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DRAFT STATUTORY INSTRUMENTS

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**2013 No.**

**The Social Security (Payments on  
Account of Benefit) Regulations 2013**

**PART 2**

**Payments on account of benefit**

**Definition of “benefit”**

- 3.—**(1) In this Part, “benefit” means any of the following—
- (a) universal credit;
  - (b) employment and support allowance;
  - (c) income support;
  - (d) jobseeker’s allowance;
  - (e) state pension credit;
  - (f) benefit under Parts 2 to 5 of the Contributions and Benefits Act except attendance allowance and disability living allowance.
- (2) For the purpose of paragraph (1)—
- (a) “employment and support allowance” means an allowance under—
    - (i) Part 1 of the 2007 Act as amended by Schedule 3, and Part 1 of Schedule 14, to the 2012 Act (to remove references to an income-related allowance); and
    - (ii) Part 1 of the 2007 Act as it has effect apart from the amendments made by Schedule 3, and Part 1 of Schedule 14, to the 2012 Act;
  - (b) “jobseeker’s allowance” means an allowance under—
    - (i) the 1995 Act as amended by Part 1 of Schedule 14 to the 2012 Act (to remove references to an income-based allowance); and
    - (ii) the 1995 Act as it has effect apart from the amendments made by Part 1 of Schedule 14 to the 2012 Act.

**Payments on account of benefit**

**4.—**(1) The Secretary of State may, subject to paragraph (2), make a payment on account of benefit to a person (“A”) in accordance with this Part.

(2) Paragraph (1) does not apply pending the determination of an appeal relating to the benefit on account of which the payment would otherwise have been made.

**Payment on account of benefit where there is no award of benefit**

- 5.—**(1) The Secretary of State may make a payment on account of benefit to A if—

- (a) either of paragraphs (2) or (3) applies;
  - (b) it appears to the Secretary of State likely that the conditions of entitlement for benefit are satisfied; and
  - (c) the Secretary of State is satisfied that A is in financial need.
- (2) This paragraph applies where A has made a claim for benefit but the claim has not yet been determined.
- (3) This paragraph applies where A is not required to make a claim for benefit by virtue of—
- (a) regulation 6 or 7 of the UC etc. Claims and Payments Regulations (claims not required for entitlement to universal credit or an employment and support allowance in certain cases); or, as the case may be,
  - (b) regulation 3 of the Claims and Payments Regulations (claims not required for entitlement to benefit in certain cases) **(1)**,
- but an award of benefit has not yet been made.

#### **Payment on account of benefit where there is an award of benefit**

- 6.—**(1) The Secretary of State may make a payment on account of benefit to A if—
- (a) an award of benefit has been made to A;
  - (b) any of paragraphs (2) to (5) applies; and
  - (c) the Secretary of State is satisfied that A is in financial need.
- (2) This paragraph applies where—
- (a) A currently satisfies the conditions of entitlement to that benefit; and
  - (b) the date on which the first payment of that benefit to A is due to be made in accordance with the award has not yet been reached.
- (3) This paragraph applies where—
- (a) the first payment of that benefit has been made to A in accordance with the award;
  - (b) the period in respect of which that payment was made is shorter than the period in respect of which subsequent payments of that benefit are to be made in accordance with that award should entitlement continue; and
  - (c) the date on which a subsequent payment of that benefit is due to be made to A has not yet been reached.
- (4) This paragraph applies where there has been a change of circumstances which would increase the amount of benefit payable under the award and—
- (a) the award has not yet been revised or superseded to reflect that change; or
  - (b) the award has been revised or superseded to reflect that change but the date on which the payment of benefit is due to be made in accordance with the revised or superseded award has not yet been reached.
- (5) This paragraph applies where—
- (a) A is entitled to a payment of that benefit pursuant to the award; and
  - (b) it is impracticable to make some or all of that payment on the day on which it is due.

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(1) Regulation 3 has been amended by S.I. 1989/136, 1994/2943, 1999/2556, 1999/3178, 2000/1483, 2001/488, 2003/1589, 2005/1551, 2007/2470, 2008/441, 2008/1554, 2008/2667, 2009/1490 and 2010/840 and 1794.

### **Definition of financial need**

7.—(1) A is in financial need for the purposes of regulation 5(1)(c) or 6(1)(c) where the circumstances in regulation 5(2) or (3) or, as the case may be, 6(2), (3), (4) or (5) result in a serious risk of damage to the health or safety of A or any member of their family.

(2) Where the payment on account of benefit is to be on account of universal credit, the following are members of A's family for the purpose of paragraph (1)—

- (a) any child or qualifying young person for whom A is responsible; and
- (b) where A is a member of a couple, their partner.

(3) Where the payment on account of benefit is to be on account of a benefit specified in regulation 3(1)(b) to (f), for the purpose of paragraph (1), “family” has the meaning given in section 137(1) of the Contributions and Benefits Act(2).

### **Requirement for notice**

8.—(1) The Secretary of State must, on or before making a payment on account of benefit to A, give or send notice in writing to A of their liability—

- (a) to have the amount of the payment on account of benefit deducted from subsequent payments of benefit; and
- (b) to repay the amount of any payment on account of benefit to the extent that it is not deducted from subsequent payments of benefit.

(2) Where A is a member of a couple and the payment on account of benefit is on account of universal credit, notice in writing must also be given or sent to their partner containing the information referred to in paragraph (1)(a) and (b).

### **Payment by direct credit transfer**

9. A payment on account of benefit may be paid by way of direct credit transfer into a bank account or other account—

- (a) in the name of A or their partner or a person acting on A's behalf; or
- (b) in the joint names of A and their partner, or A and a person acting on A's behalf.

### **Bringing payments on account of benefit into account**

10. Where it is practicable to do so, a payment on account of benefit—

- (a) which was made in anticipation of an award of benefit, is to be offset by the Secretary of State against the sum payable to A under the award of benefit on account of which it was made;
- (b) whether or not made in anticipation of an award, which is not offset under paragraph (a), is to be deducted by the Secretary of State from—
  - (i) the sum payable to A under the award of benefit on account of which it was made; or
  - (ii) any sum payable under any subsequent award of that benefit to A.

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(2) The definition is amended by paragraph 46 of Schedule 24 to the Civil Partnership Act 2004 (c.33).