

EXPLANATORY MEMORANDUM TO
THE FINES, COUNCIL TAX AND COMMUNITY CHARGES (DEDUCTIONS
FROM UNIVERSAL CREDIT AND OTHER BENEFITS) REGULATIONS 2013

2013 No. 612

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

Purpose of the instrument

2. 2.1 This instrument supports both the introduction of Universal Credit and the fact that Jobseeker's Allowance and Employment and Support Allowance will only be paid on a contributory basis.

2.3 It amends legislation which allows deductions to be made from certain benefits in order to recover fines and compensation orders, and arrears of council tax and community charges. It details the amounts that can be deducted and the amount of benefit that must be left in payment after such deductions have been made.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None.

4. **Legislative Background**

4.1 The Welfare Reform Act 2012 provides for the introduction of a new income-related social security benefit, Universal Credit. As a consequence, it also provides for the abolition of income-based Jobseeker's Allowance, income-related Employment and Support Allowance, Income Support, Housing Benefit, and Child and Working Tax Credits. The contributory elements of Jobseeker's Allowance and Employment and Support Allowance are being retained. Deductions to recover certain debts and liabilities are currently made from the benefits that are being abolished, so the relevant legislation needs to be amended so as to enable the making of those deductions from Universal Credit. A number of those deductions are also made from contributory Employment and Support Allowance and Jobseeker's Allowance, the rules for which are being amended by these Regulations in order to align with certain rules that will be applied to deductions in Universal Credit (e.g. maximum amount that can be deducted).

4.2 The Welfare Reform Act 2012 can be found at:
<http://www.legislation.gov.uk/ukpga/2012/5/contents/enacted/data.htm>.

4.3 These Regulations are linked to the following statutory instruments:

- The Universal Credit Regulations 2013 (the UC Regulations)

- The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013 (the Claims and Payments Regulations 2013)
- The Jobseeker's Allowance Regulations 2013
- The Employment and Support Allowance Regulations 2013

5. Territorial Extent and Application

This instrument applies to Great Britain. The Department for Social Development in Northern Ireland will produce its own legislation for Northern Ireland.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

Deductions to recover fines and compensation orders

7.1 Regulations 2 to 4 amend 'The Fines (Deductions from Income Support) Regulations 1992', by adding Universal Credit to the list of benefits from which a deduction can be made to recover a fine or compensation order. The definitions of contributory Employment and Support Allowance and Jobseeker's Allowance are amended to clarify that the definitions encompass both the contributory elements of those benefits before the abolition of the income-related elements (by the Welfare Reform Act 2012), and the new contributory-only benefits thereafter.

7.2 Regulation 5 provides that a court may make an application to the Secretary of State for a deduction to be made for a fine (or compensation order), if the offender is in receipt of Universal Credit. The Secretary of State will then pay the amount deducted to the Court. The minimum amount that may be deducted each month is an amount equal to 5% of the claimant's Universal Credit Standard Allowance under the UC Regulations, and the maximum deduction that may be made is £108.35 (equivalent to £25 a week). Where 5% of the claimant's Universal Credit Standard Allowance results in a fraction of a penny, that fraction is disregarded if it is less than half a penny. If the fraction is equal to, or more than half a penny, it is rounded up to the next penny.

7.3 Any other deductions that are required to be made from the offender's Universal Credit will reduce the maximum deduction rate (which is at the bottom of the priority order set out in paragraph 5 of Schedule 6 to the Claims and Payments Regulations 2013) pound for pound. This will ensure that the total amount deducted from the claimant's Universal Credit award will not exceed the overall maximum deduction rate of 40% of the claimant's Universal Credit Standard Allowance (as provided for by paragraph 4 of Schedule 6 to the Claims and Payments Regulations 2013). This approach is aimed at protecting claimants from hardship, when excessive deductions would otherwise be made.

7.4 Regulation 5 also provides that a deduction for a fine (or compensation order) can only be made if at least one penny will be left in payment after the deduction has been taken, which is the minimum entitlement amount in Universal Credit. This is to ensure the claimant can maintain any eligibility for passported benefits (Schedule 6, paragraph 3(1)(a) of the Claims and Payments Regulations 2013).

7.5 Regulation 5(4) to (6) amends the provisions relating to deductions from contributory Employment and Support Allowance and Jobseeker's Allowance for the recovery of fines (or compensation orders). Regulation 5(4) amends the deduction rate from a standard rate of 33% of the relevant age-related allowance to a *maximum* rate of 40% of the relevant age-related allowance. This aligns with the overall maximum amount that can be deducted from a claimant's Universal Credit. Regulation 5(5) removes the provision which rounds down the rate of deduction to the nearest penny; this provision is no longer necessary in the context of a maximum rather than a standard rate. Regulation 5(6) restricts the effect of these amendments to deductions in respect of applications received on or after 29 April 2013.

