

2018 No. 92

SOCIAL SECURITY

**The Universal Credit (Persons Required to Provide Information,
Miscellaneous Amendments and Saving and Transitional
Provision) Regulations (Northern Ireland) 2018**

Made - - - - at 1.30 p.m. on 16th April 2018

Laid before Parliament at 4.00 p.m. on 16th April 2018

Coming into force in accordance with regulation 1(2)

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 5(1A), 103B(2)(ia), 165(1), (4) to (6) and 167(1) of the Social Security Administration (Northern Ireland) Act 1992(a), Articles 2(2) and 8H(1)(a) of the Jobseekers (Northern Ireland) Order 1995(b), Articles 2(2), 11(6) and 74(1), (3) and (4) of the Social Security (Northern Ireland) Order 1998(c), and now vested in it(d), section 60(1), (2) and (6) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(e) and Articles 5, 11(1)(c) and (3), 12(2) and (3), 13(3), 16(3)(a) and (5)(a), 24(2)(d), (3) and (4), 29(1)(a), 36, 38, 42 and 48(1) and (2) of, and paragraph 4(1) and (3)(a) of Schedule 1 and paragraphs 1(1) and 4(1)(a) of Schedule 6 to, the Welfare Reform (Northern Ireland) Order 2015(f).

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 (Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision) Regulations (Northern Ireland) 2018.

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- (a) 1992 c. 8 (N.I.); section 5(1A) was inserted by Article 104(3) of the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I. 1)), section 103B was substituted by paragraph 2 of Schedule 6 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)) and amended by section 1(2) to (4) of the Social Security Fraud Act (Northern Ireland) 2001 (c. 17 (N.I.)), Article 2 of S.R. 2002 No. 408, paragraph 116 of Schedule 24 to the Civil Partnership Act 2004 (c.33) and paragraph 30 of Schedule 12 to the Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), subsection (2)(ia) was inserted by Article 112 of the Welfare Reform (Northern Ireland) Order 2015, section 165(1) was amended by paragraph 49(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) and section 18(5) of the National Insurance Contributions Act 2014 (c. 7), section 167(1) is cited for the meaning of “prescribe” and the definition of “prescribe” was amended by paragraph 5 of Schedule 5 to the Welfare Reform (Northern Ireland) Act 2007 (c. 2).
- (b) S.I. 1995/2705 (N.I. 15); Article 2(2) is cited for the meaning of “prescribed” and Article 8H was inserted by Article 55(4) of the Welfare Reform (Northern Ireland) Order 2015.
- (c) S.I. 1998/1506 (N.I. 10); Article 2(2) is cited for the meaning of “prescribed” and Article 74(1) was amended by paragraph 17(2) of Schedule 4 to the Tax Credits Act 2002.
- (d) See Article 8(b) of S.R. 1999 No. 481 and section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.)).
- (e) 2000 c. 4; section 60(1) was amended by paragraph 44 of Schedule 2 to the Welfare Reform (Northern Ireland) Order 2015 and section 60(6) is cited for the meaning of “prescribed”.
- (f) S.I. 2015/2006; Article 5 is an interpretation provision and is cited for the meaning of “prescribed”.

(2) These Regulations come into force on 8th May 2018.

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

Persons required to provide information

2.—(1) Those persons of a prescribed description for the purpose of section 103B(2)(ia) of the Social Security Administration (Northern Ireland) Act 1992 (power of authorised officers to require information) are listed in sub-paragraphs (a) to (d)—

- (a) a person who provides relevant childcare;
- (b) a person to whom a person in receipt of universal credit (“C”) is liable to make rent payments in respect of accommodation which C occupies, or purports to occupy, as their home where C’s award of universal credit includes an amount in respect of such payments;
- (c) a person who makes a determination of housing costs in accordance with the Universal Credit Housing Costs (Executive Determinations) Regulations (Northern Ireland) 2016(b) to the extent that the information required relates to such determination;
- (d) an officer of the Department of Finance(c) to the extent that the information required relates to rate relief under the Rate Relief Regulations (Northern Ireland) 2017(d).

(2) In this regulation—

- “UC Regulations” means the Universal Credit Regulations (Northern Ireland) 2016(e);
- “relevant childcare” has the meaning given in regulation 37 of the UC Regulations;
- “rent payments” has the meaning given in paragraph 2 of Schedule 1 to the UC Regulations;
- “universal credit” means universal credit under Part 2 of the Welfare Reform (Northern Ireland) Order 2015.

