

**2022 No. 194**

**SOCIAL SECURITY**

**The Universal Credit (Transitional Provisions) (Amendment)  
Regulations (Northern Ireland) 2022**

*Made* - - - - *6th July 2022*

*Coming into operation* - *1st August 2022*

The Department for Communities<sup>(a)</sup> makes the following Regulations in exercise of the powers conferred by Article 48(1) and (2) of, and paragraphs 1(1), 3(1)(a) to (c), 4(1), (2)(c) and (d) and (3)(a) and 7 of Schedule 6 to, the Welfare Reform (Northern Ireland) Order 2015<sup>(b)</sup>.

The powers are exercisable by the Department for Communities by virtue of Article 2 of the Welfare Reform (Northern Ireland) Order 2015 (Cessation of Transitory Provision) Order 2020<sup>(c)</sup>.

In accordance with section 149(2) of the Social Security Administration (Northern Ireland) Act 1992<sup>(d)</sup> the Department has referred proposals in respect of these Regulations to the Social Security Advisory Committee.

**Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Universal Credit (Transitional Provisions) (Amendment) Regulations (Northern Ireland) 2022 and come in to operation on 1st August 2022.

(2) In these Regulations “Transitional Provisions Regulations” means the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016<sup>(e)</sup>.

**Abolition of the Department’s discretion to determine that claims for universal credit may not be made**

**2.** Regulation 2A of the Transitional Provisions Regulations (department discretion to determine that claims for universal credit may not be made) is revoked.

**Exclusion of claims for certain existing benefits**

**3.** Regulation 4 of the Transitional Provisions Regulations (exclusion of claims for certain existing benefits) is revoked.

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(a) The Department for Social Development was renamed the Department for Communities in accordance with section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.))

(b) S.I. 2015/2006 (N.I. 1)

(c) S.I. 2020/927

(d) 1992 c.5

(e) S.R. 2016 No. 226. The relevant amending instruments are S.R. 2017 No. 116, S.I. 2017/781, S.R. 2018 No. 92, S.R. 2019 No. 152, S.R. 2020 No. 119

## **Restriction on claims for housing benefit, income support or a tax credit**

4. Before regulation 5 of the Transitional Provisions Regulations (termination of awards of certain existing benefits: new claimant partners) insert—

### **“Restriction on claims for housing benefit, income support or a tax credit**

**4A.**—(1) Except as provided by paragraphs (2) to (7) a person may not make a claim for housing benefit, income support, or a tax credit.

(2) Paragraph (1) does not apply to a claim for housing benefit in respect of accommodation or temporary accommodation.

(3) Paragraph (1) does not apply to a claim for housing benefit that is made during the last assessment period of an award of universal credit, where the claimant reaches the qualifying age for state pension credit and paragraph 26 of Schedule 1 to the Decisions and Appeals Regulations<sup>(a)</sup> applies, in respect of entitlement arising from the date the claimant reaches that age.

(4) Paragraph (1) does not apply to a claim for housing benefit by a single person who has reached the qualifying age for state pension credit, or a member of a State Pension Credit Act couple where both members have reached that age or a member of a polygamous marriage where all members have reached that age.

(5) Paragraph (1) does not apply to a claim for housing benefit where—

- (a) the claim is made by a member of a State Pension Credit Act couple who has reached the qualifying age for state pension credit and the other member has not reached that age; and
- (b) one of the savings in the sub-paragraphs of article 4(1) of the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 13 and Savings and Transitional Provisions and Commencement No. 8 and Transitional and Transitory Provisions (Amendment)) Order 2019<sup>(b)</sup> applies and the saving has not ceased to have effect under article 4(2) of that order.

(6) Paragraph (1) does not apply to a claim for a tax credit where a person makes or persons make a claim for child tax credit or working tax credit and on the date on which he or she (or they) makes or make the claim he or she (or they) has or have an award of working tax credit or child tax credit respectively.

(7) Paragraph (1) does not apply to a claim for a tax credit where a person has or had, or persons have or had, an award of child tax credit or working tax credit in respect of a tax year and that person or those persons makes or make (or is or are treated as making) a claim for that tax credit for the next tax year.