7.6 Because the rate of deduction from contributory Employment and Support Allowance and Jobseeker's Allowance introduced by this regulation is a maximum rather than a standard rate, this gives flexibility to adjust the rate downwards in appropriate cases. Guidance will be issued and will be applied, for example, in cases where Universal Credit is in payment with contributory Employment and Support Allowance or Jobseeker's Allowance, to ensure that the overall level of deduction from a claimant's benefit does not exceed the level that would have applied had Universal Credit alone been in payment.

7.7 Regulation 6 provides that the claimant must be entitled to Universal Credit throughout the assessment period in order for a deduction to be made for a fine (or compensation order); and that a deduction cannot be made, if a fine (or compensation order) is already being deducted.

Deductions to recover arrears of Council Tax

7.8 Regulations 7 to 10 amend 'The Council Tax (Deductions from Income Support) Regulations 1993', by adding Universal Credit to the list of benefits from which a deduction can be made to recover arrears of council tax. The definitions of contributory Employment and Support Allowance and Jobseeker's Allowance are amended to clarify that the definitions encompass both the contributory elements of those benefits before the abolition of the income-related elements (by the Welfare Reform Act 2012), and the new contributory-only benefits thereafter.

7.9 Regulation 11 provides that a local authority may make an application to the Secretary of State for a deduction to be made to recover council tax arrears if the debtor is in receipt of Universal Credit and they have obtained a liability order or have been granted a summary warrant or decree. The Secretary of State may deduct an amount equal to 5% of the debtor's Universal Credit Standard Allowance and pay the amount deducted to the local authority. Where 5% of the claimant's Universal Credit Standard Allowance results in a fraction of a penny, that fraction is disregarded if it is less than half a penny. If the fraction is equal to, or more than half a penny, it is rounded up to the next penny.

7.10 Regulation 11 also provides that a deduction for council tax arrears can only be made if one penny will be left in payment after the deduction has been taken, which is the minimum entitlement amount in Universal Credit. This is to ensure the debtor can maintain any eligibility for passported benefits (Schedule 6, paragraph 3(1)(a) of the Claims and Payments Regulations 2013).

7.11 Regulation 11 also amends the provisions allowing for deductions to be made to recover council tax arrears from contributory Employment and Support Allowance and Jobseeker's Allowance, in exactly the same way as Regulation 5 does in relation to the recovery of fines and compensation orders.

7.12 Regulation 12 provides that the claimant must be entitled to Universal Credit throughout the assessment period in order for a council tax arrears deduction to be made. It also states that a deduction cannot be made if a deduction is already in place to recover arrears of council tax or community charges.

Deductions to recover arrears of Community Charges

7.13 Regulations 13 to 15 amend 'The Community Charges (Deductions from Income Support) (No.2) Regulations 1990' and regulations 18 to 20 amend 'The Community Charges (Deductions from Income Support) (Scotland) Regulations 1989', by adding Universal Credit to the list of benefits from which a deduction can be made to recover arrears of community charges.

7.14 Regulations 16 and 21 respectively amend those Regulations to provide that a local authority may make an application to the Secretary of State, for a deduction to be made to recover arrears of community charges if the debtor is in receipt of Universal Credit and they have obtained a liability order or, in Scotland, been granted a summary warrant or decree. After applying the priority order which is set out in paragraph 5 of Schedule 6 to the Claims and Payments Regulations 2013, the Secretary of State may deduct an amount equal to 5% of the claimant's Universal Credit Standard Allowance and pay the amount deducted to the local authority. Where 5% of the claimant's Universal Credit Standard Allowance results in a fraction of a penny, that fraction is disregarded if it is less than half a penny. If the fraction is equal to, or more than half a penny, it is rounded up to the next penny.

7.15 Regulations 16 and 21 also respectively amend those Regulations to provide that a deduction for arrears of community charges can only be made if one penny will be left in payment after the deduction has been taken, which is the minimum entitlement amount in Universal Credit. This is to ensure the debtor can maintain any eligibility for passported benefits (Schedule 6, paragraph 3(1)(a) of the Claims and Payments Regulations 2013).

7.16 Regulations 17 and 22 respectively amend those Regulations to provide that the debtor must be entitled to Universal Credit throughout the assessment period for a deduction to be made to recover arrears of community charges. It also states that a deduction cannot be made if a deduction is already in place for arrears of community charges.

7.17 No changes are being made to the provisions allowing recovery of arrears of community charges from contributory Employment and Support Allowance and Jobseeker's Allowance, as the necessary powers do not exist. In any event no *new* applications are expected in respect of recovery of arrears of community charges, so cases where such deductions are being made when the Regulations come into force will fall to be dealt with under the existing regime.

Consolidation

7.18 None.

8. Consultation outcome

8.1 Deductions to recover fines (and compensation orders) and arrears of council tax and community charges form part of the overall policy for deductions in Universal Credit and contributory Employment and Support Allowance and Jobseeker's Allowance. Even though these Regulations did not require statutory consideration by the Social Security Advisory Committee, the Committee was advised of these changes when the Claims and Payments Regulations 2013 were formally considered. This is because the rules concerning other deductions that can be made from Universal Credit and contributory Employment and Support Allowance and Jobseeker's Allowance are contained in the Claims and Payments Regulations 2013, some of which also apply to fines (and compensation orders) and arrears of council tax and community charges (e.g. the maximum amounts that can be deducted and the priority order for deductions).

