours that the Department considers is compatible with the child’s normal school hours (including the normal time it takes the child to travel to and from school), or
- (c) where the claimant has a physical or mental impairment, the number of hours that the Department considers is reasonable in light of the impairment.

#### *Work-related groups*

#### **Claimants subject to no work-related requirements**

**88.**—(1) A claimant falls within Article 24 of the Order (claimants subject to no work-related requirements) if—

- (a) the claimant has reached the qualifying age for state pension credit;

- (b) the claimant has caring responsibilities for one or more severely disabled persons for at least 35 hours a week but does not meet the conditions for entitlement to a carer's allowance and the Department is satisfied that it would be unreasonable to require the claimant to comply with a work search requirement and a work availability requirement, including if such a requirement were limited in accordance with Article 22(4) or 23(3) of the Order,
  - (c) the claimant is pregnant and it is 11 weeks or less before her expected week of confinement or was pregnant and it is 15 weeks or less since the date of her confinement,
  - (d) the claimant is an adopter and it is 12 months or less since—
    - (i) the date that the child was placed with the claimant, or
    - (ii) if the claimant requested that the 12 months should run from a date within 14 days before the child was expected to be placed, that date,
  - [<sup>F138</sup>(da) the claimant is a member of a couple entitled to universal credit by virtue of regulation 3(1)(b) and has student income in relation to the course they are undertaking which is taken into account in the calculation of the award;]
  - (e) the claimant does not have to meet the condition in Article 9(1)(d) of the Order (not receiving education) by virtue of regulation 14 and—
    - (i) is a person referred to in paragraph (a) of that regulation (under 21, in non-advanced education and without parental support), or
    - (ii) has student income in relation to the course they are undertaking which is taken into account in the calculation of the award, or
  - (f) the claimant is the responsible foster parent of a child under the age of one.
- (2) In paragraph (1)(b) “severely disabled” has the meaning in section 70 of the Contributions and Benefits Act.
- (3) In paragraph (1)(d)—
- (a) “adopter” means a person who has been matched with a child for adoption and who is, or is intended to be, the responsible carer for the child, but excluding a person who is a foster parent, or close relative of the child, and
  - (b) a person is matched with a child for adoption when it is decided by an adoption agency that the person would be a suitable adoptive parent for the child.
- [<sup>F139</sup>(4) For the purposes of paragraph (1)(e)(ii), a claimant is not to be treated as having student income where—
- (a) that income is a postgraduate loan; and
  - (b) the course in respect of which the loan is paid is not a full-time course.
- (5) In paragraph (4), “postgraduate loan” has the meaning given in regulation 68(7).]

#### Textual Amendments

**F138** Reg. 88(1)(da) inserted (8.5.2018) by [The Universal Credit \(Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/92\)](#), regs. 1(2), **6(15)**

**F139** Reg. 88(4)(5) inserted (15.7.2020) by [The Social Security \(Income and Capital\) \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/108\)](#), regs. 1(1), **8(6)**

**Claimants subject to no work-related requirements - the earnings thresholds**

**89.**—(1) A claimant falls within Article 24 of the Order (claimants subject to no work-related requirements) if the claimant's monthly earnings are equal to or exceed the claimant's individual threshold.

(2) A claimant's individual threshold is the amount that a person of the same age as the claimant would be paid at the hourly rate applicable under regulation 4 or regulation 4A(1)(a) to (c) (workers who qualify for the national minimum wage at a different rate) of the National Minimum Wage Regulations for—

- (a) 16 hours per week, in the case of a claimant who would otherwise fall within Article 25 (claimants subject to work-focused interview requirement only) or 26 (claimants subject to work preparation requirement) of the Order, or
- (b) the expected number of hours per week in the case of a claimant who would otherwise fall within Article 27 of the Order (claimants subject to all work-related requirements),

converted to a monthly amount by multiplying by 52 and dividing by 12.

(3) A claimant who is a member of a couple falls within Article 24 of the Order if the couple's combined monthly earnings are equal to or exceed whichever of the following amounts is applicable—

- (a) in the case of joint claimants, the sum of their individual thresholds, or
- (b) in the case of a claimant who claims universal credit as a single person, by virtue of regulation 3(2) (couples) the sum of—
  - (i) the claimant's individual threshold, and
  - (ii) the amount a person would be paid for 35 hours per week at the hourly rate specified in regulation 4 of the National Minimum Wage Regulations, converted to a monthly amount by multiplying by 52 and dividing by 12.

(4) A claimant falls within Article 24 of the Order (claimants subject to no work-related requirements) if the claimant is employed under a contract of apprenticeship and has monthly earnings that are equal to or exceed the amount the claimant would be paid for—

- (a) 30 hours a week, or
- (b) if less, the expected number of hours per week for that claimant,

at the rate specified in [F140regulation 4A(1)(d)] of the National Minimum Wage Regulations, converted to a monthly amount by multiplying by 52 and dividing by 12.

(5) A claimant falls within Article 24 of the Order if the claimant is treated as having earned income in accordance with regulation 63 (minimum income floor) .

(6) A person's monthly earnings are—

- (a) the person's earned income calculated or estimated in relation to the current assessment period before any deduction for income tax, national insurance contributions or relievable pension contributions, or
- (b) in a case where the person's earned income fluctuates (or is likely to fluctuate) the amount of that income calculated or estimated before any deduction for income tax, national insurance contributions or relievable pension contributions, taken as a monthly average—
  - (i) where there is an identifiable cycle, over the duration of one such cycle, or
  - (ii) where there is no identifiable cycle, over 3 months or such other period as may, in the particular case, enable the monthly average to be determined more accurately.

and the Department may, in order to enable monthly earnings to be determined more accurately, disregard earned income received in respect of an employment which has ceased.

**Textual Amendments**

**F140** Words in [reg. 89\(4\)](#) substituted (coming into force in accordance with [reg. 1\(3\)](#) of the amending Rule) by [The Social Security \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/116\)](#), [regs. 1\(3\), 9\(7\)](#)

**Claimants subject to work-focused interview requirement only**

**90.**—<sup>F141</sup>(1) .....

(2) A claimant falls within Article 25 of the Order if—

- (a) the claimant is the responsible foster parent in relation to a child aged at least one,
- (b) the claimant is the responsible foster parent in relation to a qualifying young person, and the Department is satisfied that the qualifying young person has care needs which make it unreasonable to require the claimant to comply with a work search requirement or a work availability requirement, including if such a requirement were limited in accordance with Article 22(4) or 23(3) of the Order,
- (c) the claimant is a foster parent, but not the responsible foster parent, in relation to a child or qualifying young person, and the Department is satisfied that the child or qualifying young person has care needs which would make it unreasonable to require the claimant to comply with a work search requirement or a work availability requirement, including if such a requirement were limited in accordance with Article 22(4) or 23(3) of the Order,
- (d) the claimant has fallen within sub-paragraph (a), (b) or (c) within the past 8 weeks and has no child or qualifying young person currently placed with them, but expects to resume being a foster parent, or
- (e) the claimant has become a friend or family carer in relation to a child within the past 12 months and is also the responsible carer in relation to that child.

