

This Statutory Rule corrects defects in S.R. 1996 No. 198, S.R. 2016 No. 216 and S.R. 2016 No. 226 and is being issued free of charge to all known recipients of those Statutory Rules.

STATUTORY RULES OF NORTHERN IRELAND

2018 No. 187

SOCIAL SECURITY

The Universal Credit and Jobseeker's Allowance (Miscellaneous Amendments) Regulations (Northern Ireland) 2018

Made - - - - 30th October 2018
Laid before Parliament 5th November 2018
Coming into operation in accordance with regulation 1(2) and (3)

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 122(1)(a), 131(1), 132(3) and (4)(b), 133(1) and 171(1) and (3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(1), Articles 2(2), 6(5) and 14(1) and (4)(b) of the Jobseekers (Northern Ireland) Order 1995(2), and Articles 15(4), 16(4) and (5)(a), and 48(1) and (2) of, paragraphs 4(1) and (3) of Schedule 1 and paragraph 1(1) of Schedule 6 to, the Welfare Reform (Northern Ireland) Order 2015(3).

Those powers are exercisable by the Secretary of State by virtue of Article 4(1)(a) and (b) of the Welfare Reform (Northern Ireland) Order 2015.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Universal Credit and Jobseeker's Allowance (Miscellaneous Amendments) Regulations (Northern Ireland) 2018.

(2) Subject to paragraph (3), these Regulations come into operation on 28th November 2018.

(3) Regulations 3(2) and (8)(a) to (b) and 6 come into operation on 31st December 2018.

(4) The Interpretation Act (Northern Ireland) 1954(4) shall apply to these Regulations as it applies to an Act of the Assembly.

(1) 1992 c. 7; section 133(1) is cited for the meaning of “prescribed”; section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21).
(2) S.I. 1995/2705 (N.I. 15); Article 2(2) is cited for the meaning of “prescribed” and “regulations”. Functions under S.I. 1995/2705 (N.I. 15) were transferred to the Department for Communities by virtue of Article 8(b) of S.R. 1999 No. 481 and section 1(7) of the Departments Act (Northern Ireland) 2016 (c.5 (N.I.)).
(3) S.I. 2015/2006; Article 15(4) was amended by Article 10(4) of S.I. 2016/999 (N.I. 1).
(4) 1954 c. 33 (N.I.).

Amendments to the Jobseeker’s Allowance Regulations (Northern Ireland) 1996

2. In Schedule 1 (applicable amounts) to the Jobseeker’s Allowance Regulations (Northern Ireland) 1996⁽⁵⁾—

- (a) in paragraph 12 (higher pensioner premium), in sub-paragraph (1)(a)(i)⁽⁶⁾ for “paragraph 14(1)(a), (c), (e), (f) or (h)” substitute “paragraph 14(1)(a), (ba), (c), (ca), (e), (f), (fa) or (h)”;
- (b) in paragraph 13 (disability premium) in sub-paragraph (1)(a) and (b)⁽⁷⁾ for “paragraph 14(1)(a), (c), (e), (f) or (h)” substitute “paragraph 14(1)(a), (ba), (c), (ca), (e), (f), (fa) or (h)”.

Amendments to the Universal Credit Regulations (Northern Ireland) 2016

3.—(1) The Universal Credit Regulations (Northern Ireland) 2016⁽⁸⁾ are amended in accordance with paragraphs (2) to (8).

- (2) In regulation 7(2)⁽⁹⁾ (rounding), omit paragraph (c) and the “and” preceding it.
- (3) In regulation 25A⁽¹⁰⁾ (availability of the child element where maximum exceeded)—
 - (a) in paragraph (1)—
 - (i) before sub-paragraph (a), insert—
 - “(za) any child or qualifying young person to whom an exception applies in the circumstances 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;”;
 - (ii) in sub-paragraph (b)(ii), after “person” insert “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”; and
 - (b) omit paragraph (4).
- (4) In regulation 25B⁽¹¹⁾ (order of children and qualifying young persons)—
 - (a) in paragraph (1)—
 - (i) for “paragraph (2)” substitute “paragraphs (2) and (2A)”, and
 - (ii) for “the following date” to the end of paragraph (1)(b) substitute “the date of birth of each child or qualifying young person for whom the claimant is responsible, taking the earliest date first.”;
 - (b) omit paragraph (2)(b) and the “or” preceding it; and
 - (c) after paragraph (2) insert —

⁽⁵⁾ S. R. 1996 No. 198.