Amendments to the Discretionary Financial Assistance Regulations (Northern Ireland) 2001

3. In the following provisions of the Discretionary Financial Assistance Regulations (Northern Ireland) 2001(f), after “paragraph 3(e)” insert “or (ea)(g)”—

- (a) regulation 1(2), in the definition of “relevant award of universal credit”(h); and
- (b) regulation 4(2)(b)(i).

Amendments to the Housing Benefit Regulations (Northern Ireland) 2006

4.—(1) The Housing Benefit Regulations (Northern Ireland) 2006(j) are amended in accordance with paragraphs (2) to (9).

(2) After regulation 2(3A)(k) (interpretation) insert—

“(3B) For the purposes of these Regulations, a person (“P”) is on universal credit on any day in respect of which P is entitled to universal credit (whether it is in payment or not).”.

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

(b) S.R. 2016 No. 222.

(c) The Department of Finance and Personnel was renamed the Department of Finance by section 1(4) of the Departments Act (Northern Ireland) 2016 (c.5 (N.I.)).

(d) S.R. 2017 No. 184.

(e) S.R. 2016 No. 216.

(f) S.R. 2001 No. 216; relevant amending Regulations are S.R. 2017 No. 143.

(g) New sub-paragraph (ea) is inserted into paragraph 3 of Schedule 1, to the Universal Credit Regulations (Northern Ireland) 2016 by regulation 6(17) of these Regulations.

(h) Definition inserted by regulation 2(2) of S.R. 2017 No. 143.

(i) Regulation 4 was substituted by regulation 2(5) of S.R. 2017 No. 143.

(j) S.R. 2006 No. 405; relevant amending Regulations are S.R. 2008 No. 378.

(k) Paragraph (3A) was inserted by regulation 3(2)(b) of S.R. 2008 No. 378.

(3) In regulation 5(1)(b)(a) (persons who have attained the qualifying age for state pension credit) before “on income support” insert “on universal credit.”

(4) In regulation 7(6)(a)(i) (circumstances in which a person is or is not to be treated as occupying a dwelling as his home), for “housing benefit should be paid” substitute “payments should be made (whether by way of housing benefit or universal credit)”.

(5) After regulation 53(2)(a) (full-time students to be treated as not liable to make payments in respect of a dwelling) insert—

“(aa) who is a person on universal credit, except where the award of universal credit to that person includes an amount in respect of a liability to make payments in respect of the accommodation they occupy as their home, in accordance with Article 16 of the 2015 Order (housing costs);”.

(6) In regulation 81(5) (time and manner in which claims are to be made)—

(a) after sub-paragraph (a) insert—

“(aa) in a case where an award of universal credit has been made to the claimant and the claim for housing benefit is made—

(i) within one month of a date on which the claim for universal credit was made in accordance with regulation 7 of the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016(b); or

(ii) in a case where the award of universal credit was made without a claim in accordance with regulation 8(6), (7) or (10) (claims for universal credit by members of a couple) of the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016, or the claimant was treated as making a claim for universal credit under regulation 8(8) of those Regulations, within one month of the date on which the Department sent notification of the award to the claimant,

the first day of entitlement to universal credit arising from the award;”;

(b) in sub-paragraph (b) before “income support” insert “universal credit;” and

(c) in sub-paragraph (d) for “sub-paragraph (a), (b) or (c)” substitute “sub-paragraph (a), (aa), (b) or (c)”.

(7) In Schedule 5 (sums to be disregarded in the calculation of earnings) in paragraph 12(c) before “income support” insert “universal credit.”

(8) In Schedule 6 (sums to be disregarded in the calculation of income other than earnings) in paragraph 4(d) before “income support” insert “universal credit.”

(9) In Schedule 7 (capital to be disregarded) in paragraph 5(e) before “income support” insert “universal credit.”

Amendment to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006

5. In regulation 5(2) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(f) before “on income support” insert “on universal credit.”

(a) Regulation 5(1)(b) was amended by regulation 3(3) of S.R. 2008 No. 378.

(b) S.R. 2016 No. 220.

(c) Paragraph 12 was amended by regulation 3(18)(b) of S.R. 2008 No. 378.

(d) Paragraph 4 was amended by regulation 3(19)(a) of S.R. 2008 No. 378.

(e) Paragraph 5 was amended by regulation 3(20)(a) of S.R. 2008 No. 378.

(f) S.R. 2006 No. 406; Regulation 5(2) was amended by regulation 4(3) of S.R. 2008 No. 378.

Amendments to the Universal Credit Regulations (Northern Ireland) 2016

6.—(1) The Universal Credit Regulations (Northern Ireland) 2016(a) are amended in accordance with paragraphs (2) to (19).

