

**2013 No. 385**

**SOCIAL SECURITY**

**The Social Security (Loss of Benefit)(Amendment) Regulations  
2013**

*Made* - - - - *25th February 2013*

*Coming into force in accordance with regulation 1(2)*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 6B(5A), (6), (7)(c), (8), (9), (11) and (14), 7(2A), (3), (4)(c), (4A), (4B) and (6), 8(4)(c), 9(2), (2A), (3), (4)(c), (4A) and (4B), 10(1) and 11(1) of the Social Security Fraud Act 2001(a) and section 189(4) to (6) of the Social Security Administration Act 1992 (“the Administration Act”)(b).

In accordance with section 173(1)(b) of the Administration Act, the Secretary of State has obtained the agreement of the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(c).

A draft of these Regulations has been laid before, and approved by resolution of, each House of Parliament in accordance with section 11(3) of the Social Security Fraud Act 2001.

**Citation and commencement**

**1.—(1)** These Regulations may be cited as the Social Security (Loss of Benefit)(Amendment) Regulations 2013.

(2) They come into force—

- (a) for the purposes of the provisions specified in paragraph (3), on 29th April 2013;
- (b) for the purposes of regulations 3(f), 11(2) and 12, on 8th April 2013;
- (c) for all other purposes, on 1st April 2013.

(3) The specified provisions are—

- (a) regulation 3(d), (e) and (g);
- (b) regulation 4(3), (6) and (7);

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(a) 2001 c.11 (“the Fraud Act”). Section 6B is inserted by section 24(1) of the Welfare Reform Act 2009 (c.24) (“the 2009 Act”). Sections 7(4A) and 9(4A) are inserted respectively by paragraphs 45 and 46 of Schedule 2 to the State Pension Credit Act 2002 (c.16). Sections 7(4B) and 9(4B) are inserted by paragraph 23 of the Schedule to the Welfare Reform Act 2007 (c.5). Sections 6B(5A), 7(2A) and 9(2A) are inserted respectively by paragraphs 58(3), 59(3) and 61(4) of Schedule 2 to the Welfare Reform Act 2012 (c.5). Section 6B(14) is inserted by section 118(5) of that Act. Section 11(1) is cited for the meaning of the word “prescribed”.

(b) 1992 c.5. *See* section 11(4) of the Fraud Act.

(c) Sections 6A to 11 of the Fraud Act is a “relevant enactment” by virtue of section 170(5)(ag) of the Social Security Administration Act 1992 inserted by section 12(3) of the Fraud Act. The reference to section 6A is inserted by paragraph 9(a) of Schedule 4 to the 2009 Act.

- (c) regulation 5(3), (5)(b) and (6);
- (d) regulation 9; and
- (e) regulation 14.

**Amendment of the Social Security (Loss of Benefit) Regulations 2001**

2. The Social Security (Loss of Benefit) Regulations 2001(a) are amended as follows.

**Amendment of regulation 1(2)**

3. In regulation 1(2) (interpretation)—

- (a) before the definition of “the Act” insert—
  - ““the 2007 Act” means the Welfare Reform Act 2007(b);”;
  - ““the 2012 Act” means the Welfare Reform Act 2012(c);”;
- (b) after the definition of “the Act” insert—
  - ““the Administration Act” means the Social Security Administration Act 1992;”;
- (c) after the definition of “the Benefits Act” insert—
  - ““the ESA Regulations” means the Employment and Support Allowance Regulations 2008(d);”;
- (d) after the definition of “the Jobseeker’s Allowance Regulations” insert—
  - ““the UC Regulations” means the Universal Credit Regulations 2013(e);”;
  - ““assessment period” has the same meaning as in the UC Regulations;”;
- (e) after the definition of “disqualification period” insert—
  - ““income-based jobseeker’s allowance” means an income-based allowance under the Jobseekers Act as it has effect apart from the amendments made by Part 1 of Schedule 14 to the 2012 Act (to remove references to an income-based allowance);”;
  - ““income-related employment and support allowance” means an income-related allowance under the 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 (to remove references to an income-related allowance);”;
  - ““joint claimant” means each of joint claimants as defined in section 40 of the 2012 Act;”;
- (f) after the definition of “pay day”(f) insert—
  - ““personal independence payment” means the allowance under Part 4 of the 2012 Act;”
  - ;
- (g) after the definition of “relevant authority” add—.
  - ““universal credit” means the benefit payable under Part 1 of the 2012 Act.”.

