

## 2013 No. 983 (C. 41)

### SOCIAL SECURITY

#### The Welfare Reform Act 2012 (Commencement No. 9 and Transitional and Transitory Provisions and Commencement No. 8 and Saving and Transitional Provisions (Amendment)) Order 2013

Made - - - -

24th April 2013

The Secretary of State, in exercise of the powers conferred by section 150(3) and (4)(a), (b)(i) and (c) of the Welfare Reform Act 2012(a), makes the following Order:

#### Citation

1. This Order may be cited as the Welfare Reform Act 2012 (Commencement No. 9 and Transitional and Transitory Provisions and Commencement No. 8 and Savings and Transitional Provisions (Amendment)) Order 2013.

*Art. 2 has been amended by the following S.I.'s 2014/1452, 2014/1661, 2014/1923, 2014/3094 and 2014/3067. These amendments are subject to transitional provisions where a claim is made or treated as made, or, awarded, before 28.7.14. Refer to article 3 of the respective S.I.'s for when to apply.*

#### Interpretation

2.—(1) In this Order—

“the Act” means the Welfare Reform Act 2012 (apart from in Schedule 4);

“the 1995 Act” means the Jobseekers Act 1995(b);

“the 2007 Act” means the Welfare Reform Act 2007(c);

“the amending provisions” means the provisions referred to in article 4(1)(a) to (c);

▶“claimant”, in relation to an employment and support allowance or a jobseeker’s allowance, has the same meaning as in Part 1 of the 2007 Act and the 1995 Act (as it applies apart from the amendments made by Part 1 of Schedule 14 to the Act that remove references to an income-based jobseeker’s allowance) respectively and, in relation to universal credit, has the same meaning as in Part 1 of the Act;◀

“appointed day” means the day appointed for the coming into force of the amending provisions in accordance with article 4(3);

“the Claims and Payments Regulations 1987” means the Social Security (Claims and Payments) Regulations 1987(d);

“the Claims and Payments Regulations 2013” means the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013(e);

“contribution-based jobseeker’s allowance” means a contribution-based allowance under the 1995 Act as it has effect apart from the amendments made by Part 1 of Schedule 14 to the Act that remove references to an income-based allowance;

<sup>1</sup>Defn. of “claimant” inserted in art. 2(1) by art. 4(2)(a) of S.I. 2014/1452. (See art. 3 to this S.I. for when to apply).

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- (a) 2012 c. 5.  
(b) 1995 c. 18.  
(c) 2007 c. 5.  
(d) S.I. 1987/1968.  
(e) S.I. 2013/380.

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“contributory employment and support allowance” means a contributory allowance under 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 Act that remove references to an income-related allowance;

<sup>1</sup>Defn. of “conversion decision” inserted in art. 2(1) by art. 4(2)(b) of S.I. 2014/1452. (See art. 3 of that S.I. for when to apply).

▶<sup>1</sup>“conversion decision” has the meaning given by the 2010 Transitional Regulations’ ◀

“the Decisions and Appeals Regulations 2013” means the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013(a);

<sup>2</sup>Defn. of “the Digital Service Regulations 2014” inserted by reg. 7(2)(a) of S.I. 2014/3094 as from 21.11.14.

▶<sup>2</sup>“the Digital Service Regulations 2014” means the Universal Credit (Digital Service) Amendment Regulations 2014; ◀

<sup>3</sup>Defn. of “disability living allowance” and “personal independence payment” inserted in art. 2(1) by art. 4(2)(a) & (b) of S.I. 2015/32. (See art. 3 to this S.I. for when to apply).

▶<sup>3</sup>“disability living allowance” means an allowance under section 71 of the Social Security Contributions and Benefits Act 1992(b); ◀

“employment and support allowance” means an employment and support allowance under Part 1 of the 2007 Act;

<sup>4</sup>Defn. of “existing benefit” omitted by art. 4(2) of S.I. 2014/1923. (See art. 3 of that S.I. for when to apply).

“the ESA Regulations 2008” means the Employment and Support Allowance Regulations 2008(c);

<sup>5</sup>Defns. in art. 2(1) inserted & deleted by art. 4(2)(a)-(i) of S.I. 2014/1452. (See art. 3 of that S.I. for when to apply).

“the ESA Regulations 2013” means the Employment and Support Allowance Regulations 2013(d);

▶<sup>4</sup>◀;

▶<sup>5</sup>“First-tier Tribunal” has the same meaning as in the Social Security Act 1998;

“gateway conditions” means the conditions specified in Schedule 5;

“housing benefit” means housing benefit under section 130 of the Social Security Contributions and Benefits Act 1992(e); ◀

“income-based jobseeker’s allowance” means an income-based jobseeker’s allowance under the 1995 Act;

“income-related employment and support allowance” means an income-related allowance under Part 1 of the 2007 Act;

▶<sup>5</sup>“income support” means income support under section 124 of the Social Security Contributions and Benefits Act 1992; ◀

“jobseeker’s allowance” means an allowance under the 1995 Act;

<sup>6</sup>Words in defn. of “joint claimant” substituted by art. 4(1) of S.I. 2014/1661. (See art. 3 of that S.I. for when to apply).

▶<sup>5</sup>▶<sup>6</sup>“joint claimants”◀, in relation to universal credit, has the same meaning as in Part 1 of the Act; ◀

“the JSA Regulations 1996” means the Jobseeker’s Allowance Regulations 1996(f);

“the JSA Regulations 2013” means the Jobseeker’s Allowance Regulations 2013(g);

▶<sup>5</sup>“new style ESA” means an employment and support allowance under Part 1 of the 2007 Act as amended by the provisions of Schedule 3, and Part 1 of Schedule 14, to the Act that remove references to an income-related allowance and “new style ESA award” shall be construed accordingly;

“new style JSA” means a jobseeker’s allowance under the 1995 Act as amended by the provisions of Part 1 of Schedule 14 to the Act that remove references to an income-based allowance and “new style JSA award” shall be construed accordingly;

“old style ESA” means an employment and support allowance under Part 1 of the 2007 Act as it has effect apart from the amendments made by the Schedule 3, and Part 1 of Schedule 14, to the Act that remove references to an income-related allowance and “old style ESA award” shall be construed accordingly;

▶<sup>3</sup>“personal independence payment” means an allowance under Part 4 of the Act; ◀

(a) S.I. 2013/381.

(b) 1992 c. 4. Section 71 was amended by section 67(1) of the Welfare Reform and Pensions Act 1999 (c. 30).

(c) S.I. 2008/794.

(d) S.I. 2013/379.

(e) 1992 c. 4.

(f) S.I. 1996/207.

(g) S.I. 2013/378.

“old style JSA” means a jobseeker’s allowance under the 1995 Act as it has effect apart from the amendments made by Part 1 of Schedule 14 to the Act that remove references to an income-based jobseeker’s allowance and “old style JSA award” shall be construed accordingly;◀

“relevant districts” means the postcode districts specified in Schedule 1;

▶<sup>1</sup>“single claimant”, in relation to universal credit, has the same meaning as in Part 1 of the Act;

“state pension credit” means state pension credit under the State Pension Credit Act 2002(a);

“tax credit” (including “child tax credit” and “working tax credit”) has the same meaning as in the Tax Credits Act 2002(b);◀

▶<sup>1</sup>◀

“the 2010 Transitional Regulations” means the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit)(Existing Awards) (No. 2) Regulations 2010(c).

▶<sup>1</sup>“the 2014 Transitional Regulations” means the Universal Credit (Transitional Provisions) Regulations 2014(d);

“the Universal Credit Regulations” means the Universal Credit Regulations 2013(e);

“Upper Tribunal” has the same meaning as in the Social Security Act 1998.◀

▶<sup>2</sup>(2) For the purposes of this Order—

(a) the Claims and Payments Regulations 2013 apply for the purpose of deciding—

(i) whether a claim for universal credit is made or is to be treated as made; and

(ii) the date on which such a claim is made; and

(b) where a couple is treated, in accordance with regulation 9(8) of the Claims and Payments Regulations 2013, as making a claim for universal credit, references to the date on which the claim is treated as made are to the date of formation of the couple.◀

*Art. 3 has been amended by the following S.I.'s 2014/1452 & 2014/1923. These amendments are subject to transitional provisions where a claim is made or treated as made, or, awarded, before 28.7.14. Refer to article 3 of the respective S.I.'s for when to apply.*

<sup>1</sup>Defns. in art. 2(1) inserted & deleted by art. 4(2)(a)-(i) of S.I. 2014/1452. (See art. 3 of this S.I. for when to apply).

<sup>2</sup>Art. 3(2) substituted by art. 4(3) of S.I. 2014/1452. (See art. 3 to this S.I. for when to apply).