(8) For the purposes of this regulation—

- (a) “polygamous marriage” has the same meaning as in regulation 3(4) of the Universal Credit Regulations;
- (b) “State Pension Credit Act couple” means a couple as defined in section 17(1) of the State Pension Credit Act (Northern Ireland) 2002<sup>(c)</sup>,  
and a reference to the date on which a claim for tax credit is made is a reference to the date on which such a claim is made or treated as made as provided for in the Tax Credits (Claims and Notification) Regulations 2002<sup>(d)</sup>.”

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(a) S.R. 2016 No. 221. Schedule 1 paragraph 26 was substituted by S.R. 2020 No. 119.

(b) S.R. 2019 No. 4 (C. 1) The relevant amending instruments are S.R. 2019 No. 107, S.R. 2020 No. 119

(c) The definition of “couple” in section 17 was substituted by regulation 71(a) of S.I. 2019/1514

(d) S.I. 2002/2014

### **Termination of existing benefits – removal of requirement for the Department to determine that the basic conditions are met**

5.—(1) The Transitional Provisions Regulations are amended as follows.

(2) In regulation 5(1) (termination of awards of certain existing benefits: new claimant partners)—

- (a) at the end of sub-paragraph (b) insert “and”; and
- (b) omit sub-paragraph (d) and the “and” preceding it.

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

- (a) in paragraph (1)(a), after “is made” insert “, whether or not subsequently withdrawn”;
- (b) in paragraph (1) omit sub-paragraph (b) and the “and” preceding it; and
- (c) after paragraph (2A) insert—

“(2B) This regulation does not apply in the case of a single claimant who has reached the qualifying age for state pension credit or in the case of joint claimants who have both reached the qualifying age for state pension credit.”

(4) In regulation 10(1) (modification of tax credits legislation: overpayments and penalties)—

- (a) at the end of sub-paragraph (a) insert “and”; and
- (b) omit sub-paragraph (c) and the “and” preceding it.

(5) In regulation 11(1) (modification of tax credits legislation: finalisation of tax credits)—

- (a) at the end of sub-paragraph (a) insert “and”; and
- (b) omit sub-paragraph (c) and the “and” preceding it.

### **Managed migration – abolition of the limit on number of cases migrated**

6. Regulation 45(7) (migration notice) of the Transitional Provisions Regulations 2016 is revoked.

### **Managed migration – termination of existing benefits if no claim before the deadline**

7. In regulation 47(1)(a) of the Transitional Provisions Regulations (termination of existing benefits if no claim before the deadline) after “housing benefit” insert “in the form of a rent rebate or allowance awarded in connection with regulation 13 of the Housing Benefit Regulations(a) or regulation 13 of the Housing Benefit (State Pension Credit) Regulations(b),”.

### **Managed Migration – notified persons who claim as a different benefit unit**

8.—(1) Regulation 48 of the Transitional Provisions Regulations (notified persons who claim as a different benefit unit) is revoked.

(2) In regulation 51(2) of the Transitional Provisions Regulations (department to determine whether transitional protection applies) for “where regulation 48 (notified persons who claim as a different benefit unit) applies” substitute—

““where-

- (a) notified persons who were a couple for the purposes of an award of an existing benefit when the migration notice was issued are single persons or members of a different couple for the purposes of a claim for universal credit; or
- (b) notified persons who were single for the purposes of an award of an existing benefit when the migration notice was issued are a couple for the purposes of a claim for universal credit; or

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(a) S.R. 2006 No. 405

(b) S.R. 2006 No. 406

- (c) notified persons who were members of a polygamous marriage for the purposes of an award of an existing benefit when the migration notice was issued are a couple or single persons for the purposes of a claim for universal credit.”.

#### **Managed migration – the transitional element – total legacy amount**

**9.**—(1) Regulation 54 of The Transitional Provisions Regulations (the transitional element – total legacy amount) is amended as follows.

(2) In paragraph (7) in the preliminary text after “housing benefit” insert “, in the form of a rent rebate or allowance awarded in connection with regulation 13 of the Housing Benefit Regulations or regulation 13 of the Housing Benefit (State Pension Credit) Regulations,”.

