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DRAFT STATUTORY INSTRUMENTS

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**2013 No.**

The Universal Credit (Transitional Provisions) Regulations 2013

PART 2

FIRST STAGE OF TRANSITION TO UNIVERSAL CREDIT

CHAPTER 1

ENTITLEMENT TO CLAIM UNIVERSAL CREDIT

**Entitlement to claim universal credit**

3.—(1) Unless a claim may be made by virtue of paragraph (2), or treated as made by virtue of paragraph (4), a person may not make, or be treated as making, a claim for universal credit unless—

- (a) the claim is in respect of a period which begins on or after the date on which these Regulations come into force; and
- (b) on the date on which the claim is made, or treated as made, the person falls within the Pathfinder Group<sup>(1)</sup>.

(2) Subject to paragraph (3), where an award of universal credit to joint claimants terminates because they cease to be a couple, the claimant who is not exempt (by virtue of regulation 9(6) of the Claims and Payments Regulations) from the requirement to make a claim, may make a claim for universal credit during the period of one month starting with the date on which notification is given to the Secretary of State that the claimants have ceased to be a couple, even if the claimant does not fall within the Pathfinder Group on the date on which the claim is made.

(3) No claim may be made by a person by virtue of paragraph (2) at any time when the person or their partner is entitled to—

- (a) state pension credit; or
- (b) an existing benefit.

(4) Subject to paragraph (5), where regulation 9(8) of the Claims and Payments Regulations (Claims for universal credit by members of a couple) applies to a couple, they may be treated as making a claim for universal credit in accordance with that regulation, even though they do not fall within the Pathfinder Group on the date on which the claim is treated as made.

(5) No claim is to be treated as made by a couple by virtue of paragraph (4) at any time when—

- (a) the member of the couple who was previously entitled to universal credit as a single claimant is entitled to—
  - (i) state pension credit; or
  - (ii) an existing benefit;
- (b) the member of the couple who did not previously have an award of universal credit as a single person is entitled to state pension credit.

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(1) See reg 4.

## CHAPTER 2

### THE PATHFINDER GROUP

#### The Pathfinder Group

4.—(1) A person falls within the Pathfinder Group if they meet the requirements of regulations 5 to 12.

(2) Any declaration which is required by regulation 6(3)(c), 9(1), or 12(a) or (b) is to be made by such method as may be required by the Secretary of State in relation to the person.

#### Personal characteristics

5. The person must be—

- (a) aged at least 18 years, but under 60 years and six months;
- (b) a single person;
- (c) a British citizen who—
  - (i) has resided in the United Kingdom throughout the period of two years ending with the date on which the claim for universal credit is made; and
  - (ii) has not, during that period, left the United Kingdom for a continuous period of four weeks or more.

#### Fitness to work

6.—(1) The person must not—

- (a) be pregnant; or
- (b) have been pregnant, if the date of her confinement occurred during the period of 15 weeks ending with the date on which the claim for universal credit is made.

(2) In this regulation, “confinement” has the same meaning as in regulation 8(4) of the Universal Credit Regulations.

(3) The person—

- (a) must not have obtained from a doctor a statement given in accordance with the rules set out in Part 1 of Schedule 1 to the Social Security (Medical Evidence) Regulations 1976(2) (“a statement of fitness for work”) in respect of the day on which the claim for universal credit is made, unless it has been determined, since the statement was given, that the person does not have limited capability for work within the meaning of the 2007 Act;
- (b) must not have applied for a statement of fitness for work;
- (c) must declare that they do not consider themselves to be unfit for work; and
- (d) must not have been the subject of a determination that they have limited capability for work within the meaning of the 2007 Act, unless it has subsequently been determined that they do not have limited capability for work within the meaning of that Act.

#### Existing benefits

7.—(1) The person must not be entitled to—

- (a) any existing benefit;
- (b) contribution-based jobseeker’s allowance;

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(2) [S.I. 1976/615](#). Sch 1 was substituted by [S.I. 2010/137](#).

- (c) contributory employment and support allowance;
  - (d) incapacity benefit or severe disablement allowance, as defined in Schedule 4 to the 2007 Act;
  - (e) disability living allowance under section 71 of the Social Security Contributions and Benefits Act 1992(3); or
  - (f) personal independence payment(4).
- (2) The person must not be treated by regulation 8 as being entitled to a tax credit.
- (3) The person must not be awaiting—
- (a) a decision on a claim for any benefit mentioned in paragraph (1)(a) to (c); or
  - (b) the outcome of an application—
    - (i) to the Secretary of State to consider whether to revise, under section 9 of the Social Security Act 1998(5), a decision that the person is not entitled to jobseeker’s allowance, employment and support allowance or income support; or
    - (ii) to the relevant authority (within the meaning of the Child Support, Pensions and Social Security Act 2000(6)) to consider whether to revise, under Schedule 7 to that Act, a decision that the person is not entitled to housing benefit.
- (4) If the person has appealed against a decision that they are not entitled to a benefit mentioned in paragraph (1)(a) to (c), the Secretary of State must be satisfied—
- (a) that the appeal to the First-tier Tribunal, and any subsequent appeal to the Upper Tribunal or to a court, is not ongoing; and
  - (b) where an appeal has been finally determined, that there is no possibility of a further appeal by any party.
- (5) If the person was previously entitled to jobseeker’s allowance, the award of that benefit must not have terminated during the period of two weeks ending with the date on which the claim for universal credit is made.
- (6) If the person was previously entitled to employment and support allowance, the award of that benefit must not have terminated during the period of two weeks ending with the date on which the claim for universal credit is made, unless the award terminated as a result of a decision which incorporated a determination that the person no longer had limited capability for work within the meaning of the 2007 Act.