### Day appointed for commencement of the universal credit provisions in Part 1 of the Act

3.—(1) 29th April 2013 is the day appointed for the coming into force of—

(a) sections 29 (delegation and contracting out), 37(1), (2), (8) and (9) (capability for work or work-related activity), 38 (information) and 39(1), (2), (3)(b) and (c) (couples) of the Act;

(b) the following paragraphs of Schedule 2 to the Act (universal credit: amendments) and section 31 of the Act (supplementary and consequential amendments) in so far as it relates to those paragraphs, in so far as they are not already in force—

(i) paragraphs 1, 2, 32 to 35, 37 to 42, 52 to 55 and 65;

(ii) paragraphs 4, 8, 10 to 23, 25 and 27 to 31 and paragraph 3 in so far as it relates to those paragraphs; and

(a) 2002 c. 16.

(b) 2002 c. 21.

(c) S.I. 2010/1907.

(d) S.I. 2014/1230.

(e) S.I. 2013/376.

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- (iii) paragraphs 44, 45, 47, 49, 50(2) and 50(1) in so far as it relates to 50(2), and paragraph 43 in so far as it relates to those paragraphs and sub-paragraphs; and
- (c) paragraph 1 of Schedule 5 to the Act (universal credit and other working-age benefits) and section 35 of the Act in so far as it relates to that paragraph.

(2) The day appointed for the coming into force of the provisions of the Act listed in Schedule 2, in so far as they are not already in force, in relation to the case of a claim referred to in paragraph (3)(a) to (d) and any award that is made in respect of such a claim, and in relation to the case of an award referred to in paragraph (3)(e) or (f), is the day appointed in accordance with paragraph (4).

<sup>1</sup>Art. 3(3) substituted by art 5(1)(a) of S.I. 2014/1452. (See art. 3 of that S.I. for when to apply).

<sup>2</sup>Art's. 3(3)(b) & (d) substituted by art. 4(3) & (4) of S.I. 2014/1923. (See art. 3 of that S.I. for when to apply).

- ▶<sup>1</sup>(3) The claims and awards referred to are–
  - (a) a claim for universal credit where, on the date on which the claim is made, the claimant resides in one of the relevant districts and meets the gateway conditions(a);
  - ▶<sup>2</sup>(b) a claim for universal credit where–
    - (i) in the case of a single claimant, the claimant gives incorrect information regarding the claimant residing in a relevant district or meeting the gateway conditions and the claimant does not reside in such a district or does not meet the gateway conditions on the date on which the claim is made;
    - (ii) in the case of joint claimants, either or both of the joint claimants gives or give incorrect information regarding his or her (or their) residing in such a district or meeting the gateway conditions and one or both of them does not or do not reside in such a district or does not or do not meet those conditions on the date on which the claim is made; and
    - (iii) after a decision is made that the single claimant is, or the joint claimants are, entitled to universal credit and one or more payments have been made in respect of the single claimant or the joint claimants, the Secretary of State discovers that incorrect information has been given regarding residence or meeting the gateway conditions.◀
  - (c) a claim for universal credit that is treated as made by a couple in the circumstances referred to in regulation 9(8) of the Claims and Payments Regulations 2013 (claims for universal credit by members of a couple) where the claim complies with paragraph (7);
  - ▶<sup>2</sup>(d) a claim for universal credit by a former member of a couple who were joint claimants of universal credit, whether or not the claim is made jointly with another person, where the former member is not exempt from the requirement to make a claim by virtue of regulation 9(6) of the Claims and Payments Regulations 2013 (claims for universal credit by members of a couple), where the claim is made during the period of one month starting with the date on which notification is given to the Secretary of State that the former joint claimants have ceased to be a couple, and where the claim complies with paragraph (8);◀
  - (e) an award of universal credit that is made without a claim in the circumstances referred to in regulation 6(1) or (2) of the Claims and Payments Regulations 2013 (claims not required for entitlement to universal credit in some cases) where the circumstances referred to in paragraph (9) apply; and
  - (f) an award of universal credit that is made without a claim in the circumstances referred to in regulation 9(6), (7) or (10) of the Claims and Payments Regulations 2013 (claims for universal credit by members of a couple) where the circumstances referred to in paragraph (9) apply.◀

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(a) A definition of “gateway conditions” is inserted into article 2(1) of the No. 9 Order by article 4 of this Order.

(4) The day appointed in relation to the cases of the claims and awards referred to in paragraph (2) is—

- (a) in the case of a claim referred to in paragraph (3)(a) to (d), the first day of the period in respect of which the claim is made or treated as made;
- (b) in the case of an award referred to in paragraph (3)(e) or (f), the first day on which a person is entitled to universal credit under that award.

(5) ►<sup>1</sup>◄

(6) For the purposes of paragraph (4)(a), where the time for making a claim for universal credit is extended under regulation 26(2) of the Claims and Payments Regulations 2013, the reference to the first day of the period in respect of which the claim is made or treated as made is a reference to the first day of the period in respect of which the claim is, by reason of the operation of that provision, timeously made or treated as made.

►<sup>2</sup>(7) A claim that is treated as made by a couple in the circumstances referred to in regulation 9(8) of the Claims and Payments Regulations 2013 complies with this paragraph where, on the date on which the claim is treated as made, the member of the couple who did not previously have an award of universal credit ►<sup>3</sup>◄ is not entitled to state pension credit.

(8) A claim by a former member of a couple that is made in the circumstances referred to in paragraph (3)(d) complies with this paragraph where, on the date on which the claim is made, ►<sup>3</sup>neither the former member nor his or her partner (if any) is entitled to state pension credit◄—

- (a) state pension credit;
- (b) old style JSA;
- (c) old style ESA; or
- (d) income support.

(9) The circumstances referred to are where the relevant person is not entitled to state pension credit and, save where an award of universal credit is made in the circumstances referred to in regulation 9(7) of the Claims and Payments Regulations 2013, his or her partner (if any) is not entitled to ►<sup>3</sup>state pension credit◄.

(10) For the purposes of paragraph (9), “relevant person” means—

- (a) where an award of universal credit is made in the circumstances referred to in regulation 6(1) or (2) of the Claims and Payments Regulations 2013, the former claimant referred to in that regulation 6(1);
- (b) where an award of universal credit is made in the circumstances referred to in paragraph (6) of regulation 9 of the Claims and Payments Regulations 2013 ►<sup>3</sup>as that paragraph has effect apart from the amendments made by the Digital Service Regulations 2014,◄ the member of the former claimant referred to in that paragraph;
- <sup>3</sup>(ba) where an award of universal credit is made in the circumstances referred to in paragraph (6) of regulation 9 of the Claims and Payments Regulations 2013, as that paragraph has effect as amended by the Digital Service Regulations 2014, the former joint claimant of universal credit to whom a new award of universal credit is made as referred to in sub-paragraph (a) or (b) of that paragraph;◄
- (c) where an award of universal credit is made in the circumstances referred to in paragraph (7) of regulation 9 of the Claims and Payments Regulations 2013, each of the joint claimants referred to in that paragraph;
- (d) where an award of universal credit is made in the circumstances referred to in paragraph (10) of regulation 9 of the Claims and Payments Regulations 2013, the surviving partner referred to in that paragraph.

►<sup>3</sup>(10A) In paragraph (3)—

- (a) in sub-paragraph (c), the reference to regulation 9(8) of the Claims and Payments Regulations 2013 is a reference to that provision both as it has

<sup>1</sup>Art. 3(5) omitted by art. 5(1)(b) of S.I. 2014/1452. (See art. 3 of that S.I. for when to apply).

<sup>2</sup>Art. 3(7)-(11) inserted by art. 5(1)(c) of S.I. 2014/1452. (See art. 3 of that S.I. for when to apply).

<sup>3</sup>Words in art. 3(7), (8), (9), (10), (10)(ba) & (10A) omitted, substituted & inserted by reg. 7(2)(b)(i)-(iv) of S.I. 2014/3094. See art. 4 of that S.I. for when to apply.



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effect as amended by the Digital Service Regulations 2014 and as it has effect apart from that amendment;

- (b) in sub-paragraph (d), the reference to regulation 9(6) of the Claims and Payments Regulations 2013 is a reference to that provision as it has effect apart from the amendment made by the Digital Service Regulations 2014 and as it has effect apart from that amendment;
- (c) in sub-paragraph (f), the reference to regulation 9(6) of the Claims and Payments Regulations 2013 is a reference to that provision both as it has effect as amended by the Digital Service Regulations 2014 and as it has effect apart from that amendment;◀

(11) For the purposes of paragraphs (8) and (9), “partner” means a person who forms part of a couple with the person in question, where “couple” has the same meaning as it has in section 39 of the Act.◀

*Art. 3A has been amended by the following S.I.'s 2014/1452, 2014/1661, 2014/1923 & 2015/634. These amendments are subject to transitional provisions where a claim is made or treated as made, or, awarded, before 28.7.14. Refer to article 3 of the respective S.I.'s for when to apply.*

<sup>1</sup>Art. 3A substituted by art. 4(4) of S.I. 2014/1923. (See art. 3 of that S.I for when to apply).

