

2019 No. 7 (C. 2)

SOCIAL SECURITY

**The Welfare Reform (Northern Ireland) Order 2015
(Commencement No. 14 and Savings and Transitional
Provisions) Order 2019**

Made - - - -

31st January 2019

The Secretary of State for Work and Pensions makes the following Order in exercise of the powers conferred by Article 2(2), (3)(a) and (4) of the Welfare Reform (Northern Ireland) Order 2015(a).

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

Citation and interpretation

1.—(1) This Order may be cited as the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 14 and Savings and Transitional Provisions) Order 2019.

(2) In this Order—

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

“the No. 8 Order” means the Welfare Reform (Northern Ireland) Order 2015 (Commencement No 8 and Transitional and Transitory Provisions) Order 2017(b);

“the No. 9 Order” means the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 9 and Transitional and Transitory Provisions) Order 2017(c);

“the No. 10 Order” means the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 10 and Transitional and Transitory Provisions and Commencement No. 9 and Transitional and Transitory Provisions (Amendment)) Order 2018(d);

“the No. 11 Order” means the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 11 and Transitional and Transitory Provisions) Order 2018(e);

“the No. 12 Order” means the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 12 and Transitional and Transitory Provisions and Commencement No. 9, 10 and 11 and Transitional and Transitory Provisions (Amendment)) Order 2018(f);

“the Claims and Payments Regulations 1987” means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(g);

-
- (a) S.I. 2015/2006 (N.I.).
(b) S.R. 2017 No. 190 (C. 11).
(c) S.R. 2017 No. 216 (C. 13).
(d) S.R. 2018 No. 1 (C. 1).
(e) S.R. 2018 No. 97 (C. 8).
(f) S.R. 2018 No. 138 (C. 12).
(g) S.R.1987 No. 465.

“employment and support allowance” means an employment and support allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007(a);

“Her Majesty’s forces” has the same meaning in the Armed Forces Act 2006(b);

“jobseeker’s allowance” means a jobseeker’s allowance under the Jobseekers (Northern Ireland) Order 1995(c);

“joint-claim couple” has the same meaning as in the Jobseekers (Northern Ireland) Order 1995;

“the UC Commencement Orders” means the No. 8 Order, the No. 9 Order, the No. 10 Order, the No. 11 Order and the No. 12 Order;

“UC couple” means a couple as defined in Article 45 of the Order;

“UC joint claimants” means joint claimants as defined in Article 46 of the Order;

“UC provisions” means the provisions of the Order listed in Schedule 1 to the No. 8 Order;

“UC single claimant” means a single claimant as defined in Article 46 of the Order.

(3) In this Order—

(a) “frontier worker” means a person, other than a person referred to in sub-paragraph (b), who is in Northern Ireland for the purposes of Article 9(1)(c) of the Order but who does not reside in Great Britain or Northern Ireland;

(b) the person referred to is a crown servant or member of Her Majesty’s forces posted overseas (where “crown servant” and “posted overseas” have the same meanings as in regulation 10 of the Universal Credit Regulations (Northern Ireland) 2016(d)).

Appointed day – coming into force of universal credit provisions and abolition of income-related employment and support allowance and income-based jobseeker’s allowance

2.—(1) The day appointed for the coming into force of the UC provisions, in so far as they are not already in force, in relation to the case of a claim referred to in paragraph (2) and any award that is made in respect of the claim, is the day appointed in accordance with paragraph (3).

(2) The claims referred to are—

(a) a claim for universal credit that is made on or after 1st February 2019 in respect of a period that begins on or after 1st February 2019 where, on the date that the claim is made, the claimant (in the case of UC joint claimants, either claimant) resides outside Northern Ireland;

(b) a claim for universal credit that is made on or after 1st February 2019 in respect of a period that begins on or after 1st February 2019 where, on the date that the claim is made, the claimant resides in a postcode district in Northern Ireland that has not been included in the Lists of Relevant Districts referred to by one of the UC Commencement Orders.

(3) The day appointed in relation to the case of a claim referred to in paragraph (2), and any award that is made in respect of the claim, is the first day of the period in respect of which the claim is made.

(4) Article 4(6) of the No. 8 Order applies for the purposes of paragraph (3) as it applies for the purposes of Article 4(5) of the No. 8 Order.