(2) In the Table of Contents—

- (a) omit the entries for regulation 20 (waiting days) and 21 (awards);
- (b) after the entry for regulation 22 (assessment periods) insert—

“**22A.** Assessment period cycle to remain the same following change in the first day of entitlement”; and

- (c) in the entries for Schedule 4 (housing costs element for renters)—
 - (i) in the entry for Part 4 omit “and temporary accommodation”; and
 - (ii) in the entry for Part 5 omit “other than temporary accommodation”.

(3) Omit regulation 20 (waiting days).

(4) Omit regulation 21 (awards).

(5) In regulation 22 (assessment periods)—

- (a) omit paragraph (2); and
- (b) after paragraph (3) insert—

“(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).”.

(6) After regulation 22 insert—

“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—

$$N \times \left(\frac{A \times 12}{365} \right)$$

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.”.

(a) S.R. 2016 No. 216.

(7) In the table in regulation 23 (deduction of income and work allowance)—

- (a) for “£397” in both places where it occurs substitute “£409”; and
- (b) for “£192” in both places where it occurs substitute “£198”.

(8) For regulation 54 (surplus earnings) substitute—

“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—

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

where—

M is the maximum amount of an award of universal credit(a);

U is unearned income(b);

WA is the work allowance(c).

“the old award” does not include an award the last day of which falls before 11th April 2018.

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

(9) After regulation 54 insert—

“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.”.

(10) In regulation 57(2) (self-employed earnings – treatment of losses), for Step 3 substitute—

“*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).”.

(11) In regulation 58 (unused losses)—

(a) in paragraph (1)(a) omit “11”; and

(b) in paragraph (3) from “treat” to the end substitute—

“treat—

(a) The maximum amount of an award of universal credit is determined by Article 13(2) of the Welfare Reform (Northern Ireland) Order 2015 S.I. 2015/2006 (N.I.1).

(b) For the meaning of “unearned income” see Chapter 3 of Part 6 of S.R. 2016 No. 216.

(c) See regulation 23 of S.R. 2016 No. 216.

- (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.”.

(12) In regulation 66 (unearned income)—

(a) at the end of paragraph (1)(a) insert “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) after paragraph (1)(d) insert—

“(da) foreign state retirement pension;”;

(c) after paragraph (1)(l) insert—

“(la) PPF periodic payments;”;

(d) in sub-paragraph (m) for “(a) to (l)” substitute “(a) to (la)”;

(e) for paragraph (2) substitute—

“(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(a).”.

(13) In regulation 76(1)(a), (special schemes for compensation etc.)—

(a) after “compensation” insert “or support”;

(b) omit the “or” at the end of paragraph (iii); and

(c) after paragraph (iii) insert—

“(iv) the terrorist attacks in London on 22nd March 2017 or 3rd June 2017,

(v) the bombing in Manchester on 22nd May 2017, or”.

(14) In regulation 83(1)(i) (exceptions – entitlement or receipt of certain benefits) for “sub-paragraphs (b) to (g)” substitute “sub-paragraphs (c) to (h)”.

(15) After regulation 88(1)(d) (claimants subject to no work-related requirements) insert—

“(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;”.

(16) In regulation 97 (circumstances in which requirements must not be imposed)—

(a) in paragraph (7) for “This paragraph” substitute “Subject to paragraph (7A), this paragraph”;

(b) after paragraph (7) insert—

(a) 2002 c. 14. The definition of “PPF periodic payments was inserted by Article 2 and para 3(3) of the Schedule to S.R. 2006 No. 37.

“(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.”;
 - (c) in paragraph (11)—
 - (i) in the opening words omit “the claimant” the second time it occurs,
 - (ii) at the beginning of sub-paragraph (a) insert “the claimant”,
 - (iii) in sub-paragraph (b)—
 - (aa) at the beginning insert “the claimant”,
 - (bb) at the end omit “or”,
 - (iv) in sub-paragraph (c), at the beginning insert “the claimant”;
 - (v) at the end of sub-paragraph (c) insert “or”;
 - (vi) after sub-paragraph (c) insert—

“(d) paragraph (7) would apply to the claimant but for paragraph (7A).”;
 - (d) in paragraph (12) for “sub-paragraph (a), (b) or (c)” substitute “(a), (b), (c) or (d)”; and
 - (e) in paragraph (13)(a) for “paragraph (11)(a), (b) or (c)” substitute “paragraph (11)(a), (b), (c) or (d)”.
- (17) In regulation 115(a) (transitional provision)—
- (a) for paragraph (2) substitute—

“(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).”;
 - (b) in paragraph (3)(a) for the substituted paragraph (2)(a) substitute—

“(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”;
 - (c) in paragraph (6) for “2nd April 2018” in both places where it occurs substitute “8th May 2018”.
- (18) In Schedule 1 (meaning of payments in respect of accommodation)—
- (a) in paragraph 3, after sub-paragraph (e) insert—

“(ea) payments in respect of accommodation specified in paragraph 4A;”;
 - (b) after paragraph 4 insert—

(a) Regulation 115 was inserted by regulation 9(15) of S.R. 2017 No. 116.