►<sup>1</sup>**Incorrect information regarding residence in a relevant district or meeting the gateway conditions**

**3A.**—(1) This article applies where a claim for universal credit is made and it is subsequently discovered that the single claimant or either or both of two joint claimants gave incorrect information regarding his or her (or their) residing in one of the relevant districts or meeting the gateway conditions and the conditions referred to in paragraph (2) are met.

(2) The conditions referred to are that, on the date on which the claim was made, the claimant—

- (a) did not reside in one of the relevant districts (unless paragraph (3) applies); or
- (b) did reside in one of the relevant districts but did not meet the gateway conditions.

(3) This paragraph applies where the claimant resided in an area apart from the relevant districts with respect to which the provisions of the Act referred to in Schedule 2 were in force in relation to a claim for universal credit and the conditions (if any) that applied to such a claim, for those provisions to come into force, were met.

(4) Where the discovery is made before the claim for universal credit has been decided—

- (a) the claimant is to be informed that the claimant is not entitled to claim universal credit;
- (b) if the claimant (or, in the case of joint claimants, either of them) makes a claim for old style ESA, old style JSA or income support (“the specified benefit”) and the date on which that claim is made (as determined in accordance with the Claims and Payments Regulations 1987) 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 specified benefit is to be treated as made on the date on which the claim for universal credit was made or the first date on which the claimant would have been entitled to the specified benefit if a claim had been made for it on that date, if later; and
  - (ii) any provision of the Claims and Payments Regulations 1987 under which the claim for the specified benefit is treated as made on a later date does not apply;

- (c) if the claimant (or, in the case of joint claimants, either of them) makes a claim for housing benefit and the date of that claim (as determined in accordance with the Housing Benefit Regulations 2006(a) or, as the case may be, the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(b) (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 or the first date on which the claimant would have been entitled to housing benefit if a claim had been made for it on that date, if later; 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 (or, in the case of joint claimants, either of them) 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(a) (“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 for a tax credit is to be treated as having been received by a relevant authority at an appropriate office on the date on which the claim for universal credit was made or the first date on which the claimant would have been entitled to a tax credit if a claim had been so received on that date, if later; 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.
- (5) 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 article;
  - (b) the claimant is to be informed that they are not entitled to claim universal credit; and
  - (c) sub-paragraphs (b) to (d) of paragraph (4) apply.
- (6) 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 in respect of the claimant, the decision is to be treated as a decision under section 8 of the Social Security Act 1998(b).

(7) For the purposes of paragraph (4), a person makes a claim for old style ESA or old style JSA where he or she makes a claim for an employment and support allowance or a jobseeker’s allowance and the claim is subject to Part 1 of the 2007 Act or the 1995 Act respectively as those provisions have effect apart from the amendments made by the amending provisions.◀

*Art. 4 has been amended by the following S.I.’s 2014/1452 & 2014/1923. These amendments are subject to transitional provisions where a claim is made or treated as made, or, awarded, before 28.7.14. Refer to article 3 of the respective S.I.’s for when to apply.*

**Day appointed for the abolition of income-related employment and support allowance and income-based jobseeker’s allowance.**

- ▶<sup>1</sup>4.—(1) The day appointed for the coming into force of—
- (a) section 33(1)(a) and (b) and (2) of the Act (abolition of benefits);

<sup>1</sup>Art. 4 substituted by art. 6 of S.I. 2014/1452. (See art. 3 to this S.I. for when to apply).

(a) S.I. 2002/2014.

(b) In the case, the provisions of the Act listed in Schedule 2 to the No. 9 Order come into force by virtue of article 3(2) and (3)(b) of the No. 9 Order. Article 3(3)(b) is substituted by article 4(3) of this Order.

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- (b) paragraphs 22 to 26 of Schedule 3 to the Act (abolition of benefits: consequential provisions) and section 33(3) of the Act in so far as it relates to those paragraphs; and
- (c) the repeals in Part 1 of Schedule 14 to the Act (abolition of benefits superseded by universal credit) that are referred to in Schedule 3,

in relation to the case of a claim referred to in paragraph (2)(a) to (d) and (g) and any award that is made in respect of such a claim, and in relation to the case of an award referred to in paragraph (2)(e) and (f), is the day appointed in accordance with paragraph (3).

(2) The claims and awards referred to are—

- (a) a claim for universal credit, an employment and support allowance or a jobseeker's allowance where, on the date on which the claim is made, ►<sup>1</sup>or treated as made◄ the claimant—
  - (i) resides in one of the relevant districts; and
  - (ii) meets the gateway conditions;
- <sup>1</sup>(b) a claim for universal credit where—
  - (i) in the case of a single claimant, the claimant gives incorrect information regarding the claimant residing in a relevant district or meeting the gateway conditions and does not reside in such a district or does not meet the gateway conditions on the date on which the claim is made;
  - (ii) in the case of joint claimants, either or both of the joint claimants gives or give incorrect information regarding his or her (or their) residing in such a district or meeting those conditions and one or both of them does not or do not reside in such a district or does not or do not meet those conditions on the date on which the claim is made; and
  - (iii) after a decision is made that the single claimant is, or the joint claimants are, entitled to universal credit and one or more payments have been made in respect of the single claimant or the joint claimants, the Secretary of State discovers that incorrect information has been given regarding residence or meeting the gateway conditions;◄
- (c) a claim for universal credit that is treated as made by a couple in the circumstances referred to in regulation 9(8) of the Claims and Payments Regulations 2013 (claims for universal credit by members of a couple) where the claim complies with article 3(7) ►<sup>2</sup>◄;
- <sup>1</sup>(d) a claim for universal credit by a former member of a couple who were joint claimants of universal credit, whether or not the claim is made jointly with another person, where the former member is not exempt from the requirement to make a claim by virtue of regulation 9(6) of the Claims and Payments Regulations 2013 (claims for universal credit by members of a couple), where the claim is made during the period of one month starting with the date on which notification is given to the Secretary of State that the former joint claimants have ceased to be a couple, and where the claim complies with article 3(8);◄
- (e) an award of universal credit that is made without a claim in the circumstances referred to in regulation 6(1) or (2) of the Claims and Payments Regulations 2013 (claims not required for entitlement to universal credit in some cases) where the circumstances referred to in article 3(9) apply;
- (f) an award of universal credit that is made without a claim in the circumstances referred to in regulation 9(6), (7) or (10) the Claims and Payments Regulations 2013 (claims for universal credit by members of a couple) where the circumstances referred to in article 3(9) apply; and
- (g) a claim for an employment and support allowance or a jobseeker's allowance ►<sup>1</sup>other than one referred to in sub-paragraph (a) that is made or treated as made◄—

<sup>1</sup>Words inserted in art. 4(2)(a) & art. 4(2)(b) & (d) & words in (g) substituted by art. 4(5)(a)-(d) of S.I. 2014/1923. (See art. 3 of that S.I. for when to apply).

<sup>2</sup>Words in art. 4(2)(c) omitted by reg. 7(2)(c) of S.I. 2014/3094. See art. 4 of that S.I. for when to apply.



- (i) during the relevant period by a single claimant of universal credit or, in the case of joint claimants of universal credit, by either of the joint claimants, where the single claimant has made or the joint claimants have made, or been treated as having made, a claim for universal credit within sub-paragraphs (a) to (d);
- (ii) during the relevant period by a single claimant of universal credit or, in the case of a joint claimants of universal credit, by either of the joint claimants, where the single claimant has been awarded, or the joint claimants have been awarded, universal credit without a claim within sub-paragraph (e) or (f);
- (iii) by a person who is entitled to make a claim for universal credit in the circumstances referred to in sub-paragraph (d) but has not yet done so; or
- (iv) by a person who may be entitled to an award of universal credit in the circumstances referred to in sub-paragraph (e) or (f) but where no decision has yet been made as to the person's entitlement.

(3) Subject to paragraph (4), the day appointed in relation to the cases referred to in paragraph (2) is—

- (a) in the case of a claim referred to in paragraph (2)(a) to (d) and (g), the first day of the period in respect of which the claim is made or (in the case of a claim for universal credit) treated as made;
- (b) in the case of an award referred to in paragraph (2)(e) or (f), the first day on which a claimant is entitled to universal credit under that award.

(4) In relation to the case of a claim referred to in paragraph (2)(c) (claim for universal credit treated as made by a couple), where the member of the couple referred to in regulation 9(8)(b) of the Claims and Payments Regulations 2013 (“new claimant partner”) was entitled during the prior period to an old style ESA award or the old style JSA award, the new claimant partner was at that time a member of a couple and the award included an amount in respect of the new claimant partner and his or her partner (“P”), the day appointed in relation to that case is the day after the day on which the new claimant partner and P ceased to be a couple for the purposes of the ESA Regulations 2008 or the JSA Regulations 1996 as the case may be.