8.2 The Social Security Advisory Committee raised a number of points, which were considered and changes made where appropriate. For example, they noted that a deduction for 'water arrears' was above deductions for fines and arrears of council tax and community charges in the priority order, yet a claimant's water cannot be disconnected for non-payment. A person could however face possible imprisonment for non-payment of fines, council tax or community charges. Schedule 6 to the Claims and Payments Regulations 2013 was therefore amended so that 'water arrears' now comes below the other three debts in the priority order.

8.3 The Social Security Advisory Committee referred the Claims and Payments Regulations 2013 for formal consultation. This consultation included a broad range of organisations and individuals and ran from 15th June 2012 to 31st July 2012. In particular, the Committee examined the coherence of the Regulations and whether there were gaps or unintended consequences that needed to be addressed. Further proposals were presented to SSAC on 3rd August, 7th November and 5th December 2012, which SSAC did not additionally consult on.

8.4 On 23rd August 2012, the Committee delivered its report on the proposals for Regulations to the Secretary of State for Work and Pensions. The report and the Government's response are published on <http://www.dwp.gov.uk/docs/ssac-universal-credit-report.pdf>

8.5 In August 2012, the Work and Pensions Select Committee launched an inquiry into the implementation of Universal Credit. The Secretary of State for Work and Pensions and the Minister for Welfare Reform attended a hearing on 17th September 2012.. The report and the Government's response are published on <http://www.dwp.gov.uk/publications/policy-publications/uc-wpsc-response.shtml>

8.6 More generally, extensive stakeholder engagement has taken place throughout the development of these Regulations. The Department has held workshops with customer representative organisations and Devolved Administrations to outline detail within the draft Regulations and provide the opportunity for them to seek clarification. Although these Regulations were not specifically discussed, they are informed by this wider engagement concerning deductions in Universal Credit.

9. Guidance

9.1 Work is underway on drafting guidance to provide effective support for advisers and decision makers in administering Universal Credit and the new contributory Jobseeker's Allowance and Employment and Support Allowance.

9.2 In October 2012, a series of workshops were held with stakeholders to provide an opportunity for them to inform the development of this guidance. The Department for Work and Pensions will continue with this engagement throughout the development of guidance, and will be sharing drafts of key parts of guidance with them and the Social Security Advisory Committee for their consideration. Comments will be invited to ensure that guidance is clear and easy for advisers to understand and delivers the policy intent for Universal Credit and contributory Jobseeker's Allowance and Employment and Support Allowance.

10. Impact

10.1 There is no significant impact on business, charities or voluntary bodies.

10.2 There are no significant costs to the public sector.

10.3 Impact Assessments have not been separately prepared for these Regulations. However, an assessment has been made of the impact of the introduction of Universal Credit and has been published on the Department for Work and Pensions website at <http://www.dwp.gov.uk/docs/universal-credit-wr2011-ia.pdf>. This also covers information concerning the Department's obligations regarding its Equality Duty.

11. Regulating small business

These Regulations do not apply to small business regulation.

12. Monitoring & review

12.1 The Department is firmly committed to evaluating and monitoring the impact and effects of Universal Credit, which marks a fundamental change to the way in which people engage with the benefit system and access in-work financial support. Universal Credit design, implementation and delivery will span a number of years.

Evaluation plans will therefore reflect both the long timescale and complexity of the reform. This will involve developing a wide-ranging evaluation strategy which will employ a number of different approaches over the lifetime of the policy, including ongoing monitoring, “live running reviews” of implementation and delivery and longer term analysis of the outcomes and impacts for different groups of claimants, from implementation through to 2017 and beyond.¹

12.2 Central to the effective transition to Universal Credit is the pathfinder activity that will run in parts of Greater Manchester and Cheshire from April 2013. The prime focus of the Pathfinder evaluation is to examine implementation and operational delivery issues from the perspectives of staff, claimants and delivery partners. It will specifically examine:

- Service delivery;
- Operational processes;
- Partnership arrangements; and
- Customer experience.

12.3 This evidence will ensure the operational delivery of Universal Credit in the Pathfinder is scrutinised and if required, improvements put in place before Universal Credit is rolled out on a national basis.

12.4 Exploratory work is currently being undertaken into the cost effectiveness of a potential large scale Universal Credit claimant panel study. This could provide detailed longitudinal evidence on samples of the Universal Credit population, providing evidence and insight on attitudinal and behavioural change as well as the impacts of Universal Credit on specific claimant groups.

12.5 An external expert advisory group has been convened to offer advice and technical expertise on aspects of the evaluation strategy. It includes leading international experts in the fields of evaluation, financial capability, economics, experimentation and trialling, amongst other areas.

13. Contact

Jane Autherson at the Department for Work and Pensions can answer any queries regarding the instrument. Tel: 0113 2327755 or email:

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¹ The phased introduction of Universal credit will be complete by the end of 2017.