**Amendment of regulation 1A**

4.—(1) Regulation 1A (disqualification period: section 6B(11) of the Act)(g) is amended as follows.

(2) At the end of paragraph (2)(a) add “other than a benefit to which paragraph (5A) applies”.

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- (a) S.I.2001/4022.
  - (b) 2007 c.5.
  - (c) 2012 c.5.
  - (d) S.I.2008/764.
  - (e) S.I.2013/376.
  - (f) That definition is inserted by S.I.2010/1160.
  - (g) Regulation 1A is inserted by S.I.2010/1160.

- (3) At the end of paragraph (2)(a) add “or universal credit”.
- (4) After paragraph (5) insert—
  - “(5A) This paragraph applies where on the determination day the offender or, as the case may be, the offender’s family member is in receipt of a sanctionable benefit which is neither payable wholly in advance nor wholly in arrears and no other sanctionable benefit.”.
- (5) In paragraph (6), for “neither paragraph (2) nor paragraph (4) applies” substitute “paragraph (5A) applies or where there is no sanctionable benefit payable on the determination day”.
- (6) After paragraph (6) insert—
  - “(6A) Paragraph (6B) applies where, on the determination day, the offender or, as the case may be, the offender’s family member is in receipt of universal credit.
  - (6B) Where this paragraph applies, DQ-day is—
    - (a) if the first day after the end of the period of 28 days beginning with the determination day is the first day of an assessment period, that day;
    - (b) if the first day after the end of the period of 28 days beginning with the determination day is not the first day of an assessment period, the first day of the next assessment period after that day.”.
- (7) In paragraph (7)—
  - (a) in sub-paragraph (a), after “paragraph (2)” insert “or (6A)”;
  - (b) in sub-paragraph (b)—
    - (i) for “that paragraph” substitute “those paragraphs”;
    - (ii) after “paragraph (3)” insert “or (6B)”.

**Amendment of regulation 2**

- 5.—**(1) Regulation 2 (disqualification period: section 7(6) of the Act) (a) is amended as follows.
- (2) At the end of paragraph (2)(a), add “other than a benefit to which paragraph (5A) applies”.
  - (3) At the end of paragraph (2)(a), add “or universal credit”.
  - (4) After paragraph (5) insert—
    - “(5A) This paragraph applies where on the determination day the offender or, as the case may be, the offender’s family member is in receipt of a sanctionable benefit which is neither payable wholly in advance nor wholly in arrears and no other sanctionable benefit.”.
  - (5) In paragraph (6)—
    - (a) for “neither paragraph (2) nor paragraph (4) applies” substitute “paragraph (5A) applies or where there is no sanctionable benefit payable on the determination day”;
    - (b) at the beginning of sub-paragraph (c) insert “universal credit.”.
  - (6) After paragraph (6) insert—
    - “(6A) Paragraph (6B) applies where on the determination day, the offender or, as the case may be, the offender’s family member is in receipt of universal credit.
    - (6B) Where this paragraph applies, DQ-day is—
      - (a) if the first day after the end of the period of 28 days beginning with the determination day is the first day of an assessment period, that day;
      - (b) if the first day after the end of the period of 28 days beginning with the determination day is not the first day of an assessment period, the first day of the next assessment period after that day.”.
  - (7) In paragraph (7), after “this regulation” insert “but except where paragraph (8) applies”.

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(a) Regulation 2 is substituted by S.I.2010/1160.

(8) After paragraph (7) add—

“(8) Where the date of the conviction of the offender for the benefit offence in the later proceedings is on or after 1st April 2013 and on the determination day—

- (a) paragraph (2) or (6A) applies in the case of an offender or, as the case may be, an offender’s family member; but
- (b) that person ceases to be in receipt of a benefit referred to in those paragraphs before the first day of the disqualification period that would apply by virtue of paragraph (3) or (6B),

DQ-day is the first day after the end of the period of 28 days beginning with the determination day.”.

## Insertion of regulation 2A

6. After regulation 2 insert—

### “Prescribed offences: section 6B(14)(b) of the Act

**2A.**—(1) Paragraphs (2) to (4) prescribe offences which are relevant offences for the purpose of sections 6B and 7 of the Act where section 6B(14)(b)(i), (ii) or (iii) of the Act applies.