(5) For the purposes of paragraph (4), the “prior period” means the period beginning with the first day of the period for which the claim for universal credit is treated as made and ending with the day before the day on which the claim for universal credit is treated as made.

(6) In paragraph (1), the reference to the case of a claim for universal credit referred to in paragraph (2)(a) to (d) (and any award made in respect of the claim), or of an award of universal credit referred to in paragraph (2)(e) and (f), includes a reference to—

- (a) a case where a notice under regulation 4 of the 2010 Transitional Regulations (the notice commencing the conversion phase in relation to an award of incapacity benefit or severe disablement allowance) is issued to a single claimant or in the case of joint claimants, either of those claimants, during the designated period;
- (b) where sub-paragraph (a) does not apply, a case where a conversion decision is made during that period in relation to an award of incapacity benefit or severe disablement allowance to which a single claimant or in the case of joint claimants, either of those claimants, is entitled; and
- (c) where sub-paragraphs (a) and (b) do not apply, a case where the effective date of a conversion decision in relation to such an award occurs during that period (where “effective date” has the same meaning as in the 2010 Transitional Regulations),

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and any award of an employment and support allowance that is made consequent on a conversion decision that relates to the notice referred to in sub-paragraph (a), the conversion decision referred to in sub-paragraph (b) or the conversion decision referred to in sub-paragraph (c), as the case may be.

(7) For the purposes of paragraph (6), the designated period means—

- (a) in relation to a claim for universal credit referred to in paragraph (2)(a), (b)(i) ►<sup>1</sup>, (ii)◄ or (d), any period when a decision has not yet been made on the claim.
- (b) in relation to a claim for universal credit that is treated as made as referred to in paragraph (2)(c), any period when no decision has yet been made as to the joint claimants' entitlement;
- (c) any period, subsequent to the period referred to in sub-paragraph (a) or (b), when the single claimant or joint claimants is or are entitled to an award of universal credit in respect of the claim; and
- (d) in relation to an award of universal credit referred to in paragraph (2)(e) or (f), any period when the single claimant or joint claimants to whom the award was made is or are entitled to that award.◄

<sup>1</sup>Words inserted in art. 4(7)(a) by art. 4(5)(e) of S.I. 2014/1923. (See art. 3 of that S.I. for when to apply).

*Art. 4(8) kept in force for certain situations. See art 4 to S.I. 2014/3094 for when to apply.*

<sup>2</sup>Art. 4(8) inserted & art. 5(2) omitted by reg. 7(2)(c)(ii) & (d) of S.I. 2014/3094. See art. 4 of that S.I. for when to apply.

►<sup>2</sup>(8) In paragraph (2)–

- (a) in sub-paragraph (c), the reference to regulation 9(8) of the Claims and Payments Regulations 2013 is a reference to that provision both as it has effect as amended by the Digital Service Regulations 2014 and as it has effect apart from that amendment;
- (b) in sub-paragraph (d), the reference to regulation 9(6) of the Claims and Payments Regulation 2013 is a reference to that provision as it has effect apart from the amendments made by the Digital Service Regulations 2014;
- (c) in sub-paragraph (f), the reference to regulation 9(6) of the Claims and Payments Regulations 2013 is a reference to that provision both as it has effect as amended by the Digital Service Regulations 2014 and as it has effect apart from that amendment.◄

<sup>3</sup>Art. 4(8) & (9) inserted by art. 4(3) of S.I. 2015/32 as from 26.1.15. (See art. 3 to this S.I. for when to apply).

<sup>4</sup>Art. 4(8) renumbered as Art. 4(9), art. 4(9) renumbered as art. 4(10), words substituted in paras. (9) & (10) by art. 7(2)(a)(i)-(iv) of S.I. 2015/32.

►<sup>3</sup>►<sup>4</sup>(9)◄ For the purposes of paragraph (1), the reference to the case of a claim for universal credit referred to in paragraph (2)(a) to (d) (and any award made in respect of the claim), or of an award of universal credit without a claim referred to in paragraph (2)(e) and (f), includes a reference to an old style ESA award or an old style JSA award that exists (or, as a result of an act as referred to in ►<sup>4</sup>paragraph (10)◄, is later found to have existed at that time) immediately before the day appointed (as referred to in paragraph (3) or (4) in relation to that claim or award without a claim.

►<sup>4</sup>(10)◄ For the purposes of ►<sup>4</sup>paragraph (9)◄, the acts referred to are—

- (a) the revision of a decision that the claimant was not entitled to old style ESA or old style JSA; or
- (b) an appeal to the First-tier Tribunal, the Upper Tribunal or a court against such a decision◄

*Art. 5 has been amended by the following S.I.'s 2014/1452, 2014/1923, 2014/3067 and 2014/3094. These amendments are subject to transitional provisions where a claim is made or treated as made, or, awarded, before 28.7.14. Refer to article 3 of the respective S.I.'s for when to apply.*

Provisions that apply in connection with the abolition of income-related employment and support allowance and income-based jobseeker's allowance under article 4.

►<sup>15</sup>.—►<sup>2</sup>(1) In determining, for the purposes of article 4(2)(a), whether a claim for an employment and support allowance or a jobseeker's allowance meets the gateway conditions, Schedule 5 is to be read as though—

- (a) any reference in the Schedule to making a claim for universal credit included a reference to making a claim for an employment and support allowance or a jobseeker's allowance as the case may be; and
- (b) the reference in paragraph 4 of the Schedule to a single claimant, or to joint claimants, or universal credit was construed as a reference to a person who would be a single claimant of universal credit or to persons who would be joint claimants of universal credit, if the claimant of an employment and support allowance or a jobseeker's allowance had made a claim for universal credit.◀

(2) ►<sup>3</sup>◀.

(3) For the purposes of article 4(2)(g), "relevant period" means—

- (a) in relation to a claim for universal credit within article 4(2)(a) to (d), any UC claim period, and any period subsequent to any UC claim period in respect of which the single claimant or the joint claimants is or are entitled to an award of universal credit in respect of the claim;
- (b) in relation to an award of universal credit within article 4(2)(e) or (f), any period when the single claimant or the joint claimants to whom the award was made is or are entitled to the award.

(4) For the purposes of paragraph (3)(a), a "UC claim period" is a period when—

- (a) a claim for universal credit within article 4(2)(a), (b)(i) ►<sup>4</sup>, (ii)◀ or (d) has been made but a decision has not yet been made on the claim;
- (b) a claim for universal credit within article 4(2)(c) has been treated as made and no decision has yet been made as to the joint claimants' entitlement; or
- (c) a decision has been made that a single claimant or joint claimants is or are not entitled to universal credit and—
  - (i) the Secretary of State is considering whether to revise that decision under section 9 of the Social Security Act 1998, whether on an application made for that purpose, or on the Secretary of State's own initiative; or
  - (ii) the single claimant or the joint claimants has or have appealed against that decision to the First-tier Tribunal and that appeal or any subsequent appeal to the Upper Tribunal or to a court has not been finally determined.

(5) Subject to paragraph (6), for the purposes of article 4(2)(a) and (g), the Claims and Payments Regulations 1987 apply for the purpose of deciding—

- (a) whether a claim for an employment and support allowance or a jobseeker's allowance is made; and
- (b) the date on which the claim is made or is to be treated as made.

(6) For the purposes of article 4(2)(g)—

- (a) a person makes a claim for an employment and support allowance or a jobseeker's allowance if they take any action which results in a decision on a claim being required under the Claims and Payments Regulations 1987; and
- (b) except as provided in paragraph (7), it is irrelevant that the effect of any provision of the Claims and Payments Regulations 1987 is that, for the purposes of those Regulations, the claim is not made or treated as made during the relevant period or at a time referred to in article 4(2)(g)(iii) or (iv).

<sup>1</sup>Art. 5 substituted by art. 7(1) of S.I. 2014/1452.

(See art. 3 of that S.I. for when to apply).

<sup>2</sup>Art. 5(1) substituted by art. 4(6)(a) of S.I. 2014/1923. (See art. 3 of that S.I. for when to apply).

<sup>3</sup>Art. 5(2) omitted by reg. 7(2)(c)(ii) & (d) of S.I. 2014/3094. See art. 4 of that S.I. for when to apply.

<sup>4</sup>Words inserted in art. 5(4)(a) by art. 4(6)(b) of S.I. 2014/1923. (See art. 3 of that S.I. for when to apply).

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(7) The following provisions of the Claims and Payments Regulations 1987 apply for the purpose of deciding whether or not a claim for an employment and support allowance or a jobseeker's allowance is made or is to be treated as made during the relevant period or at a time referred to in article 4(2)(g)(iii) or (iv)–

- (a) ►<sup>1</sup>in the case of a claim for an employment and support allowance,◀ regulation 6(1F)(b) or (c); and
- (b) ►<sup>1</sup>in the case of a claim for a jobseeker's allowance,◀ regulation 6(4ZA) to (4ZD) and (4A)(a)(i) and (b).