(3) In paragraph (2)(e) “friend or family carer” means a person who is responsible for a child, but is not the child's parent or step-parent, and has undertaken the care of the child in the following circumstances—

- (a) the child has no parent or has parents who are unable to care for the child, or
- (b) it is likely that the child would otherwise be looked after by an authority because of concerns in relation to the child's welfare.

**Textual Amendments**

**F141** [Reg. 90\(1\)](#) omitted (27.9.2017) by virtue of [The Welfare Reform and Work \(Northern Ireland\) Order 2016 \(S.I. 2016/999\)](#), [arts. 2\(1\), 12\(2\)](#); [S.R. 2017/166](#), [art. 3\(b\)](#)

*The work-related requirements*

**Purposes of a work-focused interview**

**91.** The purposes of a work-focused interview are any or all of the following—

- (a) assessing the claimant's prospects for remaining in or obtaining paid work;
- (b) assisting or encouraging the claimant to remain in or obtain paid work;

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- (c) identifying activities that the claimant may undertake that will make remaining in or obtaining paid work more likely;
- (d) identifying training, educational or rehabilitation opportunities for the claimant which may make it more likely that the claimant will remain in or obtain paid work or be able to do so;
- (e) identifying current or future work opportunities for the claimant that are relevant to the claimant's needs and abilities;
- (f) ascertaining whether a claimant is in gainful self-employment or meets the conditions in regulation 64 (start-up period).

#### **Work search requirement - interviews**

**92.** A claimant is to be treated as not having complied with a work search requirement to apply for a particular vacancy for paid work where the claimant fails to participate in an interview offered to the claimant in connection with the vacancy.

#### **Work search requirement - all reasonable action**

**93.**—(1) A claimant is to be treated as not having complied with a work search requirement to take all reasonable action for the purpose of obtaining paid work in any week unless—

- (a) either—
  - (i) the time which the claimant spends taking action for the purpose of obtaining paid work is at least the claimant's expected number of hours per week minus any relevant deductions, or
  - (ii) the Department is satisfied that the claimant has taken all reasonable action for the purpose of obtaining paid work despite the number of hours that the claimant spends taking such action being lower than the expected number of hours per week; and
- (b) that action gives the claimant the best prospects of obtaining work.

(2) In this regulation “relevant deductions” means the total of any time agreed by the Department—

- (a) for the claimant to carry out paid work, voluntary work, a work preparation requirement, or voluntary work preparation, in that week; or
- (b) for the claimant to deal with temporary childcare responsibilities, a domestic emergency, funeral arrangements or other temporary circumstances.

(3) For the purpose of paragraph (2)(a) the time agreed by the Department for the claimant to carry out voluntary work must not exceed 50 percent of the claimant's expected number of hours per week.

(4) “Voluntary work preparation” means particular action taken by a claimant and agreed by the Department for the purpose of making it more likely that the claimant will obtain paid work, but which is not specified by it as a work preparation requirement under Article 21 of the Order.

#### **Work availability requirement - able and willing immediately to take up paid work**

**94.**—(1) Subject to paragraph (2) a claimant is to be treated as not having complied with a work availability requirement if the claimant is not able and willing immediately to attend an interview offered to the claimant in connection with obtaining paid work.

(2) A claimant is to be treated as having complied with a work availability requirement despite not being able immediately to take up paid work, if paragraph (3), (4) or (5) applies.

- (3) This paragraph applies where—



- (a) a claimant is a responsible carer or a relevant carer,
  - (b) the Department is satisfied that, as a consequence the claimant needs a longer period of up to one month to take up paid work, or up to 48 hours to attend an interview in connection with obtaining work, taking into account alternative care arrangements, and
  - (c) the claimant is able and willing to take up paid work, or attend an interview, on being given notice for that period.
- (4) This paragraph applies where—
- (a) a claimant is carrying out voluntary work,
  - (b) the Department is satisfied that, as a consequence, the claimant needs a longer period of up to one week to take up paid work, or up to 48 hours to attend an interview in connection with obtaining work, and
  - (c) the claimant is able and willing to take up paid work, or attend an interview, on being given notice for that period.
- (5) This paragraph applies where a claimant—
- (a) is employed under a contract of service,
  - (b) is required by Article 118 of the Employment Rights (Northern Ireland) Order 1996 <sup>M62</sup>, or by the contract of service, to give notice to terminate the contract,
  - (c) is able and willing to take up paid work once the notice period has expired, and
  - (d) is able and willing to attend an interview on being given 48 hours notice.

**Marginal Citations**

**M62** [S.I. 1996/1919 \(N.I. 16\)](#); Article 118 was amended by paragraph 2(5) of Schedule 2 to, [S.R. 2002 No. 298](#).

**Work search requirement and work availability requirement - limitations**

**95.**—(1) Paragraphs (2) to (5) set out the limitations on a work search requirement and a work availability requirement.

(2) In the case of a claimant who is a relevant carer or a responsible carer or who has a physical or mental impairment, a work search and work availability requirement must be limited to the number of hours that is determined to be the claimant's expected number of hours per week in accordance with regulation 87.

(3) A work search and work availability requirement must be limited to work that is in a location which would normally take the claimant—

- (a) a maximum of 90 minutes to travel from home to the location, and
- (b) a maximum of 90 minutes to travel from the location to home.

(4) Where a claimant has previously carried out work of a particular nature, or at a particular level of remuneration, a work search requirement and a work availability requirement must be limited to work of a similar nature, or level of remuneration, for such period as the Department considers appropriate; but only if it is satisfied that the claimant will have reasonable prospects of obtaining paid work in spite of such limitation.

- (5) The limitation in paragraph (4) is to apply for no more than 3 months beginning with—
- (a) the date of claim, or

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- (b) if later, the date on which the claimant ceases paid work after falling within Article 24 of the Order by virtue of regulation 89 (claimants subject to no work-related requirements - the earnings thresholds).

(6) Where a claimant has a physical or mental impairment that has a substantial adverse effect on the claimant's ability to carry out work of a particular nature, or in particular locations, a work search or work availability requirement must not relate to work of such a nature or in such locations.

### **Victims of domestic violence**

**96.**—(1) Where a claimant has recently been a victim of domestic violence, and the circumstances set out in paragraph (4) apply—

- (a) a work-related requirement imposed on that claimant ceases to have effect for a period of 13 consecutive weeks starting on the date of the notification referred to in paragraph (4) (a), and
- (b) the Department must not impose any other work-related requirement on that claimant during that period.

(2) Where a claimant referred to in paragraph (1) is a person who falls within Article 27 of the Order (claimants subject to all work-related requirements) and is the responsible carer of a child, the Department must not impose a work search requirement or a work availability requirement on that claimant for a further period of 13 consecutive weeks beginning on the day after the period in paragraph (1)(a) expires.

(3) A person has recently been a victim of domestic violence if a period of 6 months has not expired since the violence was inflicted or threatened.

(4) The circumstances are that—

- (a) the claimant notifies the Department, in such manner as it specifies, that domestic violence has been inflicted on or threatened against the claimant by the claimant's partner or former partner or by a family member during the period of 6 months ending on the date of the notification,
- (b) this regulation has not applied to the claimant for a period of 12 months before the date of the notification,
- (c) on the date of the notification the claimant is not living at the same address as the person who inflicted or threatened the domestic violence, and
- (d) as soon as possible, and no later than one month after the date of the notification, the claimant provides evidence from a person acting in an official capacity which demonstrates that—
  - (i) the claimant's circumstances are consistent with those of a person who has had domestic violence inflicted or threatened against them during the period of 6 months ending on the date of the notification, and
  - (ii) the claimant has made contact with the person acting in an official capacity in relation to such an incident, which occurred during that period.