(2) In England and Wales, offences under—

- (a) section 8 of the Accessories and Abettors Act 1861(a);
- (b) section 1 of the Criminal Law Act 1977(b);
- (c) section 1, 3, 4 or 5 of the Forgery and Counterfeiting Act 1981(c);
- (d) section 6 or 7 of the Fraud Act 2006(d); and
- (e) section 44, 45 or 46 of the Serious Crime Act 2007(e).

(3) In England, Wales or Scotland, offences under—

- (a) section 182 of the Administration Act;
- (b) section 327, 328 or 329 of the Proceeds of Crime Act 2002(f); and
- (c) section 4, 5 or 6 of the Identity Documents Act 2010(g).

(4) In Scotland—

- (a) the common law offences of—
  - (i) conspiracy to defraud;
  - (ii) embezzlement;
  - (iii) fraud;
  - (iv) fraudulent scheme; and
  - (v) uttering;

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(a) 1861 c.94.

(b) 1977 c.45 as amended by section 5(1) of the Criminal Attempts Act 1981 (c.47), section 7(1) and (2) of the Computer Misuse Act 1990 (c.18), section 9(1) and (2) of and paragraph 4(a) of Schedule 1 and Schedule 2 to, the Criminal Justice (Terrorism and Conspiracy) Act 1998 (c.40) and section 300(1) of, and paragraph 4(b) of Schedule 1 and Schedule 2 to, the Trade Union and Labour Relations (Consolidation) Act 1992 (c.52).

(c) 1981 c.45. Section 5 is amended by section 44(2) of, and Schedule 2 to, the Identity Cards Act 2006 (c.15), section 3(1) to (3) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c.19), section 88(1) and (2) of the Crime (International Co-operation) Act 2003 (c.32) and section 261(1) of, and paragraph 67(a) of Schedule 27 to, the Civil Partnership Act 2004 (c.33).

(d) 2006 c.35.

(e) 2007 c.27.

(f) 2002 c.29. Sections 327 to 329 are amended by sections 102 and 103 of the Serious Organised Crime and Police Act 2005 (c.15).

(g) 2010 c.40.

- (b) offences under—
  - (i) section 44 of the Criminal Law (Consolidation) (Scotland) Act 1995(a);
  - (ii) section 28 or 30 of the Criminal Justice and Licensing (Scotland) Act 2010(b) (“the 2010 Act”); and
- (c) offences to which section 29 of the 2010 Act (offences aggravated by connection with serious organised crime) applies.

(5) Paragraphs (6) and (7) prescribe offences which are relevant offences for the purpose of sections 6B and 7 of the Act where section 6B(14)(b)(i) or (ii) of the Act applies.

(6) In England and Wales, offences under section 1 of the Fraud Act 2006.

(7) In England, Wales or Scotland, offences under—

- (a) section 111A of the Administration Act(c);
- (b) section 35 of the Tax Credits Act 2002(d).”.

### **Amendment of regulation 3 and transitional provision**

7.—(1) Regulation 3 (reduction of income support and income-related employment and support allowance)(e) is amended as follows.

- (2) In the heading omit “and income-related employment and support allowance”.
- (3) In paragraph (1), omit “or an income-related employment and support allowance”.
- (4) In paragraph (5), omit “or an income-related employment and support allowance”.
- (5) In paragraph (6) omit the words from “or, as the case may be” to the end of that paragraph.
- (6) The amendments made by this regulation do not apply—
  - (a) in relation to a person whose payment of income-related employment and support allowance was being reduced in accordance with regulation 3 of the Social Security (Loss of Benefit) Regulations 2001 on 1st April 2013; or
  - (b) where the offence in respect of which income-related employment and support allowance falls to be reduced was committed before 1st April 2013.

### **Insertion of regulation 3ZA**

8. After regulation 3 insert—

#### **“Reduction of income-related employment and support allowance**

**3ZA.**—(1) Subject to paragraphs (4) and (5), any payment of an income-related employment and support allowance which falls to be made to an offender in respect of any week in the disqualification period or to an offender’s family member in respect of any week in the relevant period is to be reduced in accordance with paragraph (2).

(2) The amount of the reduction is to be—

- (a) where the offender or, as the case may be, the offender’s family member, is pregnant or seriously ill, a sum equivalent to 20 per cent.;

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(a) 1995 c.39. Section 44 is amended by section 200(2)(b) of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13)  
 (b) 2010 asp 13.  
 (c) Section 111A is inserted by section 13 of the Social Security Administration (Fraud) Act 1997 (c.47) and amended by section 85 of the Child Support, Pensions and Social Security Act 2000 (c.19) and sections 1(1) and 16 of the Social Security Fraud Act 2001.  
 (d) 2002 c.21.  
 (e) Regulation 3 is amended by S.I.2008/1554 and 2010/424.