(8) For the purposes of article 4(3)(a)–

- (a) in the case of a claim for universal credit, where the time for making a claim is extended under regulation 26(2) of the Claims and Payments Regulations 2013 (time within which a claim for universal credit is to be made), the reference to the first day of the period in respect of which the claim is made is a reference to the first day of the period in respect of which the claim is, by reason of the operation of that provision, timeously made;
- (b) in the case of a claim for an employment and support allowance or a jobseeker's allowance, where the time for making a claim is extended under regulation 19 of, and Schedule 4 to, the Claims and Payments Regulations 1987(a), the reference to the first day of the period in respect of which the claim is made is a reference to the first day of the period in respect of which the claim is, by reason of the operation of those provisions, timeously made.◀

<sup>1</sup>Words inserted in art. 7(a) & (b) by art. 4(6)(c) of S.I. 2014/1923. (See art. 3 of that S.I. for when to apply).

<sup>2</sup>Art. 5A inserted by art. 8 of S.I. 2014/1452 as from 16.6.14.

►<sup>2</sup>**Transitional provision where the Secretary of State determines that claims for universal credit may not be made: effect on claims for employment and support allowance and jobseeker's allowance**

**5A.**—(1) Where a person makes a claim for an employment and support allowance or a jobseeker's allowance a time when they would not be able to make a claim for universal credit by virtue of a determination under regulation 4(1) of the 2014 Transitional Regulations (claims for universal credit may not be made in an area or category of case), then–

- (a) in relation to a claim for an employment and support allowance, Part 1 of the 2007 Act and the Welfare Reform Act 2009(**b**) are to apply as though the amending provisions and the provisions referred to in article 7(1)(c), (d) and (f) had not come into force in relation to the claim;
- (b) in relation to a claim for a jobseeker's allowance, the 1995 Act, the Social Security Administration Act 1992(**c**) and the Social Security Act 1998(**d**) are to apply as though the amending provisions and the provisions referred to in article 7(1)(a), (b) and (e) had not come into force in relation to the claim.

(2) Para graph (1) does not apply in relation to the claim for an employment and support allowance or a jobseeker's allowance that falls within article 4(2)(g) (claims for an employment and support allowance or a jobseeker's allowance during specified periods with respect to a claim for universal credit, or an award of universal credit without a claim), or an analogous provision in any other order that brings into force the amending provisions.

(a) Regulation 19 was substituted by S.I. 1997/793 and relevant amendments to regulation 19 were made by 1997/2290, 1999/2572 and 3108, 2000/1982 and 2978, 2002/428 and 1397 and 2006/2377. Relevant amendments to Schedule 4 were made by S.I. 1996/1460 and 2008/1554.

(b) 2009 c. 24.

(c) 1992 c. 5.

(d) 1998 c. 14.

*Art. 5A(3) has been amended by the following S.I. 2015/634. These amendments are subject to transitional provisions where a claim is made or treated as made, or, awarded, before 18.3.15. Refer to article 8 of this S.I. for when to apply.*

(3) For the purposes of this article, paragraphs (5) to (7) of article 5 apply for the purpose of deciding—

- (a) whether a claim for an employment and support allowance or a jobseeker's allowance is made; and
- (b) the date on which the claim is made or is to be treated as made. ◀

▶<sup>1</sup>(3) For the purposes of this article, paragraphs (5) to (7) of article 5(a) apply for the purpose of determining—

- (a) whether a claim for ESA or JSA is made; and
- (b) the date on which the claim is made or treated as made. ◀

<sup>1</sup>Art. 5A(3) substituted by art. 8(5) of S.I. 2015/634. See reg. 3 of that S.I. for when to apply.

*Art. 6 has been amended by the following S.I. 2014/1452. These amendments are subject to transitional provisions where a claim is made or treated as made, or, awarded, before 28.7.14. Refer to article 3 of the respective S.I.'s for when to apply.*

Transitional provision: where the abolition of income-related employment and support allowance and income-based jobseeker's allowance is treated as not applying

6.—(1) Paragraph (2) applies where—

- (a) a person has or had a new style ESA award or a new style JSA award ("the award") ▶<sup>2</sup>by virtue of the coming into force of the amending provisions under any secondary legislation ◀;
- (b) in respect of all or part of the period to which the award relates, the person—
  - (i) makes a claim, or is treated as making a claim, for universal credit; or
  - (ii) makes an application to the Secretary of State for supersession of the decision to make the award, on the basis of a relevant change of circumstances that would relate to the grounds for entitlement to an income-related employment and support allowance or an income-based jobseeker's allowance if the amending provisions had not come into force ▶<sup>2</sup>◀;
- (c) if the amending provisions had not come into force ▶<sup>2</sup>◀; and, in the case of a claim for universal credit, an application for supersession of the decision to make the award had been made, the person would be entitled to an income-related employment and support allowance or an income-based jobseeker's allowance, as the case may be, with respect to the period for which the claim for universal credit or application for supersession is made; or an income-based jobseeker's allowance, as the case may be, with respect to the period for which the claim for universal credit or application for supersession is made;
- (d) where the person makes an application for supersession of the decision to make the award, the period in respect of which the application is made does not include any period in respect of which the person has been awarded universal credit ▶<sup>3</sup>and ◀;
- ▶<sup>3</sup>(e)(i) on the date on which the claim for universal credit is made, or the application for supersession is received, as the case may be, the claim does not, or, in the case of an application for supersession, a claim for universal credit by the person would not, fall within any case (including a

<sup>2</sup>Words in art. 6(1)(a) inserted, deleted in 6(1)(b)(ii), (c) substituted by art. 9(2)(a)-(d) of S.I. 2014/1452. (See art. 3 to this S.I. for when to apply).

<sup>3</sup>Words in sub-paras. (e) & (f) substituted by art. 9(2)(a)-(d) of S.I. 2014/1452. See art. 3 to this S.I. for when to apply.

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(a) Paragraphs (5) to (7) were substituted by S.I. 2015/32, (c. 3).



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case with respect to which an award of universal credit may be made without a claim) in relation to which the provisions of the Act referred to in Schedule 2 are in force ("the UC commencement case"); or

- (ii) on that date, the claim for universal credit does, or, in the case of an application for supersession, a claim for universal credit by the person would, fall within the UC commencement case, but the claim does or would fall within a case (including a case that relates in whole or in part to residence in an area) that is the subject of a determination made by the Secretary of State under regulation 4(1) of the 2014 Transitional Regulations (determination that claims for universal credit may not be made).◀

*Art. 6(1)(e) & (f) kept in force for certain situations. See art. 3 to S.I. 2014/1452 for when to apply.*

- (e) where the person makes a claim, or is treated as making a claim, for universal credit, the claim does not fall within a case referred to in article 4(2)(b), (c) or (d); and
- (f) on the day on which the claim for universal credit is made or treated as made, or the application for supersession is received, as the case may be, the person—
- (i) does not reside in one of the relevant districts; or
- (ii) does not fall within the Pathfinder Group.

(2) Where this paragraph applies, then, in relation to the award and with effect from the first day of the period in respect of which the claim is made or treated as made, or the application for supersession is made, the 1995 Act or Part 1 of the 2007 Act, as the case may be, is to apply as though the amending provisions had not come into force ▶<sup>1</sup>◀.

(3) For the purposes of paragraph (1)▶<sup>1</sup>◀—

- (a) the Claims and Payments Regulations 2013 apply for the purpose of deciding—
- (i) whether a claim for universal credit is made or is to be treated as made; and
- (ii) the day on which the claim is made or is to be treated as made; ▶<sup>1</sup>◀
- (b) in determining whether a person falls within the Pathfinder Group, the requirements of regulations 5 to 12 of the Transitional Regulations are to be read as though any reference to making a claim for universal credit included a reference to making an application for supersession of a decision to make an award of an employment and support allowance or of a jobseeker's allowance, as the case may be.

(4) For the purposes of paragraph (2), the reference to the period in respect of which the application for supersession is made is a reference to the period beginning with the day from which the superseding decision takes effect in accordance with section 10(5) of the Social Security Act 1998(a) and regulation 35 of, and Schedule 1 to, the Decisions and Appeals Regulations 2013 (effectives dates: Secretary of State decisions).

(5) For the purposes of paragraph (2), the reference to the first day of the period in respect of which the claim for universal credit is made or treated as made, in a case where the time for making a claim for universal credit is extended under regulation 26(2) of the Claims and Payments Regulations 2013, is a reference to the first day of the period in respect of which the claim is, by reason of the operation of that provision, timeously made or treated as made.

▶<sup>2</sup>(6) For the purposes of this article, "secondary legislation" means an instrument made under an Act.◀

<sup>1</sup>Words in art. 6(2) & (3) deleted by art. 9(2)(a)-(d) of S.I. 2014/1452. See art. 3 to this S.I. for when to apply.

