

## EXPLANATORY NOTE

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

These Regulations make provision for the first phase of the replacement of certain “existing benefits” by universal credit, a new benefit established by the Welfare Reform Act 2012. The existing benefits are income-based jobseeker’s allowance, income-related employment and support allowance, income support, housing benefit, working tax credit and child tax credit. The Regulations provide that claims for universal credit may initially only be made by a limited group of claimants and specify the requirements for membership of this “Pathfinder Group”. They also specify how certain matters which are relevant to previous entitlement to existing benefits will be taken into account in the claimant’s entitlement to universal credit.

Regulation 3 states that a person may generally only make a claim for universal credit if they fall within the Pathfinder Group. The requirements for membership of this group are set out in regulations 5 to 12 and cover matters such as the claimant’s age and relationship status, their availability for work and their financial situation. Under regulations 7 and 8, a person may not claim universal credit if they are, or were until recently, entitled to certain existing benefits.

The treatment of claims which have been allowed to proceed on the basis of inaccurate information is governed by regulation 13. No entitlement to universal credit will arise in respect of an invalid claim, unless payments have already started.

Regulation 14 deals with cases in which awards of universal credit may be made without a claim, in accordance with the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013. It provides that, subject to certain exceptions, such awards may be made to persons who would not be entitled to claim universal credit at the relevant time.

Part 3 of the Regulations makes provision about claimants who move from existing benefits to universal credit and, in particular, about how matters which are relevant to the award of an existing benefit are to have effect in relation to an award of universal credit.

Regulation 15 prevents a person who is entitled to universal credit from also being entitled to, or claiming, certain existing benefits. Under regulation 16, all existing awards will terminate when an award of universal credit is made to a newly formed couple, one of whom was previously entitled to universal credit and the other to an existing benefit.

Where an award of universal credit is made to a person who was previously entitled to a tax credit, regulation 17 provides for the Tax Credits Act 2002 to apply to that person with certain modifications. It also provides for the amount of the tax credit to which the person was entitled to be calculated in accordance with a modified version of the Tax Credits Act and regulations made under that Act unless, in the opinion of the Commissioners of Her Majesty’s Revenue and Customs, this is not reasonably practicable. The modifications, which are set out in the Schedule to these Regulations, allow for calculation of entitlement to a tax credit before the end of the tax year in which the award terminated.

Regulation 18 deals with appeals which are determined, and decisions about existing benefits which are revised or superseded, while the appellant is entitled to universal credit. Any entitlement to an existing benefit arising from an appeal, revision or supersession will terminate immediately. A decision made about entitlement to universal credit may be revised to take account of any findings of fact by the appeal body.

Where an award of universal credit is made to a person who was entitled to an existing benefit before they became entitled to universal credit, regulation 19 allows the claimants to apply for an advance payment of universal credit during their first assessment period. Repayment is by reduction of subsequent payments.

Regulation 20 provides that the benefit cap will not apply to awards of universal credit during the initial phase of introduction of the new benefit.

Regulation 21 applies where a person who has formed a couple with a universal credit claimant was previously entitled to certain existing benefits. If a payment is made in respect of one of those benefits for a period which is included in a universal credit assessment period, the payment will be taken into account as unearned income when calculating entitlement to universal credit for the assessment period in question.

Where certain deductions were made from a claimant's award of an existing benefit, regulation 22 allows deductions in respect of the same items to be made from an award of universal credit without the need for consents which might otherwise be required.

Regulation 23 provides that a claimant may be treated as having limited capability for work, or limited capability for work and work-related activity, for the purposes of an award of universal credit, if they were previously entitled to the work-related activity component, or the support component, of an award of employment and support allowance. If the claimant was in the process of assessment of their capability for work in connection with an award of employment and support allowance at the time the award terminated, the assessment period for universal credit will be adjusted accordingly, under regulation 24.

Transition to universal credit from income support on grounds of disability is dealt with in regulation 25 and transition from incapacity benefit or severe disablement allowance is dealt with in regulations 26 to 28. In both cases, the limited capability for work or limited capability for work and work-related activity elements may be included in an award of universal credit with effect from the start of the first assessment period, if the claimant is subsequently assessed as having limited capability for work. Awards of incapacity benefit and severe disablement allowance will be taken into account as unearned income, in calculating the amount of universal credit to which a claimant is entitled.

Where a universal credit claimant was previously entitled to jobseeker's allowance, employment and support allowance or income support, regulation 29 allows for any support for housing costs which was included in that award, or time spent waiting to qualify for such support, to be carried over to the award of universal credit, if the claimant is entitled to the universal credit housing element.

Regulations 30 to 34 deal with the treatment of any sanctions which have been imposed on awards of jobseeker's allowance and employment and support allowance, prior to transition to universal credit. Current sanctions will continue to have effect by way of deductions from the award of universal credit and past sanctions will be taken into account for the purposes of determining the sanction applicable to any future sanctionable failure. However, where there is a period of entitlement to an existing benefit between two periods of entitlement to universal credit, any sanctions arising prior to that intervening period will not be taken into account.

Where a claimant moves to universal credit within one month of the end of an award of an existing benefit and is subject to a loss of benefit penalty, regulation 35 provides that the penalty will continue at the same rate. Any award of universal credit will be reduced by an amount equivalent to the reduction of the existing benefit, for the remainder of the disqualification period.

An assessment has been made of the impact of the introduction of universal credit. Copies of the impact assessment may be obtained from the Better Regulation Unit of the Department for Work and Pensions, 2D Caxton House, Tothill Street, London SW1 9NA or from the DWP website <http://www.dwp.gov.uk/policy/welfare-reform/legislation-and-key-documents/welfare-reform-act-2012/impact-assessments-and-equality/>.