- (a) In paragraph (11)(a) after the second reference to “housing benefit” insert “, in the form of a rent rebate or allowance awarded in connection with regulation 13 of the Housing Benefit Regulations or regulation 13 of the Housing Benefit (State Pension Credit) Regulations,”.

#### **Managed migration – adjustment to transitional element where other elements increase**

**10.**—(1) Regulation 56 (the transitional element – initial amount and adjustment where other elements increase) of the Transitional Provisions Regulations is amended as follows.

(2) In paragraph (4), after ““relevant increase” is” insert “, subject to paragraph (5),”.

(3) At the end insert the following paragraphs:—

“(5) In cases where the LCW is replaced by the LCWRA element, the “relevant increase” is to be treated as the difference between the amounts of those elements.

(6) In this regulation “LCW element”(a) and “LCWRA element” have the same meaning as in regulation 2 of the Universal Credit Regulations.””

#### **Managed migration – protection for full-time students**

**11.** In regulation 61 of the Transitional Provisions Regulations (protection for full-time students until course completed) the existing text becomes paragraph (1) and after paragraph (1) insert—

“(2) Paragraph (1) does not apply to any assessment period in respect of which a transitional element or transitional capital disregard would (if the claimant had been entitled to that element or that disregard) have ceased to apply by virtue of regulation 57 (circumstances in which transitional protection ceases) or regulation 58 (application of transitional protection to a subsequent award).”.

#### **Abolition of discretionary hardship payments**

**12.** Regulation 65 of the Transitional Provisions Regulations (discretionary hardship payments) is revoked.

#### **Consequential amendments**

**13.** The Schedule contains consequential amendments.

Sealed with the Official Seal of the Department for Communities on 6<sup>th</sup> July 2022  
(L.S.)

*Anne McCleary*  
A senior officer of the Department for Communities

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(a) The LCW element was abolished from 3rd April 2017 by S.R. 2017 No. 146 but is saved for certain claimants by transitional provisions as set out in Schedule 2 to S.R. 2017 No.146

## Consequential Amendments

- 1.—**(1) The Transitional Provisions Regulations are amended as follows.
- (2) In regulation 2 (interpretation) in paragraph (4) omit the reference to “and regulation 48 (notified persons who claim as a different benefit unit)”.
- (3) In regulation 3 (exclusion of entitlement to certain benefits) in paragraph (2)(ab), for “, 47(1) or 48(2)” substitute “or 47(1)”.
- (4) In regulation 6A(a) (transitional housing payment) in the preliminary text for “, 47 or 48” substitute “or 47” and in paragraphs (a) and (b) for “, 47(1) or 48(2)” substitute “or 47(1)”.
- (5) In regulation 6B(b) (effect on universal credit award of two week run-on etc.) for “, 47(1) or 48(2)” substitute “or 47(1)”.
- (6) In regulation 12 (appeals etc relating to certain existing benefits) in paragraph (3) for “, 47 or 48” substitute “or 47”.
- (7) In regulation 45(c) (migration notice) in paragraph (5)—
- (a) at the end of sub-paragraph (a) insert “or”; and
  - (b) omit sub-paragraph (b)
- (8) In regulation 47(d) (termination of existing benefits if no claim before the deadline) omit paragraph (5).
- (9) In regulation 59(e) (qualifying claim – department may set later commencement day) omit “or 47(4)”.
- 2.—**(1) The Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 8 and Transitional and Transitory Provisions) Order 2017(f) is amended as follows.
- (2) Article 8 (transitional provisions 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) is revoked.
- (3) Article 24 (transitional provision: claims for housing benefit, income support or a tax credit) is revoked.
- 3.—**(1) The Welfare Reform (Northern Ireland) Order 2015 (Commencement No.13 and Savings and Transitional Provisions and Commencement No.8 and Transitional and Transitory Provisions (Amendment)) Order 2019(g) is amended as follows.
- (2) In paragraph (3) of article 2 (interpretation) omit “and article 8(2)(b)”.
- (3) In article 6(4) (transitional provision: termination of awards of housing benefit) for “Article 24(11) of the No.8 Order” substitute “regulation 2 of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016”.
- (4) In article 7(1)(a)(i) (transitional provisions: application to housing benefit of the rules in universal credit for treatment of couples and polygamous marriages) for “Article 24 of the No.8 Order” substitute “regulation 4A of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016”.
- (5) Article 8 (transitional provision: where restrictions on claims for universal credit are in place) is revoked.