<sup>2</sup>Art. 6(6) inserted by art. 9(2)(e) of S.I. 2014/1452. See art. 3 to this S.I. for when to apply.

Day appointed for commencement of provisions relating to claimant responsibilities with respect to employment and support allowance and jobseeker's allowance, and transitional provisions

- 7.—(1) The day appointed for the coming into force of—
- (a) section 44(2) of the Act and section 44(1) of the Act in so far as it relates to section 44(2) (claimant commitment for jobseeker's allowance);
  - (b) section 49(2) and (3) to (5) of the Act (and section 49(1) of the Act in so far as it relates to those provisions) (claimant responsibilities for jobseeker's allowance);
  - (c) section 54(2) of the Act (and section 54(1) of the Act in so far as it relates to that provision) (claimant commitment for employment and support allowance);
  - (d) section 57(2), (4), (5) and (9) of the Act (and section 57(1) of the Act in so far as it relates to those provisions) (claimant responsibilities for employment and support allowance);
  - (e) the repeals in Part 4 of Schedule 14 to the Act (jobseeker's allowance: responsibilities after introduction of universal credit); and
  - (f) the repeals in Part 5 of Schedule 14 to the Act (employment and support allowance: responsibilities after introduction of universal credit),

in so far as they are not already in force, is, in relation to a particular case, the day on which the amending provisions come into force, under any secondary legislation, in relation to that case.

►<sup>1</sup>(2) Where, under any secondary legislation, in relation to a new style JSA award, the 1995 Act applies as though the amending provisions had not come into force, then, with effect from the day on which the 1995 Act so applies, the 1995 Act, the Social Security Administration Act 1992(a) and the Social Security Act 1998(b) are to apply in relation to the award as though the provisions referred to in paragraph (1)(a), (b) and (e) had not come into force.

(3) Where, under any secondary legislation, in relation to a new style ESA award, Part 1 of the 2007 Act applies as though the amending provisions had not come into force, then, with effect from the day on which Part 1 of the 2007 Act so applies, Part 1 of the 2007 Act and the Welfare Reform Act 2009(c) are to apply in relation to the award as though the provisions referred to in paragraph (1)(c), (d) and (f) had not come into force.◀

*Art. 7(2) & (3) are kept in force for certain situations, See art. 6(1) & (2) of S.I. 2013/1511 for when to apply.*

(2) Where, under any secondary legislation, in relation to a new style JSA award, the 1995 Act applies as though the amending provisions had not come into force, the 1995 Act is to apply in relation to that award as though the provisions referred to in paragraph (1)(a), (b) and (e) had not come into force.

(3) Where, under any secondary legislation, in relation to a new style ESA award, Part 1 of the 2007 Act applies as though the amending provisions had not come into force, that Part is to apply in relation that award as though the provisions referred to in paragraph (1)(c), (d) and (f) had not come into force.

(4) For the purposes of paragraphs (1) to (3), “secondary legislation” means an instrument made under an Act.

►<sup>2</sup>(5) For the purposes of article 4(2)(a) and (g), the Claims and Payments Regulation 1987 apply, subject to paragraphs (6) and (7), for the purposes of deciding—

- (a) whether a claim for an employment and support allowance or a jobseeker's allowance is made; and

<sup>1</sup>Arts. 7(2) & (3) substituted by arts. 6(3) & (4) of S.I. 2013/1511, see art. 5 to this S.I. for when to apply.

<sup>2</sup>Arts. 5(5) to (7) substituted by art. 4(4) of S.I. 2015/32 as from 26.1.15. (See art. 3 to this S.I. for when to apply).

(a) 1992 c. 5.  
(b) 1998 c. 14.  
(c) 2009 c. 24.

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(b) the date on which the claim is made or treated as made.

(6) Subject to paragraph (7)–

- (a) a person makes a claim for an employment and support allowance or a jobseeker’s allowance if he or she takes any action which results in a decision on a claim being required under the Claims and Payments Regulations 1987; and
- (b) it is irrelevant that the effect of any provision of the Claims and Payments Regulations 1987 is that, for the purposes of those regulations, the claim is made or treated as made at a date that is earlier than the date on which that action is taken.

(7) Where, by virtue of–

- (a) regulation (6)(1F)(b) or (c) of the Claims and Payments Regulations 1987, in the case of a claim for an employment and support allowance; or
- (b) regulation 6(4ZA) to 4ZD) and (4A)(a)(i) and (b) of those regulations, in the case of a claim for a jobseeker’s allowance,

a claim for an employment and support allowance or a jobseeker’s allowance is treated as made at a date that is earlier than the date on which the action referred to in paragraph (6)(a) is taken, the claim is treated as made on that earlier date

**Day appointed for commencement of provisions concerning consideration of revision before appeal**

8. 29th April 2013 is the day appointed for the coming into force of paragraphs 1 to 11 and 15 to 18 of Schedule 11 to the Act (power to require consideration of revision before appeal) and section 102(6) of the Act in so far as it relates to those paragraphs, to the extent that those provisions are not already in force.

**Transitional provision: conversion of incapacity benefits**

9.—(1) Subject to paragraph (2), where the amending provisions come into force under article 4(1) in relation to the case of a claim referred to in article 4(2)(a) to (d) ►<sup>1</sup>or (g)◄ and any award made in respect of the claim, or the case of an award referred to in article 4(2)(e) or (f)(a), the 2010 Transitional Regulations are to apply in relation to that case as if the modifications set out in Schedule 4 were made.

(2) Where article 6(2) applies in relation to a new style ESA award (such that the award continues as an old style ESA award), the 2010 Transitional Regulations are to apply in relation to the award, in its continuation as an old style ESA award, as if those modifications had not been made.

*Art. 10 has been amended by the following S.I. 2014/3067. These amendments are subject to transitional provisions where a claim is made or treated as made, or awarded, before 17.11.14. Refer to art. 3 of the respective S.I. for when to apply.*

►<sup>2</sup>**Transition from old style ESA**◄

►<sup>2</sup>10.—(1) This article applies where a person–

- (a) makes, or is treated as making, a claim for an employment and support allowance and, under article 4, Part 1 of the 2007 Act, as amended by the provisions of Schedule 3, and Part 1 of the Schedule 14, to the Act that remove references to an income-related allowance, applies in relation to the claim; or

(a) See article 4(4); the reference in article 4(1) to an award of universal credit includes a reference to a claim or notice referred to in article 4(4) and any award made in respect of the claim or in respect of the award of incapacity benefit or severe disablement allowance to which the notice relates.

<sup>1</sup>Words inserted in art. 9(1) by art. 10 of S.I. 2014/1452. See art. 3 to this S.I. for when to apply.

<sup>2</sup>Words in title and art. 10(1) substituted by arts. 8(2)(a) & (b) of S.I. 2013/1511. See art. 8(1) to this S.I. for when to apply.

- (b) (i) has an old style ESA award immediately before the appointed day in relation to a case of a claim for universal credit referred to in article 4(2)(a) to (d) (and any award made in respect of the claim), or an award of universal credit referred to in article 4(2)(e) or (f); and
- (ii) the old stye ESA award consists of or includes a contributory employment and support allowance (which allowance therefore continues as a new style ESA award),

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COMMENCEMENT NO. 8 AND SAVINGS AND TRANSITIONAL  
PROVISIONS (AMENDMENT)) ORDER 2013**



and, in the case of sub-paragraph (a), the condition referred to in paragraph (1A) is satisfied.

(1A) The condition is that—

- (a) the person previously made, or was treated as having made, a claim for an employment and support allowance and Part 1 of the 2007 Act, as it has effect apart from the provisions of Schedule 3, and Part 1 of Schedule 14, to the Act that remove references to an income-related allowance, applied in relation to the claim;
- (b) a notice was issued to the person under regulation 4 of the 2010 Transitional Regulations and Part 1 of the 2007 Act, as that Part has effect apart from the provisions of Schedule 3, and Part 1 of Schedule 14, to the Act that remove references to an income-related allowance, applied in relation to the notice; or
- (c) the person previously had a new style ESA award and article 6(2) applied in relation to the award (which award therefore continued as an old style ESA award). ◀

*Art. 10(1) and title kept in force for certain situations, See art. 8(1) & (2) of S.I. 2013/1511 for when to apply.*

Limited capability for work or work-related activity: transition from old style ESA

10.—(1) This article applies where—

- (a) a person is entitled to a new style ESA award and they were previously entitled to an old style ESA award that was not in existence immediately before the first day on which the person in question is entitled to the new style ESA award; or
- (b) (i) the amending provisions have come into force under article 4(1) in relation to the case of a claim for universal credit referred to in article 4(2)(b) to (d) (and any award that is made in respect of the claim) or an award of universal credit referred to in article 4(2)(e) or (f); and  
(ii) the person in question had an old style ESA award immediately before the appointed day, which consisted of or included a contributory employment and support allowance (which allowance therefore continues as a new style ESA award).