(5) In this regulation—

“coercive behaviour” means an act of assault, humiliation or intimidation or other abuse that is used to harm, punish or frighten the victim;

“controlling behaviour” means an act designed to make a person subordinate or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance or escape or regulating their everyday behaviour;

“domestic violence” means any incident, or pattern of incidents, of controlling behaviour, coercive behaviour, violence or abuse, including but not limited to—

- (a) psychological abuse;
- (b) physical abuse;
- (c) sexual abuse;
- (d) emotional abuse;
- (e) financial abuse, regardless of gender or sexuality of the victim;

“family member” in relation to a claimant, means the claimant's grandparent, grandchild, parent, step-parent, parent-in-law, son, step-son, son-in-law, daughter, step-daughter, daughter-in-law, brother, step-brother, brother-in-law, sister, step-sister, sister-in-law and if any of those persons is a member of a couple, the other member of the couple;

“health care professional” means a person who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 <sup>M63</sup>;

“person acting in an official capacity” means a health care professional, a police officer, a registered social worker, the claimant's employer, a representative of the claimant's trade union, or any public, voluntary or charitable body which has had direct contact with the claimant in connection with domestic violence;

“registered social worker” means a person registered as a social worker in a register maintained by—

- (a) the Northern Ireland Social Care Council <sup>M64</sup>;
- (b) the Health and Care Professions Council;
- (c) [<sup>F142</sup>Social Care Wales, or]
- (d) the Scottish Social Services Council.

#### Textual Amendments

**F142** Words in reg. 96(5) substituted (coming into force in accordance with reg. 1(3) of the amending Rule) by [The Social Security \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/116\)](#), regs. 1(3), **9(8)**

#### Marginal Citations

**M63** 2002 c. 17; section 25(3) was amended by the [Health and Social Care Act 2008 \(c.14\)](#) and [S.I. 2010/231](#).

**M64** The Northern Ireland Social Care Council was established under section 1 of the [Health and Personal Services Act \(Northern Ireland\) 2001 c.3](#). (NI).

### Circumstances in which requirements must not be imposed

97.—(1) Where paragraph (6), (7), (8) or (14) applies—

- (a) the Department must not impose a work search requirement on a claimant, and
- (b) “able and willing to immediately take up work” under a work availability requirement means able and willing to take up paid work, or attend an interview, immediately once the circumstances set out in paragraph (6), (7), (8), or (14) no longer apply.

(2) A work search requirement previously applying to the claimant ceases to have effect from the date on which the circumstances set out in paragraph (6), (7), (8), or (14) begin to apply.

*Status: Point in time view as at 25/09/2021.*

*Changes to legislation: There are currently no known outstanding effects for the The Universal Credit Regulations (Northern Ireland) 2016. (See end of Document for details)*

(3) Where paragraph (11) applies—

- (a) the Department must not impose a work search requirement on a claimant, and
- (b) a work search requirement previously applying to the claimant ceases to have effect from the date on which the circumstances set out in paragraph (11) begin to apply.

(4) Where paragraph (12) applies “able and willing to immediately take up work” under a work availability requirement means able and willing to take up paid work or to attend an interview, immediately once the circumstances set out in paragraph (12) no longer apply.

(5) Where paragraph (13) applies “able and willing to immediately take up work” under a work availability requirement means—

- (a) able and willing to take up paid work immediately once the circumstances set out in paragraph (13) no longer apply, and
- (b) able and willing to attend an interview before those circumstances no longer apply.

(6) This paragraph applies where—

- (a) the claimant is attending court or tribunal as a party to any proceedings or as a witness,
- (b) the claimant is a prisoner,
- (c) regulation 11(3) (temporary absence from Northern Ireland for treatment or convalescence) applies to the claimant,
- (d) any of the following persons has died within the past 6 months—
  - (i) where the claimant was a member of a couple, the other member,
  - (ii) a child or qualifying young person for whom the claimant or, where the claimant is a member of a couple, the other member, was responsible, or
  - (iii) a child, where the claimant was the child's parent,
- (e) the claimant is, and has been for no more than 6 months, receiving and participating in a structured recovery-orientated course of alcohol or drug dependency treatment,
- (f) the claimant is, and has been for no more than 3 months, a person for whom arrangements have been made by a protection provider under section 82 of the Serious Organised Crime and Police Act 2005 <sup>M65</sup>, or
- (g) the claimant is engaged in an activity of a kind approved by the Department as being in the nature of a public duty.

(7) [<sup>F143</sup>Subject to paragraph (7A), this paragraph] applies where the claimant—

- (a) is unfit for work—
  - (i) for a period of no more than 14 consecutive days after the date that the evidence referred to in sub-paragraph (b) is provided, and
  - (ii) for no more than 2 such periods in any period of 12 months, and
- (b) provides to the Department the following evidence—
  - (i) for the first 7 days when they are unfit for work, a declaration made by the claimant in such manner and form as the Department approves that the claimant is unfit for work, and
  - (ii) for any further days when they are unfit for work, if requested by the Department, a statement given by a doctor in accordance with the rules set out in Part 1 of Schedule 1 to the Medical Evidence Regulations()which provides that the person is not fit for work.

[<sup>F144</sup>(7A) Where paragraph (7B) applies, paragraph (7) will only apply to a claimant if the Department makes a decision to carry out an assessment under regulation 42(1)(b).

(7B) This paragraph applies where—

- (a) (i) it has previously been determined on the basis of an assessment under Part 5 of these Regulations or under Part 4 or 5 of the ESA Regulations that the claimant does not have limited capability for work, or
- (ii) the claimant has previously been treated as not having limited capability for work or limited capability for work-related activity under regulation 44(3) or 45(2); and
- (b) the condition specified in the evidence provided by the claimant in accordance with paragraph (7)(b) is in the opinion of the Department the same, or substantially the same, as the condition specified in the evidence provided by the claimant in accordance with that paragraph before the date—
  - (i) of the determination that the claimant does not have limited capability for work, or
  - (ii) that the claimant was treated as not having limited capability for work or, as the case may be for work and work-related activity.]

(8) This paragraph applies for one or more periods of one month, as provided for in paragraphs (9) and (10), where the claimant is the responsible carer of a child and an event referred to in subparagraph (a) or (b) has taken place in the last 24 months and has resulted in significant disruption to the claimant's normal childcare responsibilities-

- (a) any of the following persons has died-
  - (i) a person who was previously the responsible carer of that child,
  - (ii) a parent of that child,
  - (iii) a brother or sister of that child, or
  - (iv) any other person who, at the time of their death, normally lived in the same accommodation as that child and was not a person who was liable to make payments on a commercial basis in respect of that accommodation, or
- (b) the child has been the victim of, or witness to, an incident of violence or abuse and the claimant is not the perpetrator of that violence or abuse.

(9) Paragraph (8) is not to apply for more than one period of one month in each of the 4 consecutive periods of 6 months following the event (and, if regulation 96 or paragraph (6)(d) of this regulation applies in respect of the same event, that month is to run concurrently with any period for which that regulation or paragraph applies).