- (b) where the offender or, as the case may be, the offender’s family member is subject to no work-related requirements for the purpose of section 11D of the 2007 Act<sup>(a)</sup>, a sum equivalent to 40 per cent.;
  - (c) in any other case, a sum equivalent to 100 per cent.,
- of the applicable amount for a single claimant specified in paragraph 1(1) of Schedule 4 to the ESA Regulations on the day specified in paragraph (3).
- (3) The specified day is—
    - (a) where a payment to the offender falls to be reduced, on the first day of the disqualification period; or
    - (b) where a payment to the offender’s family member falls to be reduced, on the first day of the relevant period.
  - (4) Payment must not be reduced under paragraph (2) to below 10 pence per week.
  - (5) A reduction under paragraph (2) must, if it is not a multiple of 5 pence, be rounded to the nearest such multiple or, if it is a multiple of 2.5 pence but not of 5 pence, to the next lower multiple of 5 pence.
  - (6) Where the rate of an income-related employment and support allowance payable to an offender or an offender’s family member changes, the rules set out above for a reduction in the allowance payable are to be applied to the new rate and any adjustment to the reduction shall take effect from the first day of the first benefit week to start after the date of change.
  - (7) In paragraph (6), “benefit week” has the same meaning as in regulation 2(1) of the ESA Regulations.”.

### **Insertion of regulation 3ZB**

9. After regulation 3ZA insert—

#### **“Reduction of universal credit**

**3ZB .**—(1) Any payment of universal credit which falls to be made to an offender or an offender’s family member (“O”) in respect of an assessment period wholly or partly within a disqualification period is to be reduced in accordance with paragraph (2) or (5).

(2) Except where paragraph (5) applies and subject to paragraphs (6) and (7), the amount of the reduction is to be calculated by multiplying the daily reduction rate by the number of days in the assessment period or, if lower, the number of days in the assessment period to which the reduction is to relate.

(3) The daily reduction rate for the purposes of paragraph (2) is, unless paragraph (4) applies, an amount equal to the amount of the standard allowance applicable to the award multiplied by 12 and divided by 365.

(4) The daily reduction rate for the purposes of paragraph (2) is 40 per cent. of the rate calculated in accordance with paragraph (3) if, at the end of the assessment period—

- (a) O, or where O is a joint claimant, the other joint claimant (“J”), falls within section 19 of the 2012 Act (claimant subject no work-related requirements) by virtue of—
  - (i) subsection (2)(c) of that section (responsible carer for a child under the age of 1), or
  - (ii) regulation 89(1)(c), (d) or (f) of the UC Regulations (adopter, claimants within 11 weeks before, or 15 weeks after, confinement or responsible foster parent of a child under the age of 1); or
- (b) O or, as the case may be, O or J, falls within section 20 of the 2012 Act (claimant subject to work-focused interview only).

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<sup>(a)</sup> Section 11D is inserted by section 57(2) of the Welfare Reform Act 2012 (c.5).

(5) Where the disqualification period ends during an assessment period, the amount of the reduction for that assessment period is to be calculated by multiplying the daily reduction rate under paragraph (3) or, as the case may be, paragraph (4) by the number of days in that assessment period which are within the disqualification period.

(6) The amount of the daily reduction rate in paragraphs (3) and (4) is to be rounded down to the nearest 10 pence.

(7) The amount of the reduction under paragraph (2) in respect of any assessment period must not exceed the amount of the standard allowance which is applicable to O in respect of that period.

(8) Where the rate of universal credit payable to O or as the case may be, to O and J, changes, the rules set out above for a reduction in the universal credit payable are to be applied to the new rate and any adjustment to the reduction is to take effect from the first day of the first assessment period to start after the date of the change.

(9) In the case of joint claimants—

(a) each joint claimant is considered individually for the purpose of determining the rate applicable under paragraph (3) or (4); and

(b) half of any applicable rate is applied to each joint claimant accordingly.

(10) In this regulation, “standard allowance” means the allowance of that name, the amount of which is set out in regulation 36 of the UC Regulations.”.