“Temporary Accommodation

4A.—(1) The accommodation referred to in paragraph (3)(ea) is accommodation which falls within Case 1 or Case 2.

(2) Case 1 is where—

- (a) rent payments are payable to the Housing Executive;
- (b) the Housing Executive makes the accommodation available to the renter—
 - (i) to discharge any of the Housing Executive’s functions under Part II of the Housing (Northern Ireland) Order 1988(a), or
 - (ii) to prevent the person being or becoming homeless within the meaning of Part II of the Housing (Northern Ireland) Order 1988, and
- (c) the accommodation is not exempt accommodation.

(3) Case 2 is where—

- (a) rent payments are payable to a provider of social housing other than the Housing Executive;
- (b) that provider makes the accommodation available to the renter in pursuance of arrangements made with it by the Housing Executive—
 - (i) to discharge any of the Housing Executive’s functions under Part II of the Housing (Northern Ireland) Order 1988(b), or
 - (ii) to prevent the person being or becoming homeless within the meaning of Part II of the Housing (Northern Ireland) Order 1988, and
- (c) the accommodation is not exempt accommodation.

(4) Sub-paragraph (1) applies irrespective of whether the renter is also liable to make service charge payments.

(5) In sub-paragraph (3), “provider of social housing” has the meaning given in paragraph 2 of Schedule 4.”;

(c) in paragraph 9(1)(a) omit “, other than temporary accommodation”.

(19) In Schedule 4 (housing cost element for renters)—

- (a) in paragraph 4B(1)(c)—
 - (i) in paragraph (b)—
 - (aa) for (4)(a) or (c)” substitute “(4)”; and
 - (bb) omit “and temporary accommodation”,
 - (ii) omit paragraph (c);

(b) for paragraph 16(3) substitute—

“(3) The single calculation is to be made under Part 5 of this Schedule in any case where the renter’s liability to make rent payments in respect of accommodation A and accommodation B is to a provider of social housing.”;

(c) in the heading to Part 4 omit “and temporary accommodation”;

(d) for paragraph 19(1) substitute—

“(1) This Part applies to renters who are liable to make rent payments to a person other than a provider of social housing.”;

(e) omit paragraph 20;

(f) in the heading to Part 5 omit “other than temporary accommodation”; and

(g) for paragraph 29(1) substitute—

(a) S.I. 1988/1990 (N.I. 23).

(b) S.I. 1988/1990 (N.I. 23).

(c) Paragraph 4B was inserted by regulation 2(3)(b) of S.R. 2017 No. 142.

“(1) This Part applies to renters who are liable to make rent payments to a provider of social housing.”.

Amendments to the Jobseeker’s Allowance Regulations (Northern Ireland) 2016

7. In regulation 16 (circumstances in which requirements must not be imposed) of the Jobseeker’s Allowance Regulations (Northern Ireland) 2016^(a)—

- (a) in paragraph (1) for “(4) or (5)” in both places where it occurs substitute “(4), (5) or (5B)”;
- (b) in paragraph (2) for “(4) or (5)” substitute “(4), (5) or (5B)”;
- (c) after paragraph (5) insert—

“(5A) Paragraph (5) does not apply to a claimant—

- (a) if it has previously been determined on the basis of an assessment under Part 5 of the Universal Credit Regulations (Northern Ireland) 2016 or Part 4 or 5 of the Employment and Support Allowance Regulations (Northern Ireland) 2016 that the claimant does not have limited capability for work; and
- (b) the condition specified in the evidence provided by the claimant in accordance with paragraph (5)(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 before the date of the determination that the claimant does not have limited capability for work.

(5B) This paragraph applies where the Department is satisfied that it would be 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 8D(4) of the Order^(b), because paragraph (5) would apply to the claimant but for paragraph (5A).”.

Amendment to the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations (Northern Ireland) 2016

8.—(1) The Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations (Northern Ireland) 2016^(c) are amended in accordance with paragraphs (2) and (3).