(10) Each period of one month begins on the date specified by the Department after the claimant has notified it of the circumstances in paragraph (8) provided that it is satisfied that the circumstances apply.

(11) This paragraph applies where the Department is satisfied that it would be unreasonable to require the claimant to comply with a work search requirement including if such a requirement were limited in accordance with Article 22(4) of the Order, because <sup>F145</sup>...—

- (a) [<sup>F146</sup>the claimant] is carrying out a work preparation requirement or voluntary work preparation (as defined in regulation 93(4) (work search requirement – all reasonable action)),
- (b) [<sup>F147</sup>the claimant] has temporary child care responsibilities or is dealing with a domestic emergency, funeral arrangements or other temporary circumstances, <sup>F148</sup>...
- (c) [<sup>F149</sup>the claimant] is unfit for work for longer than the period of 14 days specified in paragraph (7)(a) or for more than 2 such periods in any period of 12 months and, where requested by the Department, provides the evidence mentioned in paragraph (7)(b)(ii), [<sup>F150</sup>or]

[<sup>F151</sup>(d) paragraph (7) would apply to the claimant but for paragraph (7A).]

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*Changes to legislation: There are currently no known outstanding effects for the The Universal Credit Regulations (Northern Ireland) 2016. (See end of Document for details)*

(12) This paragraph applies where the Department is satisfied that it would be unreasonable to require the claimant to comply with a work availability requirement to be able and willing to—

- (a) take up paid work, and
- (b) attend an interview, (including if such a requirement were limited in accordance with Article 23(3) of the Order) because the claimant falls within sub-paragraph [F152(a), (b), (c) or (d)] of paragraph (11).

(13) This paragraph applies where the Department is satisfied that it would be—

- (a) unreasonable to require the claimant to comply with a work availability requirement to be able and willing to take up paid work because the claimant falls within [F153] paragraph (11) (a), (b), (c) or (d)], and
- (b) reasonable to require the claimant to comply with a work availability requirement to be able and willing to attend an interview, including if such requirement were limited in accordance with Article 23(3) of the Order.

(14) This paragraph applies where the claimant has monthly earnings or, if the claimant is a member of a couple, the couple has combined monthly earnings (excluding in either case any that are not employed earnings) that are equal to, or more than, the following amount multiplied by 52 and divided by 12—

- (a) in the case of a single claimant, £5 plus the applicable amount of the personal allowance in a jobseeker's allowance for a single person aged 25 or over (as set out in Part 1 of Schedule 1 to the Jobseeker's Allowance Regulations (Northern Ireland) 1996<sup>M66</sup>), or
- (b) in the case of a claimant who is a member of a couple, £10 plus the applicable amount of the personal allowance in a jobseeker's allowance for a couple where both members are aged 18 or over (as set out in that Part).

(15) In paragraph (14) “employed earnings” has the meaning in regulation 55 (employed earnings).

(16) In this regulation “tribunal” means any tribunal listed in Schedule 1 to the Tribunals and Inquiries Act 1992<sup>M67</sup>.

#### Textual Amendments

- F143** Words in reg. 97(7) substituted (8.5.2018) by [The Universal Credit \(Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/92\)](#), regs. 1(2), **6(16)(a)**
- F144** Reg. 97(7A)(7B) inserted (8.5.2018) by [The Universal Credit \(Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/92\)](#), regs. 1(2), **6(16)(b)**
- F145** Words in reg. 97(11) omitted (8.5.2018) by virtue of [The Universal Credit \(Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/92\)](#), regs. 1(2), **6(16)(c)(i)**
- F146** Words in reg. 97(11)(a) inserted (8.5.2018) by [The Universal Credit \(Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/92\)](#), regs. 1(2), **6(16)(c)(ii)**
- F147** Words in reg. 97(11)(b) inserted (8.5.2018) by [The Universal Credit \(Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/92\)](#), regs. 1(2), **6(16)(c)(iii)(aa)**
- F148** Word in reg. 97(11)(b) omitted (8.5.2018) by virtue of [The Universal Credit \(Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/92\)](#), regs. 1(2), **6(16)(c)(iii)(bb)**

- F149** Words in reg. 97(11)(c) inserted (8.5.2018) by The Universal Credit (Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision) Regulations (Northern Ireland) 2018 (S.R. 2018/92), regs. 1(2), **6(16)(c)(iv)**
- F150** Word in reg. 97(11)(c) inserted (8.5.2018) by The Universal Credit (Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision) Regulations (Northern Ireland) 2018 (S.R. 2018/92), regs. 1(2), **6(16)(c)(v)**
- F151** Reg. 97(11)(d) inserted (8.5.2018) by The Universal Credit (Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision) Regulations (Northern Ireland) 2018 (S.R. 2018/92), regs. 1(2), **6(16)(c)(vi)**
- F152** Words in reg. 97(12) substituted (8.5.2018) by virtue of The Universal Credit (Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision) Regulations (Northern Ireland) 2018 (S.R. 2018/92), regs. 1(2), **6(16)(d)**
- F153** Words in reg. 97(13)(a) substituted (8.5.2018) by The Universal Credit (Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision) Regulations (Northern Ireland) 2018 (S.R. 2018/92), regs. 1(2), **6(16)(e)**

#### Marginal Citations

- M65** 2005 c. 15.  
**M66** S.R.1996 No. 198.  
**M67** 1992 c. 53.

#### [<sup>F154</sup> Interpretation

**97A.**—(1) This chapter contains provisions about the reduction in the amount of an award of universal credit in the event of a failure by a claimant which is sanctionable under Article 31 or 32 of the Order (“a sanctionable failure”).

(2) In this chapter references to a “current sanctionable failure” are to a sanctionable failure in relation to which the Department has not yet determined whether the amount of an award of universal credit is to be reduced under Article 31 or 32 of the Order.]

#### Textual Amendments

- F154** Reg. 97A inserted (coming into force in accordance with reg. 1(3) of the amending Rule) by The Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2017 (S.R. 2017/116), regs. 1(3), **9(9)**

## CHAPTER 2

### SANCTIONS

#### *Reduction periods*

#### General principles for calculating reduction periods

**98.**—(1) The number of days for which a reduction in the amount of an award is to have effect (“the reduction period”) is to be determined in relation to each sanctionable failure in accordance with regulations 99 to 102, subject to paragraphs (3) and (4).

(2) Reduction periods are to run consecutively.

(3) If the reduction period calculated in relation to a sanctionable failure in accordance with regulations [<sup>F155</sup>99] to 102 would result in the total outstanding reduction period exceeding 546 days,

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the reduction period in relation to that failure is to be adjusted so that the total outstanding reduction period does not exceed 546 days.

<sup>F156</sup>(4) .....

(5) In paragraph (3) “the total outstanding reduction period” is the total number of days for which no reduction in an award under Article 31 (higher-level sanctions) or 32 (other sanctions) of the Order has yet been applied.

**Textual Amendments**

**F155** Word in [reg. 98\(3\)](#) substituted (coming into force in accordance with reg. 1(3) of the amending Rule) by [The Social Security \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/116\)](#), regs. 1(3), **9(10)(a)**

**F156** [Reg. 98\(4\)](#) omitted (coming into force in accordance with reg. 1(3) of the amending Rule) by virtue of [The Social Security \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/116\)](#), regs. 1(3), **9(10)(b)**

**Higher-level sanctions**

**99.**—(1) This regulation specifies the reduction period for a sanctionable failure under Article 31 of the Order (higher-level sanctions).