(5) The day appointed for the coming into force of the provisions referred to in Article 6(1)(a) to (c) of the No. 8 Order (day appointed for the abolition of income-related employment and support allowance and income-based jobseeker’s allowance), in so far as they are not already in force, in relation to the case of a claim referred to in paragraph (6), and any award that is made in respect of the claim, is the day appointed in accordance with paragraph (7).

(a) 2007 c. 2 (N.I.).

(b) 2006 c. 52.

(c) S.I. 1995/2705 (N.I. 15).

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

(6) The claims referred to are—

- (a) a claim for universal credit that is made on or after 1st February 2019 in respect of a period that begins on or after 1st February 2019 where, on the date that the claim is made, the claimant (in the case of UC joint claimants, either claimant) resides outside Northern Ireland;
- (b) a claim for an employment and support allowance or a jobseeker's allowance that is made on or after 1st February 2019 in respect of a period that begins on or after 1st February 2019 where, on the date that the claim is made, the claimant (in the case of a claim for a jobseeker's allowance by a joint-claim couple, or a claim for either allowance by a person who would form part of UC couple for the purposes of universal credit, either member of the couple) resides outside Northern Ireland;
- (c) a claim for universal credit that is made on or after 1st February 2019 in respect of a period that begins on or after 1st February 2019 where, on the date on which the claim is made, the claimant resides in a postcode district in Northern Ireland that has not been included in the Lists of Relevant Districts referred to by one of the UC Commencement Orders;
- (d) a claim for an employment and support allowance or a jobseeker's allowance that is made on or after 1st February 2019 in respect of a period that begins on or after 1st February 2019 where, on the date on which the claim is made, the claimant resides in a postcode district in Northern Ireland that has not been included in the Lists of Relevant Districts referred to by one of the UC Commencement Orders;
- (e) a claim for an employment and support allowance or a jobseeker's allowance other than one referred to in sub-paragraphs (b) and (d) that is made or treated as made during the relevant period by a UC single claimant or by either of two UC joint claimants who has or have made a claim for universal credit under sub-paragraph (a) and (c).

(7) The day appointed in relation to the case of a claim referred to in paragraph (6), and any award that is made in respect of the claim, is the first day of the period in respect of which the claim is made.

(8) Paragraphs (4), (5), (6) and (7) of Article 6 of the No. 8 Order apply in relation to a claim for universal credit referred to in paragraph (6)(a) or (c) (and any award that is made in respect of the claim) as they apply to a claim for universal credit referred to in sub-paragraph (a) or (b) of Article 6(2) of the No. 8 Order (and any award that is made in respect of the claim).

(9) Article 7(8) of the No. 8 Order applies for the purposes of paragraph (7) as it applies for the purposes of Article 6(3) of the No. 8 Order.

(10) Article 24 of the No. 8 Order applies as though the reference in paragraph (1) of that Article to Article 4(3) and (4)(a) of that Order included a reference to paragraphs (1) and (2).

(11) No claim may be made for universal credit on or after 1st February 2019 by a UC single claimant who is, or UC joint claimants each of whom is, a frontier worker.

(12) Articles 10 to 23 of the No. 8 Order apply in connection with the coming into force of the provisions referred to in Article 6(1)(a) to (c) of the No. 8 Order, in relation to the case of a claim referred to in paragraph (6), and any award made in respect of the claim, as they apply in connection with the coming into force of those provisions in relation to the case of a claim referred to in Article 6(2) of the No. 8 Order and any award that is made in respect of the claim.

(13) In this Article—

- (a) “claimant”—
 - (i) in relation to an employment and support allowance, has the same meaning as in Part 1 of the Welfare Reform Act (Northern Ireland) 2007(a);
 - (ii) in relation to a jobseeker's allowance, has the same meaning as in the Jobseekers (Northern Ireland) Order 1995(b) (as it applies apart from the amendments made by

(a) 2007 c. 2 (N.I.).

(b) S.I. 1995/2705 (N.I. 15).