⁽⁶⁾ Sub-paragraph (1)(a) was amended by regulation 3(8)(b)(i) of S.R. 2007 No. 154 and regulation 5(5)(b) of S.R. 2010 No. 103.

⁽⁷⁾ Sub-paragraph (1) was amended by regulation 3(8)(c)(i) and (ii) of S.R. 2007 No. 154 and regulation 5(5)(c) of S.R. 2010 No. 103.

⁽⁸⁾ S.R. 2016 No.216.

⁽⁹⁾ Regulation 7(2) was amended by Regulation 2(2) of S.R. 2017 No. 142.

⁽¹⁰⁾ Regulation 25A was inserted by regulation 2(3) of S.R. 2017 No.79.

⁽¹¹⁾ Regulation 25B was inserted by regulation 2(3) of S.R. 2017 No.79.

“(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.”.

(5) In regulation 53(2)(b) (calculation of earned income – general principles) for “unearned” substitute “earned”.

(6) In regulation 54(6) (surplus earnings) in the definition “the old award” for “11th April 2018” substitute “8th May 2018”.

(7) In regulation 77(5) (company analogous to a partnership or one person business), for “or Chapter 9” to the end, substitute “, 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”.

(8) In Schedule 4(12) (housing cost element for renters)—

(a) in the heading of Part 2 (exceptions to the inclusion of housing costs element), for “Exceptions” substitute “Exception”;

(b) omit paragraphs 4A to 4C; and

(c) in paragraph 28—

(i) in sub-paragraph (1), for “(5)” substitute “(5A)”;

(ii) after sub-paragraph (5) insert—

“(5A) E is under 35 years old and satisfies the foster carer condition (within the meaning of paragraph 11(4)).”.

Amendments to the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016

4.—(1) The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016(13) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 3A(14) (entitlement to universal credit and housing benefit: universal credit work allowance) omit “not” the second time it occurs.

(3) After regulation 8(15) (treatment of overpayments) insert—

“Arrears of benefit disregarded as capital

8A.—(1) This regulation applies in relation to the calculation of an award of universal credit (the “current award”) where the claimant has received a payment of arrears of benefit, or a concessionary payment made to compensate for arrears of benefit, of £5,000 or more, and the following conditions are met:

(a) the payment—

(i) is received during the current award, or

(ii) was received during an award of an existing benefit (the “earlier award”) and the claimant became entitled to the current award within one month of the date of termination of the earlier award;

(12) Schedule 4 was amended by regulation 2(3) of S.R. 2017 No. 142.

(13) S.R. 2016 No. 226.

(14) Regulation 3A was inserted by regulation 9(4) of S.R. 2018 No. 92.

(15) Regulation 8 was amended by regulation 12(3) of S.R. 2017 No. 116.

- (b) in the case of a payment falling within sub-paragraph (a)(i), it would be disregarded from the calculation of the claimant's capital if the claimant were entitled to an existing benefit;
- (c) in the case of a payment falling within sub-paragraph (a)(ii), it was disregarded from the calculation of the claimant's capital for the purposes of the earlier award; and
- (d) the period of entitlement to benefit to which the payment relates commences before the first date on which, by virtue of Article 39 of the Order (abolition of benefits), no claimant is entitled to an existing benefit.

(2) Where this regulation applies, the payment is to be disregarded from the calculation of a claimant's capital for 12 months from the date of receipt of the payment, or until the termination of the current award (if later).”.

Amendments to the Social Security (Restrictions on Amounts for Children and Qualifying Young Persons) (Amendment) Regulations (Northern Ireland) 2017

5. In the following provisions of the Social Security (Restrictions on Amounts for Children and Qualifying Young Persons) (Amendment) Regulations (Northern Ireland) 2017⁽¹⁶⁾ for “an exception in Schedule 12 (availability of the child element where maximum exceeded – exemptions) of the Universal Credit Regulations (Northern Ireland) 2016 would apply” substitute “the child element would be payable”—

- (a) regulation 4(2) (restrictions on amounts for children and young persons – consequential changes to income support); and
- (b) regulation 5(2) (restrictions on amounts for children and young persons - consequential changes to jobseeker's allowance).

Revocation of the Universal Credit (Housing Costs Element for Claimants Aged 18 to 21) (Amendment) Regulations (Northern Ireland) 2017

6. The Universal Credit (Housing Costs Element for Claimants Aged 18 to 21) (Amendment) Regulations (Northern Ireland) 2017⁽¹⁷⁾ are revoked.