(2) After regulation 33(3) (procedure for making an application for a supersession) add—

“(4) In relation to an applicant who is supplying information or evidence of a change of circumstances which is advantageous to the applicant in relation to an award of universal credit, paragraph (3)(b) has effect as if for “one month” there were substituted “14 days”.”.

(3) In Schedule 1 (effective dates for superseding decisions made on the ground of a change of circumstances)—

(a) for paragraph 32 substitute—

“**32.** Where the change of circumstances is that there has been a change in the legislation, the superseding decision takes effect—

- (a) in relation to an award of universal credit that exists on the date on which the change in legislation comes into force—
 - (i) if there is an assessment period for the award that begins on the date on which that change in legislation has effect, from that date; or

(a) S.R. 2016 No. 218.

(b) Article 8D was inserted by Article 55(4) of the Welfare Reform (Northern Ireland) Order 2015.

(c) S.R. 2016 No. 221.

- (ii) in any other case, from the first day of the next assessment period for the award beginning after the date on which that change had effect;
- (b) in any other case, from the date on which that change in the legislation had effect.”
; and
- (b) for paragraph 33 substitute—
 - “**33.** Where the change of circumstances is the expected coming into force of a change in the legislation, the superseding decision takes effect—
 - (a) in relation to an award of universal credit that exists on the date on which the change in legislation comes into force—
 - (i) if there is an assessment period for the award that begins on the date on which that change in legislation has effect, from that date; or
 - (ii) in any other case, from the first day of the next assessment period for the award beginning after the date on which that change has effect;
 - (b) in any other case, from the date on which that change in the legislation has effect.”.

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

9.—(1) The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016(a) are amended in accordance with paragraphs (2) to (10).

(2) In regulation 2(1) (interpretation) after the definition of “tax credit” insert—

““temporary accommodation” means accommodation which falls within Case 1 or Case 2 under paragraph 4A of Schedule 1 to the Universal Credit Regulations.”.

(3) In regulation 3(2)(a) (exclusion of entitlement to certain benefits) after “specified accommodation” insert “, temporary accommodation or where regulation 6(2A) applies”.

(4) After regulation 3 insert—

“Entitlement to universal credit and housing benefit: universal credit work allowance

3A. Where a claimant has an award of universal credit and, in any assessment period, is also entitled to housing benefit for temporary accommodation and the award of universal credit does not include an amount for housing costs, regulation 23(2) of the Universal Credit Regulations (amount of the work allowance) is to apply in relation to that assessment period as if the award did not include an amount for housing costs.”.

(5) In each of the following regulations after “specified accommodation” insert “or temporary accommodation”—

(a) regulation 4(8) (exclusion of claims for certain existing benefits); and

(b) regulation 5(5)(a) (termination of awards: new claimant partners).

(6) In regulation 6 (termination of awards of existing benefits: other claimants)—

(a) in paragraph (2)—

(i) for “where this paragraph applies” substitute “where this regulation applies”; and

(ii) after “housing benefit” insert “in the form of a rate rebate awarded in accordance with regulation 12 of the Housing Benefit Regulations or regulation 12 of the Housing Benefit (SPC) Regulations”;

(b) after paragraph (2) insert—

“(2A) Subject to paragraph (3), where this regulation applies, an award of housing benefit, in the form of a rent rebate or allowance awarded in connection with regulation 13

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

of the Housing Benefit Regulations or regulation 13 of the Housing Benefit (SPC) Regulations, to which the claimant is entitled on the day mentioned in paragraph (2)(a) or (b) terminates on the last day of the period of 2 weeks beginning with the day after that day (whether or not the person is also entitled to an award of income support or a tax credit).”; and

- (c) in paragraph (3) after “specified accommodation” insert “or temporary accommodation”.
- (7) after regulation 6 insert—

“Transitional housing payment

6A. Where an award of housing benefit terminates under regulation 6—

- (a) the claimant is to be treated for the purposes of the Housing Benefit Regulations as entitled to universal credit during the period of 2 weeks mentioned in regulation 6(2A), even if no decision has been made on the claim; and
- (b) if a claim for universal credit is made and the claimant moves to new accommodation occupied as the claimant’s home, then, notwithstanding anything in the Housing Benefit Regulations, housing benefit is to be paid directly to the claimant during the period of 2 weeks mentioned in regulation 6(2A).”.