**Existing benefits: ongoing awards of tax credits**

- 8.—(1) For the purposes of regulations 7(2) and 16(4)—
- (a) a person is to be treated as being entitled to working tax credit with effect from the start of the current tax year even though a decision has not been made under section 14 of the Tax Credits Act 2002 (“the 2002 Act”) in respect of a claim for that tax credit for that tax year, if the person was entitled to working tax credit for the previous tax year and any of the cases specified in paragraph (2) applies; and
  - (b) a person is to be treated as being entitled to child tax credit with effect from the start of the current tax year even though a decision has not been made under section 14 of the 2002 Act in respect of a claim for that tax credit for that tax year, if the person was entitled to child tax credit for the previous tax year and any of the cases specified in paragraph (2) applies.

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(3) 1992 c.4.

(4) See the Act, s.77.

(5) 1998 c.14. See, in relation to consideration of revision under s.9, s.12(2)(b) and (3A), inserted by the Act.

(6) 2000 c.19.

- (2) The cases are—
- (a) a final notice has not been given to the person under section 17 of the 2002 Act in respect of the previous tax year;
  - (b) a final notice has been given, which includes provision by virtue of subsection (2) or (4) of section 17, or a combination of those subsections and subsection (6) and—
    - (i) the date specified in the notice for the purposes of section 17(2) and (4) or, where different dates are specified, the later of them, has not yet passed and no claim for a tax credit for the current year has been made, or treated as made; or
    - (ii) a claim for a tax credit has been made, or treated as made, on or before the date mentioned in paragraph (i), but no decision has been made in relation to that claim under section 14(1) of the 2002 Act;
  - (c) a final notice has been given, no claim for a tax credit for the current year has been made, or treated as made, and no decision has been made under section 18(1) of the 2002 Act in respect of entitlement to a tax credit for the previous tax year; or
  - (d) a final notice has been given and—
    - (i) the person did not make a declaration in response to provision included in that notice by virtue of section 17(2)(a), (4)(a) or (6)(a), or any combination of those provisions, by the date specified in the notice;
    - (ii) they were given notice that payments of tax credit under section 24(4) of the 2002 Act had ceased due to their failure to make the declaration; and
    - (iii) their claim for universal credit is made during the period of 30 days starting with the date on the notice referred to in paragraph (ii) or, where the person is a new claimant partner, notification of formation of a couple with a person who is entitled to universal credit is given to the Secretary of State during that period.

### Income and capital

**9.—(1)** The person must declare that, during the period of one month starting with the date on which the claim for universal credit is made, their earned income is expected not to exceed—

- (a) £270, if they are aged under 25; or
  - (b) £330, if they are aged 25 or over.
- (2) The person’s capital must not exceed £6,000.

(3) For the purposes of this regulation, “earned income” and “capital” have the same meanings as they have in Part 6 of the Universal Credit Regulations.

### Housing

**10.** The person must not—

- (a) be homeless (within the meaning of section 175 of the Housing Act 1996<sup>(7)</sup>) and must currently reside at their usual address;
- (b) reside in accommodation in which care, supervision, counselling, advice or other support services (other than services connected solely with the provision of adequate accommodation) are made available to them by or on behalf of the person by whom the accommodation is provided, with a view to enabling them to live there;
- (c) own, or partly own, the property in which they reside.

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(7) 1996 c.52.

## Caring responsibilities

### 11. The person must not—

- (a) have a child<sup>(8)</sup> living with them some or all of the time;
- (b) have a person (“the young person”) living with them some or all of the time if—
  - (i) the young person is not a child, but is under the age of 20; and
  - (ii) they would be responsible for the young person for the purposes of regulation 4 of the Universal Credit Regulations, if the young person were a qualifying young person within the meaning of regulation 5 of those Regulations;
- (c) be an adopter (within the meaning of regulation 89(3) of the Universal Credit Regulations) with whom a child is expected to be placed during the period of two weeks beginning with the date on which the claim for universal credit is made;
- (d) be liable to pay child support maintenance under the Child Support Act 1991<sup>(9)</sup>;
- (e) have any responsibility for providing care to a person who has a physical or mental impairment, other than in the course of paid or voluntary employment.