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

30th October 2018

Justin Tomlinson
Parliamentary Under-Secretary of State
Department for Work and Pensions

⁽¹⁶⁾ S.R. 2017 No. 79.
⁽¹⁷⁾ S.R. 2017 No.142.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207), the Universal Credit Regulations (Northern Ireland) 2016 (S.R. 2016 No. 216) ("the UC Regulations"), the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016 No. 226) and the Social Security (Restrictions on Amounts for Children and Qualifying Young Persons) (Amendment) Regulations (Northern Ireland) 2017.

Regulation 2 amends the Jobseeker's Allowance Regulations (Northern Ireland) 1996 to insert cross-references to additional conditions for the higher pensioner and disability premium, where a claimant or a claimant's partner are in receipt of personal independence payment or armed forces independence payment. The cross-references had previously been unintentionally omitted.

Regulation 3(2) and (8)(a) and (b) reverse the changes made by the Universal Credit (Housing Costs Element for claimants aged 18 to 21) (Amendment) Regulations (Northern Ireland) 2017 (S.R. 2017 No. 142). This removes the paragraphs in Schedule 4 to the UC Regulations which excluded certain claimants aged between 18 and 21 years of age from receiving the housing element of Universal Credit.

Regulation 3(3) amends the UC Regulations so claimants receive an additional child element for any child or qualifying young person cared for under a non-parental caring arrangement (kinship care) or who is adopted from authority care, regardless of the position of the cared for or adopted child within the household. Claimants can therefore receive a child element for any children who are adopted or cared for, plus up to two children who do not qualify for an exception, plus any third or subsequent children who qualify for other exceptions (multiple birth or non-consensual conception). Regulation 3(4) simplifies the ordering provisions for children in the household. When calculating the maximum support available, payments for adopted or cared for children should now be additional payments, so those children should be disregarded when determining the order of children in a household. This means that the ordering can be simplified to refer only to date of birth.

Regulation 3(5) and (6) make minor corrections to the UC Regulations. Regulation 3(5) amends regulation 53 of the UC Regulations to provide that where the Department makes a determination as to an amount of a person's earned income where a person has failed to report information in relation to that earned income the determination may be based on an estimate of the amounts received or expected to be received in that assessment period.

Regulation 3(6) amends regulation 54 of the UC Regulations to change the date after which the last day of an award must fall in order for it to be an "old award" for the purpose of that regulation.

Regulation 3(7) amends regulation 77(5) (company analogous to a partnership or one person business) of the UC Regulations to include an additional reference to relevant tax law, in order to maintain the existing alignment in the treatment of "off-payroll" workers (also known as IR35 or intermediary workers) in tax and Universal Credit, as employees rather than self-employed.

Regulation 3(8)(c) amends paragraph 28 of Schedule 4 (renters excepted from shared accommodation) to the UC Regulations to provide that foster carers are excepted from the one-bedroom shared accommodation rate in the private rented sector, in order to align the treatment of foster carers with the social rented sector.

Regulation 4(2) makes a minor correction to regulation 3A of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 to provide that, where a claimant has an award of universal credit and in the same assessment period is also entitled to housing benefit for temporary

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accommodation but the award of universal credit does not include an amount for housing costs, regulation 23(2) of the UC Regulations is to apply in relation to that assessment period as if the award did include an amount for housing costs.

The UC Regulations provide for arrears, or a payment to compensate for arrears, to be disregarded for a period of 12 months from the date the payment is received. There is currently no provision for the payment to be disregarded for a longer period if it is paid out for official error. Regulation 4(3) inserts regulation 8A into the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016. This amendment provides for the longer disregard to apply until the termination of the Universal Credit award where a payment of arrears has been received during an earlier award of an income-related benefit and the claimant becomes entitled to universal credit within one month of their earlier award terminating, or where it has been received during the universal credit award. This additional disregard only applies to a payment that relates to a period of entitlement to benefit which begins before migration of existing benefits to universal credit is completed.

Regulation 5 amends the Social Security (Restrictions on Amounts for Children and Qualifying Young Persons) (Amendment) Regulations (Northern Ireland) 2017 to apply the changes made to regulations 25A and 25B of the UC Regulations to any claims for Income Support and Jobseeker's Allowance that include an amount for a child or qualifying young person.

Regulation 6 revokes the Universal Credit (Housing Costs Element for Claimants aged 18 to 21) (Amendment) Regulations (Northern Ireland) 2017.

An impact assessment has not been produced for this instrument as it has no impact on business or on civil society organisations. This instrument has no impact on the public sector.