<sup>F157</sup>(2) Where the sanctionable failure is not a pre-claim failure, the reduction in the circumstances described in the first column of the following table is the period set out in—

- (a) the second column, where the claimant is aged 18 or over on the date of the sanctionable failure;
- (b) the third column, where the claimant is aged 16 or 17 on the date of the sanctionable failure.

<i>Circumstances in which reduction period applies</i>	<i>Reduction period where claimant aged 18 or over</i>	<i>Reduction period where claimant aged 16 or 17</i>
Where there has been no previous sanctionable failure by the claimant giving rise to a higher-level sanction	91 days	14 days
Where there have been one or more previous sanctionable failures by the claimant giving rise to a higher-level sanction and the date of the most recent previous sanctionable failure is not within 365 days beginning with the date of the current sanctionable failure	91 days	14 days
Where there have been one or more previous sanctionable failures by the claimant giving rise to a higher-level sanction and the date of the most recent previous sanctionable failure is within 365 days, but not within 14 days, beginning with the date of the current sanctionable failure and the reduction period applicable to the most recent previous sanctionable failure is—		
(a) 14 days		28 days
(b) 28 days		28 days
(c) 91 days	182 days	



<i>Circumstances in which reduction period applies</i>	<i>Reduction period where claimant aged 18 or over</i>	<i>Reduction period where claimant aged 16 or 17</i>
(d) 182 days	[ <sup>F158</sup> 182 days]	
<sup>F159</sup>	<sup>F159</sup>	
...	...	

Where there have been one or more previous sanctionable failures by the claimant giving rise to a higher-level sanction and the date of the most recent previous sanctionable failure is within 14 days beginning with the date of the current sanctionable failure and the reduction period applicable to the most recent previous sanctionable failure is—

(a) 14 days		14 days
(b) 28 days		28 days
(c) 91 days	91 days	
(d) 182 days	182 days	
<sup>F160</sup>	<sup>F160</sup>	]
...	...	

(3) Where the other sanctionable failure referred to in paragraph (2) was a “pre-claim failure” it is disregarded in determining the reduction period in accordance with that paragraph.

(4) Where the sanctionable failure for which a reduction period is to be determined is a pre-claim failure, the period is the lesser of—

- (a) the period that would be applicable to the claimant under paragraph (2) if it were not a pre-claim failure, or
- (b) where the sanctionable failure relates to paid work that was due to last for a limited period, the period beginning with the day after the date of the sanctionable failure and ending with the date on which the limited period would have ended,

minus the number of days beginning with the day after the date of the sanctionable failure and ending on the day before the date of claim.

[<sup>F161</sup>(5) In this regulation—

“higher-level sanction” means a sanction under Article 31 of the Order;

“pre-claim failure” means a failure sanctionable under Article 31(4) of the Order.]

**Textual Amendments**

**F157** Reg. 99(2) substituted (coming into force in accordance with reg. 1(3) of the amending Rule) by [The Social Security \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/116\)](#), regs. 1(3), **9(11)(a)**

**F158** Words in reg. 99(2) substituted (27.11.2019) by [The Jobseekers Allowance and Universal Credit \(Higher-Level Sanctions\) \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/201\)](#), regs. 1, **3(1)(a)(i)** (with reg. 5)

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*Changes to legislation: There are currently no known outstanding effects for the The Universal Credit Regulations (Northern Ireland) 2016. (See end of Document for details)*

- F159** Words in reg. 99(2) omitted (27.11.2019) by virtue of [The Jobseekers Allowance and Universal Credit \(Higher-Level Sanctions\) \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/201\)](#), regs. 1, **3(1)(a)(ii)** (with reg. 5)
- F160** Words in reg. 99(2) omitted (27.11.2019) by virtue of [The Jobseekers Allowance and Universal Credit \(Higher-Level Sanctions\) \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/201\)](#), regs. 1, **3(1)(b)** (with reg. 5)
- F161** Reg. 99(5) substituted (coming into force in accordance with reg. 1(3) of the amending Rule) by [The Social Security \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/116\)](#), regs. 1(3), **9(11)(b)**

### Medium-level sanction

**100.**—(1) This regulation specifies the reduction period for a sanctionable failure under Article 32 of the Order (other sanctions) where it is a failure by the claimant to comply with—

- (a) a work search requirement under Article 22(1)(a) (to take all reasonable action to obtain paid work etc.), or
- (b) a work availability requirement under Article 23(1).

<sup>F162</sup>(2) The reduction in the circumstances described in the first column of the following table is the period set out in—

- (a) the second column, where the claimant is aged 18 or over on the date of the sanctionable failure;
- (b) the third column, where the claimant is aged 16 or 17 on the date of the sanctionable failure.

<i>Circumstances in which reduction period applies</i>	<i>Reduction period where claimant aged 18 or over</i>	<i>Reduction period where claimant aged 16 or 17</i>
Where there has been no previous sanctionable failure by the claimant that falls within paragraph (1)	28 days	7 days
Where there have been one or more previous sanctionable failures by the claimant that fall within paragraph (1) and the date of the most recent previous sanctionable failure is not within 365 days beginning with the date of the current sanctionable failure	28 days	7 days
Where there have been one or more previous sanctionable failures by the claimant that fall within paragraph (1) and the date of the most recent previous sanctionable failure is within 365 days, but not within 14 days, beginning with the date of the current sanctionable failure and the reduction period applicable to the most recent previous sanctionable failure is—		
(a) 7 days		14 days
(b) 14 days		14 days
(c) 28 days	91 days	
(d) 91 days	91 days	
Where there have been one or more previous sanctionable failures by the claimant that fall within paragraph (1) and		

<i>Circumstances in which reduction period applies</i>	<i>Reduction period where claimant aged 18 or over</i>	<i>Reduction period where claimant aged 16 or 17</i>
the date of the most recent previous sanctionable failure is within 14 days beginning with the date of the current sanctionable failure and the reduction period applicable to the most recent previous sanctionable failure is—		
(a) 7 days		7 days
(b) 14 days		14 days
(c) 28 days	28 days	
(d) 91 days	91 days	]

#### **Textual Amendments**

**F162** [Reg. 100\(2\)](#) substituted (coming into force in accordance with [reg. 1\(3\)](#) of the amending Rule) by [The Social Security \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/116\)](#), [regs. 1\(3\), 9\(12\)](#)

#### **Low-level sanction**

**101.**—(1) This regulation specifies the reduction period for a sanctionable failure under Article 32 of the Order (other sanctions) where—

- (a) the claimant falls within Article 26 (claimants subject to work preparation requirement) or 27 (claimants subject to all work-related requirements) of the Order on the date of that failure; and
- (b) it is a failure to comply with—
  - (i) a work-focused interview requirement under Article 20(1),
  - (ii) a work preparation requirement under Article 21(1),
  - (iii) a work search requirement under Article 22(1)(b) (to take any particular action specified by the Department to obtain paid work etc.), or
  - (iv) a requirement under Article 28(1), (3) or (4) (connected requirements: interviews and verification of compliance).