## Other requirements

### 12. The person—

- (a) must declare that they do not expect to have any self-employed earnings, as defined in regulation 57 of the Universal Credit Regulations, during the period of one month starting with the date on which the claim for universal credit is made;
- (b) must not be engaged in education or training of any kind and must declare that they do not intend to engage in education or training of any kind (other than where required to do so by the Secretary of State, or by agreement with the Secretary of State, in connection with an award of universal credit) during the period of one month starting with the date on which the claim for universal credit is made;
- (c) must not have—
  - (i) a deputy appointed by the Court of Protection under Part 1 of the Mental Capacity Act 2005<sup>(10)</sup> (“the 2005 Act”);
  - (ii) a receiver appointed under Part 7 of the Mental Health Act 1983<sup>(11)</sup> and treated as a deputy by virtue of the 2005 Act; or
  - (iii) any other person acting on their behalf in relation to the claim for universal credit;
- (d) must have a national insurance number;
- (e) must have an account with a bank, a building society or the Post Office.

## CHAPTER 3

### TREATMENT OF INVALID CLAIMS FOR UNIVERSAL CREDIT

## Incorrect information regarding entitlement to claim

**13.—**(1) This regulation applies where a claim for universal credit is made and it is subsequently discovered by the Secretary of State that the claimant gave incorrect information regarding any of

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<sup>(8)</sup> See the Act, s.40.

<sup>(9)</sup> 1991 c.48.

<sup>(10)</sup> 2005 c.9.

<sup>(11)</sup> 1983 c.20.

the requirements of regulations 5 to 12 and did not in fact fall within the Pathfinder Group on the date on which the claim was made.

- (2) Where the discovery is made before the claim for universal credit has been decided—
- (a) the claimant is to be informed that they are not entitled to claim universal credit;
  - (b) if the claimant makes a claim for jobseeker’s allowance, employment and support allowance or income support (“the existing benefit”) and the date on which that claim is made (as determined in accordance with the Social Security (Claims and Payments) Regulations 1987<sup>(12)</sup> (“the 1987 Regulations”)) is after the date on which the claim for universal credit was made, but no later than one month after the date on which the information required by sub-paragraph (a) was given—
    - (i) the claim for the existing benefit is to be treated as made on the date on which the claim for universal credit was made; and
    - (ii) any provision of the 1987 Regulations under which the claim for the existing benefit is treated as made on a later date does not apply;
  - (c) if the claimant makes a claim for housing benefit and the date of that claim (as determined in accordance with the Housing Benefit Regulations 2006<sup>(13)</sup> or, as the case may be, the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006<sup>(14)</sup> (together referred to as “the Housing Benefit Regulations”)) is after the date on which the claim for universal credit was made, but no later than one month after the date on which the information required by sub-paragraph (a) was given—
    - (i) the claim for housing benefit is to be treated as made on the date on which the claim for universal credit was made; and
    - (ii) any provision of the Housing Benefit Regulations under which the claim for housing benefit is treated as made on a later date does not apply;
  - (d) if the claimant makes a claim for a tax credit and that claim is received by a relevant authority at an appropriate office (within the meaning of the Tax Credits (Claims and Notifications) Regulations 2002<sup>(15)</sup> (“the 2002 Regulations”)) during the period of one month beginning with the date on which the information required by sub-paragraph (a) was given—
    - (i) the claim is to be treated as having been so received on the date on which the claim for universal credit was made; and
    - (ii) any provision of the 2002 Regulations under which the claim is treated as having been made on a later date does not apply.
- (3) Where the discovery is made after a decision has been made that the claimant is entitled to universal credit, but before any payment has been made—
- (a) that decision is to cease to have effect immediately, by virtue of this regulation;
  - (b) the claimant is to be informed that they are not entitled to claim universal credit; and
  - (c) paragraph (2)(b) to (d) applies.
- (4) Where the discovery is made after a decision has been made that the claimant is entitled to universal credit and one or more payments have been made to the claimant—
- (a) the claim is to be treated as one which the claimant was entitled to make;
  - (b) the decision is to be treated as a decision under section 8 of the Social Security Act 1998; and

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<sup>(12)</sup> S.I. 1987/1968, as amended.

<sup>(13)</sup> S.I. 2006/213, as amended.

<sup>(14)</sup> S.I. 2006/214, as amended.

<sup>(15)</sup> S.I. 2002/2014, as amended.

- (c) the award shall continue, if the claimant meets the conditions of entitlement for universal credit<sup>(16)</sup>.

## CHAPTER 4

### AWARDS OF UNIVERSAL CREDIT WITHOUT A CLAIM

#### **Awards of universal credit without a claim**

**14.**—(1) Subject to paragraphs (2) and (3), an award of universal credit may be made without a claim in accordance with regulation 6 (Claims not required for entitlement to universal credit in certain cases) or regulation 9(6) or (7) (Claims for universal credit by members of a couple) of the Claims and Payments Regulations, even if the person to whom that award is made would not otherwise be permitted to claim universal credit by these Regulations.

(2) Where a decision is made that a person is not entitled to universal credit for the first assessment period due to the level of their earned income (within the meaning of the Universal Credit Regulations), regulation 6(2) of the Claims and Payments Regulations does not apply.

(3) No award of universal credit may be made to a person under regulation 6 or 9(6) or (7) of the Claims and Payments Regulations at any time when they or their partner are entitled to—

- (a) state pension credit; or
- (b) an existing benefit.

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<sup>(16)</sup> See s.3 of the Act.