(2) Where this article applies, the ESA Regulations 2013 are to be read as if—

- (a) (i) in the definitions of “period of limited capability for work” in regulations 2 (interpretation) and 3 (further interpretation), the reference to a period throughout which a person has, or is treated as having, limited capability for work included a reference to a period throughout which the person in question had, or was treated as having, limited capability for work under the ESA Regulations 2008; and  
(ii) the reference, in the definition in regulation 2, to regulation 28 of the Claims and Payments Regulations 2013 (time within which a claim for employment and support allowance is to be made) included a reference to regulation 19 of, and Schedule 4 to, the Claims and Payments Regulations 1987 (prescribed times for claiming benefit);
- (b) in regulation 6 (the assessment phase-previous claimants)—
  - (i) any reference to an employment and support allowance included a reference to an old style ESA award; and
  - (ii) in paragraph (2)(b)(v) and (c)(iii), the reference to regulation 26 (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made) included a reference to regulation 30 of the ESA Regulations 2008 (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made)(a);

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(a) Regulation 30 was amended by S.I. 2010/840 and 2011/674.

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<sup>1</sup>Words in art. 10 omitted by reg. 9(2) of S.I. 2017/204 as from 3.4.17.

- (c) in regulation 7 (circumstances where the condition that the assessment phase has ended before entitlement to the support component ►<sup>1</sup>◄ arises does not apply)–

*Art. 10(2)(c) is reproduced below as it remains in force for certain cases. See Sch. 2, para. 1 of S.I. 2017/204 for details.*

- (c) in regulation 7 (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work-related activity component arises does not apply)–
- (i) any reference to an employment and support allowance included a reference to an old style ESA award; and
- (ii) in paragraph (3)(b)(iv), (c)(iii), (c)(iv) and (d)(iii), the reference to regulation 26 included a reference to regulation 30 of the ESA Regulations 2008;
- (d) in regulation 11 (condition relating to youth-previous claimants), any reference to an employment and support allowance included a reference to an old style ESA award;
- (e) in regulation 15 (determination of limited capability for work)–
- (i) the reference in paragraph (7)(a) to a claimant having been determined to have limited capability for work included a reference to such a determination made under Part 5 of the ESA Regulations 2008; and
- (ii) the reference in paragraph (7)(b) to a person being treated as having limited capability for work included a reference to a person being so treated under regulation 20 (certain claimants to be treated as having limited capability for work)(a), 25 (hospital patients)(b), 26 (claimants receiving certain regular treatment)(c) or 29 (exceptional circumstances)(d) of the ESA Regulations 2008;
- (f) in regulation 26 (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made)–
- (i) in paragraph (2)(b), the reference to regulation 18 (failure to provide information in relation to limited capability for work) and 19 (claimant may be called for a medical examination to determine whether the claimant has limited capability for work) included a reference to regulation 22 (failure to provide information in relation to limited capability for work)(e) and 23 (claimant may be called for a medical examination to determine whether the claimant has limited capability for work) of the ESA Regulations 2008; and
- (ii) in paragraph (4)(c), the reference to regulation 18 included a reference to regulation 22 of the ESA Regulations 2008;
- (g) in regulation 30(4) (determination of limited capability for work-related activity), the reference to a determination about whether a claimant has, or is to be treated as having or not having, limited capability for work-related activity included such a determination that was made under Part 6 of the ESA Regulations 2008; ►<sup>2</sup>◄
- <sup>2</sup>(ga) in regulation 39(6) (exempt work), the reference to an employment and support allowance included a reference to an old style ESA award;
- (gb) in regulation 85(2)(a) (waiting days), where a claimant was entitled to an old style ESA award with effect from the first day of a period of limited capability for work by virtue of regulation 144(2)(a) of the ESA Regulations 2008(f) and, with effect from the second or third day of that period, that award continued as a new style ESA award in the circumstances referred to in paragraph (1)(b) of this article, the reference to an employment and support allowance included a reference to the old style ESA award; ◄

<sup>2</sup>Words in art. 10(2)(g) omitted, paras. (2)(ga) & (gb) inserted by arts. 8(2)(c) and (d) of S.I. 2013/1511 as from 1.7.13.

(a) Regulation 20 was amended by S.I. 2011/228, 2011/2425 and 2012/3096.

(b) Regulation 25 was substituted by S.I. 2012/3096.

(c) Regulation 26 was amended by S.I. 2008/2428 and 2012/3096.

(d) Regulation 29 was amended by S.I. 2012/3096.

(e) Regulation 22 was amended by S.I. 2011/2425.

(f) S.I. 2008/794. Regulation 144(2) was amended by 2008/2848, 2010/1907 and 2012/913.

- (h) in regulation 87(1) (claimants appealing a decision), the reference to a determination that the claimant does not have limited capability for work under the ESA Regulations 2013 included a reference to such a determination under the ESA Regulations 2008.
- ▶<sup>1</sup>(i) in regulation 89 (short absence), where—
  - (i) a claimant had an old style ESA award in the circumstances referred to in paragraph (1)(b) of this article;
  - (ii) a temporary absence from Great Britain commenced when regulation 152 of the ESA Regulations 2008 applied to the claimant; and
  - (iii) the first 4 weeks of the temporary absence had not ended immediately before the first day of entitlement to the new style ESA award.

<sup>1</sup>Art. 10(2)(i)-(l) added by arts. 8(2)(d) of S.I. 2013/1511 as from 1.7.13.

the initial words of regulation 89 included a reference to the claimant being entitled to the new style ESA award during the remainder of the first 4 weeks of the temporary absence that commenced when regulation 152 of the ESA Regulations 2008 applied to the claimant;

- (j) in regulation 90 (absence to receive medical treatment), where—
  - (i) a claimant had an old style ESA award in the circumstances referred to in paragraph (1)(b) of this article;
  - (ii) a temporary absence from Great Britain commenced when regulation 153 of the ESA Regulations 2008(a) applied to the claimant; and
  - (iii) the first 26 weeks of the temporary absence had not ended immediately before the first day of entitlement to the new style ESA award,

the initial words of paragraph (1) of regulation 90 included a reference to the claimant being entitled to the new style ESA award during the remainder of the first 26 weeks of the temporary absence that commenced when regulation 153 of the ESA Regulations 2008 applied to the claimant;

- (k) in regulation 93 (disqualification for misconduct etc—
  - (i) in paragraph (3), for “Paragraph (2) does” there were substituted “Paragraphs (2) and (5) do”; and
  - (ii) after paragraph (4) there were inserted—
    - “(5) Subject to paragraph (3), a claimant is to be disqualified for receiving an employment and support allowance for any period determined by the Secretary of State under regulation 157(2) of the Employment and Support Allowance Regulations 2008(b) less any days during that period on which those Regulations applied to the claimant.
    - (6) Where paragraph (5) applies to a claimant, paragraph (2) is not to apply to that claimant with respect to any matter referred to in paragraph (1) that formed the basis for the claimant’s disqualification under regulation 157(2) of the Employment and Support Allowance Regulations 2008.”;
- (l) in regulation 95 (treating a claimant as not having limited capability for work), the existing words became paragraph (1) and—
  - (i) at the beginning of paragraph (1), there were inserted “Subject to paragraph (2).”; and
  - (ii) after paragraph (1), there were inserted—
    - “(2) A claimant is to be treated as not having limited capability for work if—
      - (a) under Part 1 of the Act as it has effect apart from the amendments made by Schedule 3, and Part 1 of Schedule 14, to the Welfare Reform Act 2012 that remove references to an income-related allowance (“the former law”), the claimant was disqualified for receiving a contributory employment and support allowance during a period of imprisonment or detention in legal custody;

(a) Regulation 153 was amended by S.I. 2009/2655.

(b) Regulation 157 was amended by S.I. 2010/1160.

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- (b) Part 1 of the Act as amended by the provisions of Schedule 3, and Part 1 of Schedule 14, to the Welfare Reform Act 2012 that remove references to an income-related allowance (“the current law”) applied to the claimant with effect from a day that occurred during the period of imprisonment or detention in legal custody referred to in sub-paragraph (a) and during the period of six weeks with effect from the day on which the claimant was first disqualified as referred to in sub-paragraph (a); and
- (c) the total of–
  - (i) the period for which the claimant was disqualified for receiving a contributory employment and support allowance during the period of imprisonment or detention in legal custody when the former law applied to the claimant; and
  - (ii) the period for which the claimant was disqualified for receiving an employment and support allowance during the period of imprisonment or detention in legal custody when the current law applied to the claimant,

amounts to more than six weeks.◀

<sup>1</sup>Art. 10(3) inserted by art. 8(2)(e) of S.I. 2013/1511 as from 1.7.13.