(8) In regulation 9 (ongoing awards of tax credits)—

(a) in paragraph (2)—

- (i) at the end of sub-paragraph (c) omit “or”, and
- (ii) after paragraph (c) insert—

“(ca) a final notice has been given and the person made a declaration in response to a requirement included in that notice by virtue of section 17(2)(a), (4)(a) or (6)(a) of the Tax Credits Act 2002, or any combination of those provisions—

- (i) by the date specified on the final notice,
- (ii) if not in accordance with paragraph (i), within 30 days following the date on the notice to the person that payments of tax credits under section 24(4) of the Tax Credits Act 2002 have ceased due to the person’s failure to make the declaration by the date specified in the final notice, or
- (iii) if not in accordance with paragraph (i) or (ii), before 31 January in the tax year following the period to which the final notice relates and, in the opinion of Her Majesty’s Revenue and Customs, the person had good reason for not making the declaration in accordance with paragraph (i) or (ii); or”.

(9) In regulation 13 (appeals etc. relating to universal credit) —

- (a) in paragraph (2)(b) after “legislative provision” insert “except regulation 6(2A)”; and
- (b) in paragraph (3) after “specified accommodation” insert “or temporary accommodation”.

(10) Omit regulation 16 (waiting days).

Saving and Transitional Provision

10.—(1) The amendments made by regulations 3, 6(2)(c), (17) and (18)(a)(i)(bb) and (ii) and (b) to (g), 9(2), (3) (in so far as it relates to temporary accommodation), (4), (5), (6)(c) and (9)(b) do not apply to an award of universal credit that exists on 7th May 2018 and that then includes the housing costs element in respect of temporary accommodation, until—

- (a) there is a change in the amount of rent payments or service charge payments that the claimant is liable to make (with respect to any accommodation); or
- (b) the award ceases to include the housing costs element,

whichever occurs first.

(2) For the purposes of paragraph (1)—

- (a) “housing costs element” means the amount to be included in a claimant’s award of universal credit under Article 16 of the Welfare Reform (Northern Ireland) Order 2015;
- (b) “rent payments” has the meaning in paragraph 2 of Schedule 1 to Universal Credit Regulations (Northern Ireland) 2016;
- (c) “service charge payments” has the meaning in paragraph 8 of Schedule 1 to those Regulations(a);
- (d) “temporary accommodation” means accommodation which falls within Case 1 or Case 2 under paragraph 4A of Schedule 1 to those Regulations(b).

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

Alok Sharma
Minister of State

16th April 2018 at 1.30 p.m.

Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 2 prescribes the description of persons, who in addition to those listed in section 103B(2) and (2A) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8) (“the 1992 Act”) may be required to provide certain information to Authorised Officers (within the meaning of section 115CA(2) of that Act) about possible or actual commission of offences relating to social security benefits. They are—

- those who provide relevant childcare;
- those to whom a person in receipt of universal credit is liable to make rent payments in respect of accommodation they occupy, or purport to occupy, as their home where the award of universal credit includes an amount in respect of those payments;
- a person who makes a determination in respect of housing costs for the purposes of Universal Credit; and
- an officer of the Department of Finance to the extent that the information required relates to rates relief.

Subsection (2)(ia) of section 103B of the 1992 Act was inserted by Article 112 of the Welfare Reform (Northern Ireland) Order 2015 (“the Order”) and brought into force on 17th February 2016 by virtue of Article 3(4) of the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 1) Order 2016 (S.R. 2016 No. 46 (C. 2)).

Regulation 3 makes amendments to the Discretionary Financial Assistance Regulations (Northern Ireland) 2001 (S.R. 2001 No.216) to provide that a discretionary housing payment may be awarded to a person for any universal credit assessment period when the person would have been entitled to universal credit housing costs were it not for the fact that the person occupied specified accommodation (defined in paragraph 4 of Schedule 1 to the Universal Credit Regulations (Northern Ireland) 2016 (S.R. 2016 No. 216) (“the Universal Credit Regulations”) or temporary accommodation.

Regulations 4 and 5 make amendments to the Housing Benefit Regulations (Northern Ireland) 2006 (S.R. 2006 No. 405) (the “Housing Benefit Regulations 2006”) and the Housing Benefit

(a) Paragraph 8 was amended by paragraph 5(e)(ii) of Schedule 5 to S.R. 2017 No. 176.
 (b) Paragraph 4A is inserted into Schedule 1 of S.R. 2016 No. 216 by regulation 6(17) of these Regulations and comes in force on 11th April 2018 under regulation 1(2).

(Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006 (S.R. 2006 No. 405) (the “Housing Benefit SPC Regulations”) to make provision for changes brought about for Housing Benefit only in the equivalent Great Britain Universal Credit (Transitional Provisions) and Housing Benefit (Amendment) Regulations 2013 (S.I. 2013/2070).