Part 1 of Schedule 12 to the Order that remove references to an income-based jobseeker's allowance), save as mentioned in paragraph (6)(b);

- (iii) in relation to universal credit, has the same meaning as in Part 2 of the Order, save as mentioned in paragraph (2) and (6)(a);
- (b) "relevant period" means, in relation to a claim for universal credit within paragraph (6)(a) or (c), any UC claim period, and any period subsequent to any UC claim period in respect of which the claimant is entitled to an award of universal credit in respect of the claim;
- (c) "UC claim period" means a period when—
 - (i) a claim for universal credit within paragraph (6)(a) or (c) has been made but a decision has not yet been made on the claim; or
 - (ii) a decision has been made that the claimant is not entitled to universal credit and—
 - (aa) the Department is considering whether to revise that decision under Article 10 of the Social Security (Northern Ireland) Order 1998(a), whether on an application made for that purpose or on the Department's own initiative; or
 - (bb) the claimant has appealed against that decision to the Appeal Tribunal(b) and that appeal, or any subsequent appeal to the Commissioner or a court, has not yet been finally determined;
- (d) the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016(c) apply for the purpose of deciding—
 - (i) whether a claim for universal credit is made; and
 - (ii) the date on which such a claim is made;
- (e) the Claims and Payments Regulations 1987 apply, subject to sub-paragraphs (f) and (g), for the purpose of deciding—
 - (i) whether a claim for an employment and support allowance or a jobseeker's allowance is made; and
 - (ii) the date on which the claim is made or treated as made;
- (f) subject to sub-paragraph (g)—
 - (i) a person makes a claim for an employment and support allowance or a jobseeker's allowance if he or she takes any action which results in a decision on a claim being required under the Claims and Payments Regulations 1987; and
 - (ii) it is irrelevant that the effect of any provision of those Regulations is that, for the purposes of those Regulations, the claim is made or treated as made at a date that is earlier than the date on which that action is taken;
- (g) where, by virtue of—
 - (i) regulation 6(1D)(b) or (c) of the Claims and Payments Regulations 1987(d), in the case of a claim for an employment and support allowance; or
 - (ii) regulation 6(4ZA) to (4ZD) and (4A)(a)(i) and (b) of those Regulations(e), in the case of a claim for a jobseeker's allowance,a claim for an employment and support allowance or a jobseeker's allowance is treated as made at a date that is earlier than the date on which the action referred to in sub-paragraph (f)(i) is taken, the claim is treated as made on that earlier date.

(a) S.I. 1998/1506 (N.I. 10).

(b) S.I. 1995/2705 (N.I. 15).

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

(d) Regulation 6(1D) was inserted by regulation 13(6) of S.R. 2008 No. 286 and substituted by regulation 2(6)(c) of S.R. 2009 No. 240.

(e) Regulation 6 (4ZA) to (4ZD) was inserted by regulation 2(5)(c) of S.R. 2000 No. 365 and amended by regulation 2(6)(d) of S.R. 2009 No. 240; regulation 6(4A) was inserted by regulation 2(5)(c) of S.R. 1996 No. 354 and substituted by regulation 3(4)(d) of S.R. 1997 No. 156 and amended by regulation 2(4)(b)(i) and (ii) of S.R. 2000 No. 365, paragraph 2(4) of Schedule 2 to S.R. 2001 No. 175 and regulation 2(6)(e) of S.R. 2009 No. 240.

Amendment of the No. 8 Order

3.—(1) With effect from 1st February 2019, the No. 8 Order is amended in accordance with paragraph (2) and (3).

(2) In Article 8(1)(a) (transitional provision where the Department determines that claims for universal credit may not be made: effect on claims for employment and support allowance and jobseeker’s allowance) after “disability premium)” insert “or Article 2(11) of the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 14 and Savings and Transitional Provisions) Order 2019 (no claims for universal credit by frontier workers)”.

(3) In Article 24 (transitional provision: claims for housing benefit, income support or a tax credit)—

- (a) in paragraph (2)(b) after “Transitional Regulations” insert “or by virtue of Article 2(11) of the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 14 and Savings and Transitional Provisions) Order 2019 (no claims for universal credit by frontier workers)”;
- (b) in paragraph (4) omit “or a tax credit” in the words before sub-paragraph (a) and omit sub-paragraph (b);
- (c) in paragraph (5) for the words “is or are entitled” to the end substitute “has or have an award of working tax credit or child tax credit respectively”;
- (d) in paragraph (6), for the words “is or was, or persons are or were, entitled to” substitute “has or had, or persons have or had, an award of”;
- (e) for (paragraph (7) substitute—

“(7) In paragraph (5), the reference to a person having an award of a tax credit includes where the person is “treated as being entitled to a tax credit” in the circumstances referred to in regulation 9(1) and (2)(a) to (ca) of the Universal Credit (Transitional Provisions) Regulations 2016(c) but as if, in regulation 9(1), for “For the purposes of regulations 5(7) and 6(4)” there were substituted “For the purposes of Article 24(5) of the Welfare Reform (Northern Ireland) Order 2015 (Commencement No 8 and Transitional and Transitory Provisions) Order 2017”.”.