### **Amendment of regulation 3A**

**10.** In regulation 3A(7)(b) (reduction in state pension credit)(a), in paragraph (7)(b), for “aged 16 or over who is treated as a child for the purposes of section 142” substitute “who is a qualifying young person for the purposes of section 142(2)”.

### **Amendment of regulation 5**

**11.—**(1) Regulation 5 (meaning of “person in hardship”) is amended as follows.

(2) In paragraph (1)(h)—

(a) in paragraph (i) for “or the care component of disability living allowance at one of the two higher rates prescribed under section 72(4) of the Benefits Act” substitute “; the care component of disability living allowance at one of the two higher rates prescribed under section 72(4) of the Benefits Act or the daily living component of personal independence payment at the standard or enhanced rate in accordance with section 78 of the 2012 Act”;

(b) in paragraph (ii) for “or disability living allowance” substitute “; disability living allowance or personal independence payment”;

(c) at the end of paragraph (ii) omit “or”;

(d) after paragraph (iii) insert—

“or

(iv) has claimed personal independence payment and has an award of the daily living component of personal independence payment at the standard or enhanced rate in accordance with section 78 of the 2012 Act for a period commencing after the date on which that claim was made.”.

(3) In paragraph (3)(b) for the words from “or 19” to the end of that sub-paragraph substitute—

“of the Jobseekers Act (attendance, information and evidence) or that it be reduced pursuant to section 19 or 19A or 19B of that Act (circumstances in which a jobseeker’s allowance is reduced)”.

(4) At the end add—

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(a) Regulation 3A is inserted by S.I.2002/1792.

“(7) In the preceding paragraphs of this regulation, references to a jobseeker’s allowance are to an income-based jobseeker’s allowance.”.

#### **Amendment of regulation 11**

- 12.** In regulation 11(2)(e) (application of Part and meaning of “couple in hardship”)—
- (a) in paragraph (i) for “or the care component of disability living allowance at one of the two higher rates prescribed under section 72(4) of the Benefits Act” substitute “, the care component of disability living allowance at one of the two higher rates prescribed under section 72(4) of the Benefits Act or the daily living component of personal independence payment at the standard or enhanced rate in accordance with section 78 of the 2012 Act”;
  - (b) in paragraph (ii) for “or disability living allowance” substitute “, disability living allowance or personal independence payment”;
  - (c) at the end of paragraph (ii) omit “or”;
  - (d) after paragraph (iii) insert—
    - “or
    - (iv) has claimed personal independence payment and has an award of the daily living component of personal independence payment at the standard or enhanced rate in accordance with section 78 of the 2012 Act for a period commencing after the date on which that claim was made,”.

#### **Insertion of Part 4A**

- 13.** Before Part 5 insert—

### **“Part 4A**

#### **Hardship: Income-related employment and support allowance**

##### **Payment of income-related employment and support allowance to specified persons**

**16A.**—(1) Subject to regulation 16B, an income-related employment and support allowance is payable in accordance with the following provisions of this Part to an offender or an offender’s family member (“O”) where—

- (a) O meets the conditions for entitlement to that allowance;
  - (b) the amount of the allowance otherwise payable to O is subject to a reduction under regulation 3ZA above or regulation 63 of the ESA Regulations; and
  - (c) the Secretary of State is satisfied that O, their partner or a child or qualifying young person for whom they are responsible, will be in hardship unless such a payment is made.
- (2) The Secretary of State must take the following matters into account in determining whether a person is in hardship for the purpose of paragraph (1)(c)—
- (a) whether O’s partner or a person in O’s family satisfies the requirements for a disability premium specified in paragraphs 6 and 7 of Schedule 4 to the ESA Regulations, or for an element of child tax credit in respect of a child or young person who is disabled or severely disabled within the meaning of regulation 8 of the Child Tax Credit Regulations 2002(a);

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(a) S.I.2002/2007 as amended by S.I.2010/751.



- (b) the household’s available resources without a payment under paragraph (1), including resources from persons who are not members of the household;
- (c) the difference between the available resources and the amount of a payment under paragraph (1) that O would receive;
- (d) whether there is a substantial risk that the household will not have access to essential items (including food, clothing, heating and accommodation), or will have access to such essential items at considerably reduced levels, without a payment under paragraph (1); and
- (e) the length of time that the factors set out in sub-paragraphs (b) to (d) are likely to continue.

(3) In paragraphs (1) and (2), “partner”, “child” and “qualifying young person” have the same meaning as they have in the ESA Regulations.