Regulation 4 amends the Housing Benefit Regulations to allow for circumstances where a claimant or a claimant’s partner is in receipt of universal credit and housing benefit at the same time.

Regulation 5 amends the Housing Benefit SPC Regulations to ensure that where a claimant is on universal credit and is also receiving housing benefit to cover some or all of their housing costs the Housing Benefit Regulations 2006, rather than the Housing Benefit SPC Regulations, apply.

Regulation 6(2)(a), (3), (4) and (5)(a) removes the provisions in the Universal Credit Regulations which apply a 7 day period at the start of certain claims for universal credit in which entitlement does not arise (“waiting days”). Regulation 9(11) removes the provision in the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016 No. 226) (the “Transitional Regulations”) exempting universal credit claims made by certain individuals migrating from existing benefits from the application of waiting days.

Regulation 6(5)(b) amends regulation 22 of the Universal Credit Regulations and regulation 6(6) inserts new regulation 22A into those regulations to make provision for cases where there is a change in the first date of a claimant’s entitlement to universal credit after the assessment period cycle for the award has been established. Where adjusting that cycle retrospectively would cause unnecessary disruption to the administration of the claim, provision is made for the length of the first assessment period to be adjusted as necessary in order that subsequent assessment periods remain as previously fixed.

Regulation 6(7) increases the work allowances specified in the table in regulation 23 of the Universal Credit Regulations.

Regulation 6(8) substitutes a new regulation 54 to be inserted into the Universal Credit Regulations. Regulation 54 provides for surplus earnings in the assessment period where an award of universal credit terminates, or in any of the following 5 months, to be carried forward as earned income in relation to a new claim. The main change in the substituted regulation 54 is that the calculation of surplus earnings will only take account of earned income in a month for which universal credit is claimed. There are also some changes to the calculation of surplus earnings where couples separate or form.

Regulation 6(9) inserts a new transitional provision into the Universal Credit Regulations. This increases the £300 de minimis amount (applied in the calculation of surplus earnings) to £2,500 for the 12 months from the coming into force of regulation 54 of the Universal Credit Regulations. That period may be extended by the Department in order to safeguard the efficient administration of universal credit.

Regulation 6(10) amends regulation 57(2) of the Universal Credit Regulations, which deals with the deduction of income tax and national insurance contributions in the calculation of self-employed earnings. From 14th February 2018 (and in anticipation of the abolition of Class 2 contributions) it substitutes a general reference for the specific references to Class 2 and Class 4 contributions.

Regulation 6(11) amends regulation 58 of the Universal Credit Regulations, the main change is the removal of the restriction which only allows losses from 11 previous assessment periods to be taken into account. The other change (corresponding with the amendments to regulation 54) is that losses incurred during the 6 month period between awards are only available in relation to a month in respect of which a claim has been made.

Regulation 6(12) amends regulation 66 of the Universal Credit Regulations to allow for foreign state pension income and Pension Protection Fund periodic payments to be taken into account as unearned income in universal credit. These changes mirror the rules which apply in other legacy benefits such as state pension credit. Provision is also made for state retirement pension income to

be taken into account in universal credit net of any deductions applied under overlapping benefit rules, in the same way as other unearned state benefits.

Regulation 6(13) amends regulation 76 of the Universal Credit Regulations to provide that funds provided by the Secretary of State for the purpose of compensation or support relating to the terrorist attacks in London on 22nd March or 3rd June, or the Manchester bombing on 22nd May 2017 are to be disregarded in the calculation of claimants' capital and income.

Regulation 6(14) amends regulation 83 to alter the benefits the non-receipt of which (for the reasons stated in the regulation) results in the benefit cap not being applied in relation to an assessment period.

Regulation 6(15) amends regulation 88 of the Universal Credit Regulations in relation to a claimant who is receiving education and who is entitled to universal credit because they are a member of a couple. Such a claimant will not be subject to work-related requirements if they have student income taken into account in the calculation of their universal credit award.

Regulations 6(16) and 7 amend regulation 97 of the Universal Credit Regulations and regulation 16 of the Jobseeker's Allowance Regulations (Northern Ireland) 2016 ("the Jobseekers Allowance Regulations") respectively. Regulation 97(7) of the Universal Credit Regulations makes provision for work search and work availability requirements to be switched off for claimants suffering ill-health for up to two periods of 14 days in a rolling 12 month period. The amendments apply to claimants who have undergone a work capability assessment and been found not to have limited capability for work or who are treated as not having limited capability for work because they have failed to provide information or to attend a medical examination. In other words, claimants who are, or are treated as being, fit for work. If such a claimant produces evidence that they are unfit for work and the condition referred to in the evidence is the same, or substantially the same, as the condition referred to in the evidence produced before the claimant was assessed/treated as not having limited capability for work, requirements will only be switched off if the claimant has been referred for another assessment as to their capability for work. If such a claimant has not been referred for another assessment, regulation 97(11) is amended so that work search and work availability requirements may still be switched off if it would be unreasonable for a claimant to comply. Similar amendments are made to regulation 16 of the Jobseeker's Allowance Regulations.