(2) Where the claimant is aged 18 or over on the date of the sanctionable failure, the reduction period is the total of—

- (a) the number of days beginning with the date of the sanctionable failure and ending with—
  - (i) the day before the date on which the claimant meets a compliance condition specified by the Department,
  - (ii) the day before the date on which the claimant falls within Article 24 of the Order (claimants subject to no work-related requirements),
  - (iii) the day before the date on which the claimant is no longer required to take a particular action specified as a work preparation requirement by the Department under Article 21, or
  - (iv) the date on which the award terminates (other than by reason of the claimant ceasing to be, or becoming, a member of a couple),

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whichever is soonest, and

[<sup>F163</sup>(b) in the circumstances described in the first column of the following table, the number of days set out in the second column.

<i>Circumstances applicable to the claimant's case</i>	<i>Number of days</i>
Where there has been no previous sanctionable failure by the claimant that falls within paragraph (1)	7 days
Where there have been one or more previous sanctionable failures by the claimant that fall within paragraph (1) and the date of the most recent previous sanctionable failure is not within 365 days beginning with the date of the current sanctionable failure	7 days
Where there have been one or more previous sanctionable failures by the claimant that fall within paragraph (1) and the date of the most recent previous sanctionable failure is within 365 days, but not within 14 days, beginning with the date of the current sanctionable failure and the reduction period applicable to the most recent previous sanctionable failure is—	
(a) 7 days	14 days
(b) 14 days	28 days
(c) 28 days	28 days
Where there have been one or more previous sanctionable failures by the claimant that fall within paragraph (1) and the date of the most recent previous sanctionable failure is within 14 days beginning with the date of the current sanctionable failure and the reduction period applicable to the most recent previous sanctionable failure is—	
(a) 7 days	7 days
(b) 14 days	14 days
(c) 28 days	28 days.]

(3) Where the claimant is aged 16 or 17 years on the date of the sanctionable failure, the reduction period is—

- (a) the number of days beginning with the date of the sanctionable failure and ending with —
- (i) the day before the date on which the claimant meets a compliance condition specified by the Department,
  - (ii) the day before the date on which the claimant falls within Article 24 of the Order (claimants subject to no work-related requirements),
  - (iii) the day before the date on which the claimant is no longer required to take a particular action specified as a work preparation requirement by the Department under Article 21, or
  - (iv) the date on which the award terminates (other than by reason of the claimant ceasing to be, or becoming, a member of a couple),

whichever is soonest, and

[<sup>F164</sup>(b) if there was another sanctionable failure of a kind mentioned in paragraph (1) within 365 days, but not within 14 days, beginning with the date of the current sanctionable failure, 7 days.]

### Textual Amendments

- F163** Reg. 101(2)(b) substituted (coming into force in accordance with reg. 1(3) of the amending Rule) by The Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2017 (S.R. 2017/116), regs. 1(3), **9(13)(a)**
- F164** Reg. 101(3)(b) substituted (coming into force in accordance with reg. 1(3) of the amending Rule) by The Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2017 (S.R. 2017/116), regs. 1(3), **9(13)(b)**

### Lowest-level sanction

**102.**—(1) This regulation specifies the reduction period for a sanctionable failure under Article 32 of the Order (other sanctions) where it is a failure by a claimant who falls within Article 25 of the Order (claimants subject to work-focused interview requirement only) to comply with a requirement under that Article.

(2) The reduction period is the number of days beginning with the date of the sanctionable failure and ending with—

- (a) the day before the date on which the claimant meets a compliance condition specified by the Department;
- (b) the day before the date on which the claimant falls within Article 24 of the Order (claimants subject to no work-related requirements), or
- (c) the day on which the award terminates (other than by reason of the claimant ceasing to be, or becoming, a member of a couple),

whichever is soonest.

*When reduction to have effect*

### Start of the reduction

**103.** A reduction period determined in relation to a sanctionable failure takes effect from—

- (a) the first day of the assessment period in which the Department determines that the amount of the award is to be reduced under Article 31 or 32 of the Order (higher-level or other sanctions) (but see also regulation 104(2))(reduction period to continue where award terminates)),
- (b) if the amount of the award of universal credit for the assessment period referred to in paragraph (a) is not reduced in that period, the first day of the next assessment period, or
- (c) if the amount of the award for the assessment period referred to in paragraph (a) or (b) is already subject to a reduction because of a previous sanctionable failure, the first day in respect of which the amount of the award is no longer subject to that reduction.

### Reduction period to continue where award terminates

**104.**—(1) If an award of universal credit terminates while there is an outstanding reduction period, the period continues to run as if a daily reduction were being applied and if the claimant becomes entitled to a new award (whether as a single or joint claimant) before that period expires, that award is subject to a reduction for the remainder of the total outstanding reduction period.

(2) If an award of universal credit terminates before the Department determines that the amount of the award is to be reduced under Article 31 or 32 of the Order (higher-level or other sanctions) in relation to a sanctionable failure and that determination is made after the claimant becomes entitled

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to a new award the reduction period in relation to that failure is to have effect for the purposes of paragraph (1) as if that determination had been made on the day before the previous award terminated.

#### **Modifications etc. (not altering text)**

**C42** [Reg. 104](#) excluded (coming into force in accordance with reg.1 of the amending Rule) by [The Universal Credit \(Transitional Provisions\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/226\)](#), regs. 1, **35(a)**

#### **Suspension of a reduction where fraud penalty applies**

**105.**—(1) A reduction in the amount of an award under Article 31 or 32 of the Order (higher-level or other sanctions) is to be suspended for any period during which the provisions of section 5B, section 6 or section 8 of the Social Security Fraud Act (Northern Ireland) 2001 <sup>M68</sup> (loss of benefit in case of conviction, penalty or caution for benefit offence, loss of benefit for second or subsequent conviction of benefit offence and effect of offence on benefits for members of offender's family) apply to the award.

(2) The reduction ceases to have effect on the day on which that period begins and begins again on the day after that period ends.

#### **Marginal Citations**

**M68** [2001 c. 17 \(N.I.\)](#); [section 5B](#) was inserted by section 19(1) of the Welfare Reform Act (Northern Ireland) [2010 c. 13 \(N.I.\)](#).

#### **When a reduction is to be terminated**

**106.**—(1) A reduction in the amount of an award under Article 31 or 32 of the Order (higher-level or other sanctions) is to be terminated where—

- (a) since the date of the most recent sanctionable failure which gave rise to a reduction, the claimant has been in paid work for a period of, or for periods amounting in total to, at least 6 months, and
- (b) the claimant's monthly earnings during that period or those periods were equal to or exceeded—

- (i) the claimant's individual threshold,

- “(ia) where the claimant has no individual threshold, the amount that a person would be paid for 16 hours per week at the hourly rate in regulation 4 of the National Minimum Wage Regulations, converted to a monthly amount by multiplying by 52 and dividing by 12, or”

- (ii) if paragraph (4) of regulation 89 (threshold for an apprentice) applies, the amount applicable under that paragraph.

(2) The termination of the reduction has effect—

- (a) where the date on which paragraph (1) is satisfied falls within a period of entitlement to universal credit, from the beginning of the assessment period in which that date falls, or
- (b) where that date falls outside a period of entitlement to universal credit, from the beginning of the first assessment period in relation to any subsequent award.