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

Alok Sharma
Minister of State for Employment
Department for Work and Pensions

31st January 2019

EXPLANATORY NOTE

(This note is not part of the Order)

Article 2 of this Order commences the Universal Credit provisions (“UC provisions”) in Part 1 of the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I. 1)) (“the Order”) that relate to universal credit (UC) and the abolition of income-related employment and support allowance and income-based jobseeker’s allowance for the cases set out in that Article.

Article 2(1) and (2) bring into force the provisions relating to UC (listed in Schedule 1 to the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 8 and Transitional and Transitory Provisions Order 2017 (S.R. 2017 No. 190 (C. 11)) (“the No. 8 Order”) in relation to a claim for UC that is made on or after 1st February 2019 with respect to a period that begins on or after that date, where the claimant (or either of joint claimants) resides outside Northern Ireland. This includes a crown servant or a member of Her Majesty’s forces posted overseas. It also commences the UC provisions in relation to a claim for UC, and any award that is made in respect

-
- (a) Article 8(1) was amended by regulation 3(2) of S.R. 2019 No. 2.
 - (b) Article 24(2) was amended by regulation 3(3) of S.R. 2019 No. 2.
 - (c) Regulation 9(1)(ca) was inserted by regulation 9(8)(a)(ii) of S.R. 2018.

of a claim, where the claim is made on or after 1st February 2019 with respect to a period that begins on or after 1st February 2019 and, on the date on which the claim is made, the claimant resides in a postcode district which has not been included in the Lists of the Relevant Districts referred to in previous Commencement Orders.

Article 2(5) and (6) brings into force the provisions of the Order relating to the abolition of income-related employment and support allowance and income-based jobseeker's allowance in relation to a claim for UC, employment and support allowance or jobseeker's allowance that is made on or after 1st February 2019 with respect to a period that begins on or after that date, where the claimant (or either of joint claimants) resides outside Northern Ireland or where the claimant resides in a postcode district which has not been included in the Lists of the Relevant Districts referred to in previous Commencement Orders.

Article 2(10) applies provisions in Article 24 of the No. 8 Order to the above commencement of the UC provisions such that a claim may not be made for housing benefit, income support or a tax credit where under this Order a claim may be made for UC, subject to the exceptions in the Article.

Article 2(11) provides that a claim for universal credit may not be made by a single claimant or joint claimants where the claimant or either of the joint claimants is a "frontier worker."

Article 3 of the Order makes changes, consequential on Article 2, to the No. 8 Order in order to:

- (a) create an exception to the bar in the No. 8 Order on a person claiming housing benefit, income support or a tax credit, in the case of a claim for one of these benefits by a "frontier worker", consequent on the restriction on claiming UC in Article 2(11) of this Order;
- (b) amend the No. 8 Order to enable a frontier worker to make a claim for income-related employment and support allowance or income-based jobseeker's allowance, given the existence of that restriction on claiming UC;
- (c) remove the general exception, in the No. 8 Order, that permitted claims for tax credits by mixed-age couples (where one member is aged over state pension credit qualifying age and the other aged below it) – this does not affect the exception above.

© Crown copyright 2019

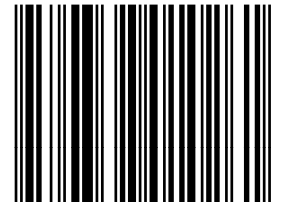
Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office being the Government Printer for Northern Ireland and the Officer appointed to print Acts of the Northern Ireland Assembly.

£6.90

NI201901311028 02/2019 19585

<http://www.legislation.gov.uk/id/nisr/2019/7>

ISBN 978-0-33-801026-1



9 780338 010261