
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make various amendments to social security Regulations. These amendments primarily relate to the new social security benefits introduced under the Welfare Reform Act 2012 (c.5), in particular Universal Credit. The following Regulations are amended:

- the Social Security (Claims and Payments) Regulations 1987 (S.I. 1987/1968);
- the Universal Credit Regulations 2013 (S.I. 2013/376);
- the Jobseeker’s Allowance Regulations 2013 (S.I. 2013/378);
- the Employment and Support Allowance Regulations 2013 (S.I. 2013/379);
- the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013 (S.I. 2013/380);
- the Social Security (Payments on Account of Benefit) Regulations 2013 (S.I. 2013/383);
- the Social Security (Overpayments and Recovery) Regulations 2013 (S.I. 2013/384).

Regulation 2 amends the Social Security (Claims and Payments) Regulations 1987. It does so by introducing a definition for the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013 (“the C&P Regulations”) and new provisions in relation to third party deductions for certain loan repayments and flat rate child support maintenance payments. These third party deduction provisions require that where a person is in receipt of an eligible benefit as defined by the C&P Regulations, then deductions should first be made as set out in the C&P Regulations from those benefits. If there is insufficient benefit in payment under the C&P Regulations to meet the amount of the deduction, then any outstanding amounts should be deducted under the equivalent provisions of the Social Security (Claims and Payments) Regulations 1987 from benefits paid under those Regulations.

Regulation 3 amends the Universal Credit Regulations 2013. Regulation 3(2) amends the definition of “attendance allowance” to remove references to legislation which has been repealed.

Regulation 3(3) and (4) amends the circumstances in which a person is deemed to be responsible for a child. Subject to certain very limited exceptions, in Universal Credit a person is not usually responsible for a child where that child is looked after by a local authority. These amendments provide for an additional exception to this rule where a child who is looked after by a local authority is placed with or continues to live with their parent or a person who has parental responsibility for them.

Regulation 3(5) amends the circumstances in which a person is treated as not being in Great Britain to reflect current legislation on when a person has leave to enter or remain in Great Britain.

Regulation 3(6) amends the definition of “relevant childcare”, which specifies which types of childcare are eligible to be covered (whether wholly or partly) by the childcare costs element of Universal Credit. In particular, the amendment updates reference to relevant Scottish legislation and ensures that categories of childcare which are currently eligible to be covered by Tax Credits will also be eligible to be covered by Universal Credit.

Regulation 3(7) and (8) relates to the calculation of self-employed earnings. It amends the provision for deduction of expenses so that these may include the full cost of the purchase of a motorcycle and up to £41 in respect of interest on a loan taken out for the purposes of the business.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulation 3(9) amends the definition of “domestic violence”. The revised definition reflects the new cross-government definition of “domestic violence and abuse”, which now also includes incidents of controlling or coercive behaviour (including but not limited to abuse of the kind previously specified on page 11 of section 2.2 of the handbook “Responding to domestic abuse: a handbook for health professionals” published by the Department of Health in December 2005).

Regulation 3(10) makes a minor amendment to the provision which specifies the proportion of the total rent a renter can be deemed liable for (for the purposes of the housing costs element of Universal Credit) when there are other joint tenants living in a property.

Regulation 3(11) makes an amendment which treats a person who has been in hospital for over 24 hours as having limited capability for work. This amendment brings the Universal Credit Regulations 2013 into line with other Regulations which include the same provision.

Regulation 4 amends the Jobseeker’s Allowance Regulations 2013. Regulation 4(2) makes the same change for Jobseeker’s Allowance as regulation 3(9) makes for Universal Credit. Regulation 4(3) and (5) makes provision so that earnings of part-time fire-fighters employed by either a fire and rescue authority under the Fire and Rescue Services Act 2004 (c.21) or by the Scottish Fire and Rescue Service established under section 1A of the Fire (Scotland) Act 2005 (asp.5) are disregarded in the calculation of capital and for such persons to be treated as not engaged in remunerative work. Regulation 4(4) corrects an amount which is used to work out disregards for certain share fishermen.

Regulation 5 amends the Employment and Support Allowance Regulations 2013. Regulation 5(2) (b) makes the same change for Employment and Support Allowance as regulation 3(11) makes for Universal Credit. Regulation 5(2)(a) makes a minor amendment in relation to hospital patients to bring the Employment and Support Allowance Regulations 2013 into line with other Regulations which include the same provision. Regulation 5(3) makes the same change for Employment and Support Allowance as regulation 3(9) makes for Universal Credit. Regulation 5(4) makes the same change for Employment and Support Allowance as regulation 3(2) makes for Universal Credit.

Regulation 6 amends the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013. Regulation 6(2) specifies the date on which a couple are to be treated as claiming universal credit where one member was not previously entitled.

Regulation 6(3) also amends those 2013 Regulations so as to enable the rounding to the nearest penny of the calculation of the maximum amount of deductions from Universal Credit made to make direct payments to third parties by reference to the relevant percentage of the appropriate Universal Credit standard allowance. Regulation 8 makes similar amendments to the Social Security (Overpayments and Recovery) Regulations 2013 in relation to the rounding of the calculation of the maximum amount of deductions made from Universal Credit to recover recoverable amounts under those Regulations. Those provisions also amend those Regulations so as to clarify the relevant maximum percentage of that allowance to be deducted in each case.

Regulation 7 amends the Social Security (Payments on Account of Benefit) Regulations 2013. Regulation 7(2) provides that guardian’s allowance is not to be a benefit in respect of which a payment on account of benefit may be awarded. Regulation 7(3) both clarifies and changes the basis for calculating earned income, the amount of which must not exceed a certain amount over a certain period for a person to be awarded a budgeting advance. That basis is to be the total amount of earned income calculated under Chapter 2 of Part 6 of the Universal Credit Regulations 2013 for the previous six complete assessment periods as defined for the purpose of those Regulations. This is with the exception that the earned income of persons in gainful self-employment is not to be limited by the minimum income floor in accordance with regulation 62 of those Regulations.

A full impact assessment has not been published for these Regulations as they have no impact on the private sector or civil society organisations.