(3) A claimant who is treated as having earned income in accordance with regulation 63 (minimum income floor) in respect of an assessment period is to be taken to have monthly earnings equal to their individual threshold in respect of any week falling within that assessment period.

#### *Amount of reduction*

#### **Amount of reduction for each assessment period**

**107.**—(1) Where it has been determined that an award of universal credit is to be reduced under Article 31 or 32 of the Order (higher-level or other sanctions), the amount of the reduction for each assessment period in respect of which a reduction has effect is to be calculated as follows.

##### *Step 1*

Take the number of days—

- (a) (a) in the assessment period; or
- (b) (b) if lower, in the total outstanding reduction period,

and deduct any days in that assessment period for which the reduction is suspended in accordance with regulation 105 (suspension of a reduction where fraud penalty applies).

##### *Step 2*

Multiply the number of days produced by step 1 by the daily reduction rate (see regulation 108).

##### *Step 3*

If necessary, adjust the amount produced by step 2 so that it does not exceed—

- (c) (c) the amount of the standard allowance applicable to the award; or
- (d) (d) in the case of a joint claim where a determination under Article 31 or 32 of the Order (higher-level or other sanctions) applies only in relation to one claimant, half the amount of that standard allowance.

##### *Step 4*

Deduct the amount produced by steps 2 and 3 from the amount of the award for the assessment period after any deduction has been made in accordance with Part 7 (the benefit cap).

#### **Daily reduction rate**

**108.**—(1) The daily reduction rate for the purposes of regulation 107 (amount of reduction for each assessment period) is, unless paragraph (2) or (3) applies, an amount equal to the amount of the standard allowance that is applicable to the award multiplied by 12 and divided by 365.

(2) The daily reduction rate is 40% of the rate set out in paragraph (1) if, at the end of the assessment period—

- (a) the claimant is aged 16 or 17,
- (b) the claimant falls within Article 24 of the Order (claimants subject to no work-related requirements) by virtue of —
  - (i) paragraph (2)(c) of that Article (responsible carer for a child under the age of 1), or
  - (ii) regulation 88(1)(c), (d) or (f) (claimant within 11 weeks before, or 15 weeks after confinement, adopter or responsible foster parent of a child under the age of 1), or
- (c) the claimant falls within Article 25 (claimants subject to work-focused interview requirement only).

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(3) The daily reduction rate is nil if, at the end of the assessment period, the claimant falls within Article 24 of the Order by virtue of having limited capability for work and work-related activity.

(4) The amount of the rate in paragraphs (1) and (2) is to be rounded down to the nearest 10 pence.

(5) In the case of joint claimants—

(a) each joint claimant is considered individually for the purpose of determining the rate applicable under paragraphs (1) to (3), and

(b) half of any applicable rate is applied to each joint claimant accordingly.

### *Miscellaneous*

#### **Application of ESA or JSA sanctions to universal credit**

**109.** Schedule 11 has effect in relation to persons who are, or have been, entitled to an employment and support allowance or a jobseeker's allowance and who are, or become, entitled to universal credit.

#### **Failures for which no reduction is applied**

**110.—**(1) No reduction is to be made under Article 31 or Article 32 of the Order (higher-level or other sanctions) for a sanctionable failure where—

(a) the sanctionable failure is listed in Article 31(2)(b) or (c) (failure to apply for a particular vacancy for paid work, or failure to take up an offer of paid work) and the vacancy is because of a strike arising from a trade dispute,

(b) the sanctionable failure is listed in Article 31(2)(d) (claimant ceases paid work or loses pay), and the following circumstances apply—

(i) the claimant's work search and work availability requirements are subject to limitations imposed under Article 22(4) and Article 23(3) in respect of work available for a certain number of hours,

(ii) the claimant takes up paid work, or is in paid work and takes up more paid work that is for a greater number of hours, and

(iii) the claimant voluntarily ceases that paid work, or more paid work, or loses pay, within a trial period,

(c) the sanctionable failure is that the claimant voluntarily ceases paid work, or loses pay, because of a strike arising from a trade dispute,

(d) the sanctionable failure is that the claimant voluntarily ceases paid work as a member of the regular or reserve forces, or loses pay in that capacity,

(e) the sanctionable failure is listed in Article 31(4) (failure to take up an offer of paid work, or to cease paid work or lose pay before making a claim), and the period of the reduction that would otherwise apply under regulation 99(4) (higher-level sanction) is the same as, or shorter than, the number of days beginning with the day after the date of the sanctionable failure and ending with the date of claim,

(f) the sanctionable failure is that the claimant voluntarily ceases paid work in one of the following circumstances—

(i) the claimant has been dismissed because of redundancy after volunteering or agreeing to be dismissed,

(ii) the claimant has ceased work on an agreed date without being dismissed in pursuance of an agreement relating to voluntary redundancy, or



- (iii) the claimant has been laid-off or kept on short-time to the extent specified in Article 183 of the Employment Rights (Northern Ireland) Order 1996, and has complied with the requirements of that Article, or
  - (g) the sanctionable failure is that the claimant by reason of misconduct, or voluntarily and for no good reason, ceases paid work or loses pay, but the claimant's monthly earnings (or, if the claimant is a member of a couple, their joint monthly earnings) have not fallen below the amount specified in regulation 97(14) (circumstances in which requirements must not be imposed).
- (2) In this regulation “regular or reserve forces” has the same meaning as in section 374 of the Armed Forces Act 2006 <sup>M69</sup>.

**Marginal Citations**

M69 2006 c. 52.

CHAPTER 3

HARDSHIP

**Conditions for hardship payments**

**111.**—(1) The Department must make a hardship payment to a single claimant or to joint claimants only where—

- (a) the claimant in respect of whose sanctionable failure the award has been reduced under Article 31 or 32 of the Order (higher-level or other sanctions) is aged 18 or over,
- (b) the single claimant or each joint claimant has met any compliance condition specified by the Department under regulation 101(2)(a)(i),
- (c) the single claimant or either joint claimant completes and submits an application—
  - (i) approved for the purpose by the Department, or in such other form as it accepts as sufficient, and
  - (ii) in such manner as the Department determines,
- (d) the single claimant or either joint claimant furnishes such information or evidence as the Department may require, in such manner as it determines,
- (e) the single claimant or each joint claimant accepts that any hardship payments that are paid are recoverable,
- (f) the Department is satisfied that the single claimant or each joint claimant has complied with all the work-related requirements that they were required to comply with in the 7 days preceding the day on which the claimant or joint claimants submitted an application in accordance with sub-paragraph (c);
- (g) the Department is satisfied that the single claimant or each joint claimant is in hardship, and
- (h) the daily reduction rate in regulation 108(1) applies for the purposes of the reduction in respect of the claimant under Article 31 or 32 of the Order (higher-level or other sanctions) .