Regulation 6(17)(c) extends the date the transitional provision contained in regulation 115 of the Universal Credit Regulations until 8th May 2018.

Regulation 6(18) amends Schedule 1 to the Universal Credit Regulations to prevent payments for temporary accommodation being classed as rent payments for the purposes of calculating the housing element of universal credit, and makes other consequential changes to that Schedule. Regulation 3(13)(a), (b)(i)(bb) and (ii) and (c) to (h) makes consequential amendments to Schedule 4 of the Universal Credit Regulations to omit references to temporary accommodation which are no longer necessary. Regulation 3(2)(c) makes minor consequential amendments.

Regulation 6(19) amends paragraph 4B(1)(b) of Schedule 4 to the Universal Credit Regulations. Paragraph 4A of Schedule 4 to those Regulations makes provision for certain renters aged 18 to 21 to not receive the housing costs element of universal credit and paragraph 4B of that Schedule sets out when paragraph 4A does not apply and where claimants may remain entitled to the housing costs element. The amendment makes provision so that any universal credit claimant aged 18 to 21 who is in receipt of attendance allowance, including armed forces independence payment (which is included in the definition of attendance allowance in regulation 2 of the Universal Credit Regulations), may still be eligible to receive the housing costs element.

Regulation 8(2) amends regulation 33 of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations (Northern Ireland) 2016 (S.R. 2106 No. 221) ("the Decision and Appeals Regulations") to reduce the time in which a claimant is required to supply information and evidence when making an application for a supersession in relation to a change of circumstances advantageous to the claimant, from one month to 14 days.

Regulation 8(3) amends Schedule 1 to the Decisions and Appeals Regulations to create a new default date for new legislative provisions to come into effect for universal credit. The amendment provides that the default date on which new legislation will take effect in relation to supersession decisions arising from a change of legislation will be, where there is an existing award of universal credit, the first day of the assessment period that begins on or after the day on which the change has effect or, in other cases, the date on which the change has effect.

Regulation 9(2) inserts a definition of “temporary accommodation” into the Transitional Regulations. Regulation 9(3), (5), (6)(c) and (9)(b) amend various provisions in the Transitional Regulations which allow for dual entitlement to universal credit and housing benefit in respect of claimants occupying specified accommodation, so that they also apply to claimants who are occupying temporary accommodation (and those receiving transitional housing payments under regulation 6(2A) (inserted by regulation 9(7)(b) of these Regulations)). Regulation 9(4) inserts new regulation 3A into the Transitional Regulations. The new regulation provides that where in a universal credit assessment period a person is entitled to universal credit (without the housing costs element) and is also entitled to housing benefit for temporary accommodation, the person is to be treated for the purposes of work allowances in universal credit as though the person were entitled to universal credit with the housing costs element.

Regulation 9(6)(a) and (b) provides for a transitional housing payment for claimants who migrate to universal credit when they are in receipt of housing benefit. The new paragraph (2A), which is inserted into regulation 6 (termination of existing benefits), allows a housing benefit award to continue for a period of two weeks beyond the day on which the person becomes entitled to universal credit. Regulation 9(7) also inserts a new regulation 6A which provides that, pending the decision on the claim, the claimant is treated as entitled to universal credit for the purposes of the housing benefit award, and where the claimant makes a claim for universal credit because they have moved home, housing benefit will be paid directly to the claimant for the period of two weeks beginning with the day on which they become entitled to universal credit. Regulation (10)(a) makes minor consequential amendments.

Regulation 9(8) amends regulation 9 of the Transitional Regulations to enable a tax credits claimant who makes a late declaration under section 17 of the Tax Credits Act 2002 (c. 21) to be treated in certain circumstances as entitled to a tax credit with effect from the start of the tax year.

Regulation 10(1) and (2) makes saving in respect of the amendments in these Regulations concerning temporary accommodation. The amendments will not apply to an award of universal credit that exists on 7th May 2018 which then includes the housing costs element for temporary accommodation until the claimant’s liability to pay rent or service charges changes or the award ceases to include the housing costs element, whichever occurs first.

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.

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