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(a) Regulation 6A was inserted by S.R. 2019 No. 152  
 (b) Regulation 6B was inserted by S.R. 2019 No. 152  
 (c) Regulation 45 was inserted by S.R. 2019 No. 152  
 (d) Regulation 47 was inserted by S.R. 2019 No. 152  
 (e) Regulation 59 was inserted by S.R. 2019 No. 152  
 (f) S.R. 2017 No. 190 (c. 11)  
 (g) S.R. 2019 No. 4 (c. 1)

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016 No. 226) (“The Transitional Provisions Regulations”).

Regulation 1 provides for citation, commencement and interpretation.

Regulation 2 revokes regulation 2A of the Transitional Provisions Regulations (department discretion to determine claims for universal credit may not be made). This removes the discretion of the department to temporarily exclude universal credit claims in any area or in any category of case if considered necessary to safeguard the efficient administration of universal credit. This provision is no longer needed owing to progress with the rollout of universal credit.

Regulation 3 revokes regulation 4 of the Transitional Provisions Regulations (exclusion of claims for certain existing benefits), which excludes universal credit claimants from claiming income support, housing benefit or tax credits. Regulation 4 is no longer needed.

Regulation 4 inserts a new paragraph 4A into the Transitional Provision Regulations. The new regulation replaces regulation 4.

Regulation 5 amends regulations 5, 6, 10 and 11 of the Transitional Provisions Regulations. The effect of these omissions is that there is no longer a requirement for the Department to be satisfied that the claimant or claimants meet the basic conditions specified in Article 9(1)(a) to (d) of the Welfare Reform (Northern Ireland) Order 2015 (other than any of those conditions which the claimant is not required to meet by virtue of regulations under Article 9(2) of the Welfare Reform (Northern Ireland) Order 2015) when a universal credit claim is made.

Regulation 6 revokes regulation 45(7) of the Transitional Provision Regulations.

Regulation 7 makes Northern Ireland specific amendments to regulation 47(1) of the Transitional Provisions Regulations (termination of existing benefits if no claim before the deadline) in order to clarify that only a rent allowance is payable during the two week run-on of housing benefit when a claim to UC is made.

Regulation 8 revokes regulation 48 of the Transitional Provisions Regulations. This has the effect of aligning the termination of any existing benefits for notified persons who claim as a different benefit unit with the termination of existing benefits upon natural migration following a change in couple status. Paragraph (2) provides that if a notified person claims UC as a different benefit unit they will not qualify for transitional protection.

Regulation 9 makes Northern Ireland specific amendments to regulation 54(7) and (11) of the Transitional Provisions Regulations (transitional element – total legacy benefit) in order to clarify that only the rent element is to be included in the calculation of legacy benefits when calculating the transitional protection element or the benefit cap.

Regulation 10 provides that when calculating the adjustment of a transitional element under regulation 56 of the Transitional Provisions Regulations, if the LCWRA element replaces the LCW element the “relevant increase” is the difference between the two amounts.

Regulation 11 provides for the protection for full time students in Regulation 61 of the Transitional Provisions Regulations to cease to apply in the same way as any of the other forms of transitional protection. In addition, that protection for full-time students will only apply to a subsequent award in the same circumstances as other forms of transitional protection can apply to a subsequent award.

Regulation 12 abolishes discretionary hardship payments.

Regulation 13 and the Schedule contains amendments consequential on these Regulations.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, public or voluntary sectors is foreseen.

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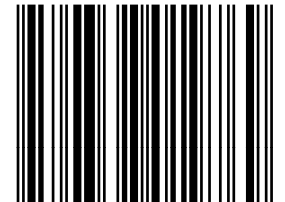
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£6.90

<http://www.legislation.gov.uk/id/misr/2022/194>

ISBN 978-0-33-801976-9



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