(2) For the purposes of paragraph (1)(g) a single claimant or joint claimants must be considered as being in hardship only where—

- (a) they cannot meet their immediate and most basic and essential needs, specified in paragraph (3), or the immediate and most basic and essential needs of a child or qualifying

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young person for whom the single claimant or either of the joint claimants is responsible, only because the amount of their award has been reduced—

- (i) under Article 31 or 32 of the Order (higher-level or other sanctions), by the daily reduction rate set out in regulation 108(1), or
  - (ii) by the daily reduction rate prescribed in regulations made under section 5B(5A), 6(2A) or 8(2A) of the Social Security Fraud Act (Northern Ireland) 2001 (loss of benefit in case of conviction, penalty or caution for benefit offence, loss of benefit for commission of benefit offence and effect of offence on benefits for members of offender's family) which is equivalent to the rate referred to in paragraph (i),
- (b) they have made every effort to access alternative sources of support to meet, or partially meet, such needs, and
  - (c) they have made every effort to cease to incur any expenditure which does not relate to such needs.
- (3) The needs referred to in paragraph (2) are—
- (a) accommodation;
  - (b) heating;
  - (c) food;
  - (d) hygiene.

### **The period of hardship payments**

**112.**—(1) A hardship payment is to be made in respect of a period which—

- (a) begins with the date on which all the conditions in regulation 111(1) are met; and
- (b) unless paragraph (2) applies, ends with the day before the normal payment date for the assessment period in which those conditions are met.

(2) If the period calculated in accordance with paragraph (1) would be 7 days or less, it does not end on the date referred to in paragraph (1)(b) but instead ends on the normal payment date for the following assessment period or, if earlier, the last day on which the award is to be reduced under Article 31 or 32 of the Order (higher-level or other sanctions) or under section 5B(5A), 6(2A) or 8(2A) of the Social Security Fraud Act (Northern Ireland) 2001 (loss of benefit in case of conviction, penalty or caution for benefit offence, loss of benefit for commission of benefit offence and effect of offence on benefits for members of offender's family).

(3) In this regulation “the normal payment date” for an assessment period is the date on which the Department would normally expect to make a regular payment of universal credit in respect of an assessment period in a case where payments of universal credit are made monthly in arrears.

### **The amount of hardship payments**

**113.** The amount of a hardship payment for each day in respect of which such a payment is to be made is to be determined in accordance with the formula—

$$60\% \text{ of } \left( \frac{A \times 12}{365} \right)$$

where A is equal to the amount of the reduction in the single claimant's or joint claimants' award calculated under regulation 107 (amount of reduction for each assessment period) for the

assessment period preceding the assessment period in which an application is submitted under regulation 111(1)(c).

### Recoverability of hardship payments

**114.**—(1) Subject to paragraphs (2) and (3), hardship payments are recoverable in accordance with section 69ZH of the Social Security Administration (Northern Ireland) Act 1992 (recovery of hardship payments etc.)<sup>M70</sup>.

[<sup>F165</sup>(2) Paragraph (1) does not apply in relation to any assessment period in which—

- (a) the single claimant, or each joint claimant, falls within Article 24 of the Order by virtue of regulation 89 (claimants subject to no work-related requirements – the earnings threshold);
- (b) where regulation 89 applies to one of the joint claimants only, the joint claimants' combined monthly earnings are equal to or exceed the amount of the individual threshold; or
- (c) where regulation 89 does not apply to the single claimant or to either of the joint claimants, that claimant or joint claimants' combined monthly earnings are equal to or exceed the amount that a person of the same age as the claimant, or the youngest of the joint claimants, would be paid at the hourly rate specified in regulation 4 or regulation 4A(1)(a) to (c) of the National Minimum Wage Regulations for 16 hours per week, converted to a monthly amount by multiplying by 52 and dividing by 12.

(3) Paragraph (1) ceases to apply where, since the last day on which the claimant's or the joint claimants' award was subject to a reduction under Article 31 or 32 of the Order—

- (a) the single claimant, or each joint claimant, has fallen within Article 24 of the Order by virtue of regulation 89 (claimants subject to no work-related requirements – the earnings threshold);
- (b) where regulation 89 applied to one of the joint claimants only, the joint claimants' have had combined monthly earnings that are equal to or exceed the amount of the individual threshold; or
- (c) where regulation 89 did not apply to the single claimant or to either of the joint claimants, that claimant or the joint claimants' have had combined monthly earnings that are equal to or exceed the amount that a person of the same age as the claimant, or the youngest of the joint claimants, would be paid at the hourly rate specified in regulation 4 or regulation 4A(1)(a) to (c) of the National Minimum Wage Regulations for 16 hours per week, converted to a monthly amount by multiplying by 52 and dividing by 12,

for a period of, or more than one period where the total of those periods amounts to, at least 6 months.]

#### Textual Amendments

**F165** Reg. 114(2)(3) substituted (coming into force in accordance with reg. 1(3) of the amending Rule) by [The Social Security \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/116\)](#), regs. 1(3), **9(14)**

#### Marginal Citations

**M70** Section 69ZH was inserted by Article 109(1) of Order.

### [<sup>F166</sup>Transitional Provision

**115.**—(1) Until the date determined in accordance with paragraph (6), these regulations have effect subject to the following modifications.

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[<sup>F167</sup>(2) Omit regulation 54 (surplus earnings), as substituted by regulation 6(8) of the Universal Credit (Miscellaneous Amendments, Saving and Transitional Provision) Regulations (Northern Ireland) 2018 and regulation 58 (unused losses).]

(3) In regulation 57 (self-employed earnings- treatment of losses)—

(a) for paragraph (2) substitute—

“(2) A person’s self-employed earnings in respect of an assessment period are to be calculated by taking the amount of the gross profits (or, in the case of a partnership, the person’s share of those profits) of the trade, profession or vocation and deducting from that amount—

[<sup>F168</sup>(a) any payment made to HMRC in the assessment period in respect of the trade, profession or vocation by way of national insurance contributions and income tax; and]

(b) any relievable pension contributions made by the person in the assessment period (unless a deduction has been made in respect of those contributions in calculating a person’s employed earnings).

(3) The gross profits of the trade, profession or vocation in respect of an assessment period are the actual receipts in that period less any deductions for expenses allowed under regulation 58 or 59.”;

(b) in paragraph (3), for “paragraph (2)” substitute “paragraph (3)”.

(4) In regulation 59(3) (permitted expenses), after sub-paragraph (a) insert—

“(aa) any loss incurred in respect of a previous assessment period;”.

(5) In regulation 63 (minimum income floor), omit paragraph (5).

(6) The date is [<sup>F169</sup>8th May 2018] or, in respect of an existing award of Universal Credit where [<sup>F169</sup>8th May 2018] is not the first day of an assessment period, the first day of the next assessment period.]

#### Textual Amendments

**F166** Reg. 115 inserted (coming into force in accordance with reg. 1(3) of the amending Rule) by [The Social Security \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/116\)](#), regs. 1(3), **9(15)**

**F167** Reg. 115(2) substituted (8.5.2018) by [The Universal Credit \(Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/92\)](#), regs. 1(2), **6(17)(a)**

**F168** Words in reg. 115(3)(a) substituted (8.5.2018) by [The Universal Credit \(Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/92\)](#), regs. 1(2), **6(17)(b)**

**F169** Words in reg. 115(6) substituted (8.5.2018) by [The Universal Credit \(Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision\) Regulations \(Northern Ireland\) 2018 \(S.R. 2018/92\)](#), regs. 1(2), **6(17)(c)**

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

Department for Work and Pensions

*Freud*  
Minister of State,

**Status:**

Point in time view as at 25/09/2021.

**Changes to legislation:**

There are currently no known outstanding effects for the The Universal Credit Regulations (Northern Ireland) 2016.