**Requirements for payments under regulation 16A(1)**

**16B .** The Secretary of State must not make a payment under regulation 16A(1) unless O

- (a) completes and submits an application in a form approved for the purpose by the Secretary of State, or in such other form as the Secretary of State accepts as sufficient, in such manner as the Secretary of State determines; and
- (b) provides such information or evidence relating to the matters specified in regulation 16A(2)(b) to (d) as the Secretary of State may require, in such manner as the Secretary of State determines.

**Amount of payment under regulation 16A(1)**

**16C.—**(1) The amount of a payment under regulation 16A(1) is 60 per cent. of the prescribed amount for a single claimant as set out in paragraph (1)(a) of Part 1 of Schedule 4 to the ESA Regulations.

(2) A payment calculated in accordance with paragraph (1) is to be, if it is not a multiple of 5 pence, rounded to the nearest such multiple or, if it is a multiple of 2.5 pence but not of 5 pence, to the next lower multiple of 5 pence.”

**Insertion of Part 4B**

14. After Part 4A insert—

**“Part 4B**

**Hardship: Universal Credit**

**Payment of universal credit to specified persons**

**16D.—**(1) Subject to regulation 16E, universal credit is payable in accordance with the following provisions of this Part to an offender or an offender’s family member (“O”) or where O is a joint claimant, to O and the other joint claimant (“J”), where the Secretary of State is satisfied that they are in hardship.

(2) For the purposes of paragraph (1), O or, as the case may be, O and J must be considered as being in hardship only where—

- (a) they meet the conditions for entitlement to universal credit;
- (b) they cannot meet their immediate and most basic and essential needs, specified in paragraph (3), or the immediate and most basic and essential needs of a child or

qualifying young person for whom O is, or O and J are, responsible only because the amount of their award has been reduced under—

- (i) section 26 or 27 of the 2012 Act by the daily reduction rate determined in accordance with regulation 111 of the UC Regulations; or
- (ii) regulation 3ZB above by the daily reduction rate determined in accordance with paragraph (3) or (4) of that regulation;
- (c) they have made every effort to access alternative sources of support to meet, or partially meet, such needs; and
- (d) they have made every effort to cease to incur any expenditure which does not relate to such needs.

(3) The needs referred to in paragraph (2) are—

- (a) accommodation;
- (b) heating;
- (c) food;
- (d) hygiene.

(4) In paragraph (2)(b), “child” and “qualifying young person” have the same meaning as in Part 1 of the 2012 Act<sup>(a)</sup> and whether or not O is, or O and J are, responsible for a child or qualifying young person is to be determined in accordance with regulation 4 of the UC Regulations.

#### **Requirements for payments under regulation 16D(1)**

**16E.** The Secretary of State must not make a payment under regulation 16D(1) unless—

- (a) O completes and submits or, as the case may be, O and J complete and submit, an application in a form approved for the purpose by the Secretary of State, or in such other form as the Secretary of State accepts as sufficient, in such manner as the Secretary of State determines;
- (b) O furnishes or, as the case may be, O and J furnish, such information or evidence relating to the matters specified in regulation 16D(2)(b) to (d) as the Secretary of State may require, in such manner as the Secretary of State determines; and
- (c) O accepts or, as the case may be O and J accept, that any such payments that are paid are recoverable and may be recovered in accordance with section 71ZH of the Administration Act <sup>(b)</sup>, except in such cases as the Secretary of State determines otherwise.

#### **Period in respect of which payments under regulation 16D(1) are to be made**

**16F.** A payment under regulation 16D(1) is to be made in respect of—

- (a) a period which—
  - (i) begins with the date on which the application under regulation 16E(a) is submitted or, if later, the date on which all of the conditions in regulation 16D(2) are met; and
  - (ii) ends with the day before the date on which O’s, or as the case may be, O and J’s next full payment of universal credit for an assessment period is due to be made (or would be made but for a reduction under regulation 3ZB); or
- (b) where the period calculated in accordance with paragraph (a) is 7 days or less, that period plus a further period ending with the day referred to in paragraph (a)(ii) or,

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(a) See section 40 of that Act.

(b) 1992 c.5. Section 71ZH is inserted by section 105(1) of the Welfare Reform Act 2012.

if sooner, the last day in respect of which O's, or as the case may be, O and J's award is reduced in accordance with regulation 3ZB.

#### **The amount of payments under regulation 16D(1)**

**16G.** The amount of a payment under regulation 16D(1) for each day in respect of which such a payment is to be made is to be determined in accordance with the formula—

$$60\% \text{ of } \left( \frac{A \times 12}{365} \right)$$

where A is equal to the amount of the reduction in the amount of O's award or, as the case may be, the amount of O and J's award, calculated under regulation 3ZB for the assessment period preceding the assessment period in which an application is submitted under regulation 16E(a).

#### **Recoverability of payments made under regulation 16D(1)**

**16H.** Payments made under regulation 16D(1) are recoverable by virtue of section 71ZH of the Administration Act as if they were hardship payments under regulation 116 of the UC Regulations and for this purpose, regulation 119 of those Regulations applies to payments under regulation 16D(1) as it applies to such hardship payments.”.

#### **Amendment of regulation 19**

**15.—**(1) Regulation 19 (social security benefits not to be sanctionable benefits) is amended as follows.

(2) In paragraph (a), for “article 14 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983” substitute “article 8 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006(a)”.

(3) In paragraph (b), for “article 15 of the Order” substitute “article 9 of the Order”.

(4) In paragraph (c), for “article 26A” substitute “article 20”.

Signed by authority of the Secretary of State for Work and Pensions.

*Freud*

Parliamentary Under-Secretary of State,  
Department for Work and Pensions

25th February 2013

#### **EXPLANATORY NOTE**

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

These Regulations amend the Social Security (Loss of Benefit) Regulations 2001 (S.I.2001/4022) (“the 2001 Regulations”). The 2001 Regulations prescribe the rules which relate to the restrictions in payment imposed by virtue of sections 6B to 13 of the Social Security Fraud Act 2001 (“the 2001 Act”) of certain benefits to or in respect of certain persons (“offenders”). These rules apply in relation to payments of benefits to offenders who have been convicted of one or more benefit offences in any proceedings who have agreed to pay an administrative penalty for a benefit offence or who have been cautioned for a benefit offence. These rules also apply in relation to payments of benefit to members of offenders' families. The penalty may result in a total loss of benefit or a reduction in benefit for four weeks, 13 weeks, 26 weeks or three years.

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(a) S.I.2006/606.

These Regulations make provision as to how the loss of benefit regime will apply to universal credit, a new benefit introduced by Part 1 of the Welfare Reform Act 2012 (c.5) (“the 2012 Act”). In particular, the regulations deal with the appropriate start date for disqualification period for persons entitled to universal credit (regulation 4(3), (5) and (7) and 5(3), (5) and (6)(b)), the amount of the reduction in universal credit (regulation 9) and entitlement to, and recoverability of, hardship payments where universal credit is reduced either by virtue of provision made by these Regulations or sanctions under section 26 or 27 of the 2012 Act (regulation 14).

These Regulations also make other amendments to the 2001 Regulations.

Regulations 4(2), (4) and (6) and 5(2), (4) and (6) specify what is to be start date for the disqualification period where the offender is in receipt of a benefit which is payable neither wholly in advance nor in arrears.

Regulation 6 prescribes the offences, conviction for which will result in a three year loss of benefit penalty. By virtue of section 118(5) of the 2012 Act, this applies where the court has found, in relation to those offences, that there was an overpayment of at least £50,000, the offence has been punished by a custodial sentence of at least one year (including a suspended sentence) or, in the case of certain offences, the court has found that the offence was committed over a period of at least two years.

Regulation 8 makes provision relating to the amount of reductions where an offender is in receipt of an income-related employment and support allowance replacing the provisions which previously applied. Regulation 7 makes consequential provision in that regard.

Regulation 10 updates a reference in the relevant regulation to persons over the age of 16 in respect of whom child benefit is payable.

Regulations 11(2) and 12 make amendments consequential on the introduction of personal independence payment. Regulation 11(3) and (4) makes consequential amendments as a result of changes to the provisions relating to sanctions in jobseeker’s allowance made by the 2012 Act.

Regulation 13 allows an income-related employment and support allowance to be payable to an offender or an offender’s family member at a reduced rate where it would otherwise not be payable by operation of the 2001 Act if they would be entitled to a hardship payment under regulation 62A of the Employment and Support Allowance Regulations 2008 (S.I.2008/794).

Regulation 15 updates the list of benefits which are not sanctionable to reflect the current references in armed forces pensions legislation.

A full impact assessment has not been produced for this instrument as it has no impact on the private sector or civil society organisations.

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