►<sup>1</sup>(3) Subject to paragraph (4), where this article applies, the 2007 Act is to be read as though–

- (a) the reference to an employment and support allowance in section 1A(1) and (4) to (6);
- (b) the first reference to an employment and support allowance in section 1A(3); and
- (c) the first reference to an employment and support allowance in section 1B(a),

included a reference to a contributory employment and support allowance.

(4) Where this article applies and the 2010 Transitional Regulations(b) apply to a person, paragraph (3)(c) becomes paragraph (3)(b) and, for paragraph (3)(a) and (b), there is substituted–

“(a) in section 1A as substituted by the 2010 Transitional Regulations–

- (i) the reference to an employment and support allowance in section 1A(1), (4) and (5); and
- (ii) the first reference to an employment and support allowance in section 1A(3); and”.

(5) Where this article applies and a claimant–

- (a) had an old style ESA award in the circumstances referred to in paragraph (1)(b); and
- (b) the old style ESA award had not been preceded by a new style ESA award in the circumstances referred to in paragraph (1A)(c),

the 2007 Act is to be read as if, in section 24(2), the beginning of the assessment phase (subject to section 24(3)) was the first day of the period for which the claimant was entitled to the old style ESA award.◀

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(a) Section 1B was inserted by section 52(1) of the Act and amended by paragraph 26 of Schedule 3, and Part 1 of Schedule 14, to the Act. These amendments (which form part of the “amending provisions”) are commenced for certain cases by article 4 of the No. 9 Order and article 4 of this Order.

(b) Section 1A is substituted for the purposes of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (S.I. 2010/1907) (referred to in the No. 9 Order as “the 2010 Transitional Regulations”) by paragraph 2A of Schedule 2 to those Regulations and further modified by article 7 of this Order.

*Art. 11 has been amended by the following S.I. 2014/3067. These amendments are subject to transitional provisions where a claim is made or treated as made, or, awarded, before 17.11.14. Refer to art. 3 of the respective S.I. for when to apply.*

►<sup>1</sup>Transition from new style ESA◀

►<sup>1</sup>11.—(1) This article applies where a person—

- (a) makes, or is treated as making, a claim for an employment and support allowance and Part 1 of the 2007 Act, as it has effect apart from the provisions of Schedule 3, and Part 1 of Schedule 14, to the Act that remove references to an income-related allowance, applies in relation to the claim; or
  - (b) has a new style ESA award and article 6(2) applies in relation to the award (which award therefore continues as an old style ESA award),
- and, in the case of sub-paragraph (a), the condition referred to in paragraph (1A) is satisfied.

(1A) The condition is that—

- (a) the person previously made, or was treated as having made, a claim for an employment and support allowance and, under article 4, Part 1 of the 2007 Act, as amended by the provisions of Schedule 3, and Part 1 of Schedule 14, to the Act that remove references to an income-related allowance, applied in relation to the claim;
- (b) a notice was issued to the person under regulation 4 of the 2010 Transitional Regulations and, under article 4, Part 1 of the 2007, Act as amended by the provisions of Schedule 3, Part 1 of Schedule 14, to the Act that remove references to an income-related allowance, applied in relation to the notice; or
- (c) the person previously—
  - (i) had an old style ESA award immediately before the appointed day in relation to a case of a claim for universal credit referred to in article 4(2)(a) to (d) (and any award made in respect of the claim), or an award of universal credit referred to in article 4(2)(e) or (f); and
  - (ii) the old style ESA award consisted of or included a contributory employment and support allowance (which allowance therefore continued as a new style ESA award).◀

*Art. 11(1) and title kept in force for certain situations. See art. 9(1) of S.I. 2013/1511 for when to apply.*

Limited capability for work or work-related activity: transition from new style ESA

11.—(1) This article applies where—

- (a) a person is entitled to an old style ESA award and they were previously entitled to a new style ESA award that was not in existence immediately before the first day on which the person in question is entitled to the old style ESA award; or
- (b) article 6(2) applies in relation to a new style ESA award (such that it continues as an old style ESA award).

(2) Where this article applies, the ESA Regulations 2008 are to be read as if—

- (a) (i) in the definitions of “period of limited capability for work” in regulation 2(1) and (5) (interpretation)(a), the reference to a period throughout which a person has, or is treated as having, limited capability for work included a reference to a period throughout which the person in question had, or was treated as having, limited capability for work under the ESA Regulations 2013; and
- (ii) the reference, in the definition in regulation 2(1), to regulation 19 of the Claims and Payments Regulations 1987 (time for claiming benefit)

(a) The definition in regulation 2(1) was amended, and the definition in regulation 2(5) inserted, by S.I. 2010/840.

<sup>1</sup>Art. 11(1) and title substituted by arts. 9(2)(a) & (b) of S.I. 2013/1511 as from 1.7.13.



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included a reference to regulation 28 of the Claims and Payments Regulations 2013 (time within which a claim for an employment and support allowance is to be made);

- (b) in regulation 5 (the assessment phase-previous claimants)(a)–
  - (i) any reference to an employment and support allowance included a reference to a new style ESA award; and
  - (ii) in paragraph (2)(b)(v) and (c)(iii), the reference to regulation 30 (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made) included a reference to regulation 26 of the ESA Regulations 2013 (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made);
- (c) in regulation 7 (circumstances where the condition that the assessment phase has ended before entitlement to the support component <sup>1</sup> arises does not apply)(b)–

<sup>1</sup>Words in art. 11 omitted by reg. 9(3) of S.I. 2017/204 as from 3.4.17.

*Art. 11(2)(c) is reproduced below as it remains in force for certain cases. See Sch. 2, para. 1 of S.I. 2017/204 for details.*

- (c) in regulation 7 (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work-related activity component arises does not apply)(b)–
  - (i) any reference to an employment and support allowance included a reference to a new style ESA award; and
  - (ii) in paragraph (1B)(b)(iv), (c)(iii), (c)(iv) and (d)(iii), the reference to regulation 30 included a reference to regulation 26 of the ESA Regulations 2013;
- (d) in regulation 10 (condition relating to youth - previous claimants), any reference to an employment and support allowance included a reference to a new style ESA award;
- (e) in regulation 19 (determination of limited capability for work)(c)–
  - (i) the reference in paragraph (7)(a) to a claimant having been determined to have limited capability for work included a reference to such a determination made under Part 4 of the ESA Regulations 2013; and
  - (ii) the reference in paragraph (7)(b) to a person being treated as having limited capability for work included a reference to a person being so treated under regulation 16 (certain claimants to be treated as having limited capability for work), 21 (hospital patients), 22 (claimants receiving certain treatment) or 25 (exceptional circumstances) of the ESA Regulations 2013;
- (f) in regulation 30 (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made)–
  - (i) in the initial words of paragraph (2)(b), the reference to regulation 22 (failure to provide information in relation to limited capability for work) and 23 (claimant may be called for a medical examination to determine whether the claimant has limited capability for work) included a reference to regulation 18 (failure to provide information in relation to limited capability for work) and 19 (claimant may be called for a medical examination to determine whether the claimant has limited capability for work) of the ESA Regulations 2013; and
  - (ii) in paragraph (2)(b)(iii), the reference to regulation 22 included a reference to regulation 18 of the ESA Regulations 2013;
- (g) in regulation 34(4) (determination of limited capability for work-related activity), the reference to a determination about whether a claimant has, or is to be treated as having or not having, limited capability for work-related

(a) Regulation 5 was amended by S.I. 2010/840 and 2012/913.

(b) Regulation 7 was amended by S.I. 2008/3051, 2010/840, 2012/874 and 2012/913.

(c) Regulation 19 was amended by S.I. 2012/3096.

activity included such a determination that was made under Part 5 of the ESA Regulations 2013; ►<sup>1</sup>◄

- <sup>1</sup>(ga) in regulation 45(10) (exempt work), the reference to an employment and support allowance included a reference to a new style ESA award;
- (gb) in regulation 144(2)(a) (waiting days), where the claimant was entitled to a new style ESA award with effect from the first day of a period of limited capability for work by virtue of regulation 85(2)(a) of the ESA Regulations 2013 and, with effect from the second or third day of that period, that award continued as an old style ESA award in the circumstances referred to in paragraph (1)(c) of this article, the reference to an employment and support allowance included a reference to the new style ESA award. ◄
- (h) in regulation 147A(1) (claimants appealing a decision)(a), the reference to a determination that the claimant does not have limited capability for work included a reference to such a determination under the ESA Regulations 2013.
- <sup>2</sup>(i) in regulation 152 (short absence), where—
- (i) a claimant had a new style ESA award in the circumstances referred to in paragraph (1)(b) of this article;
- (ii) a temporary absence from Great Britain commenced when regulation 89 of the ESA Regulations 2013 applied to the claimant; and
- (iii) the first 4 weeks of the temporary absence had not ended immediately before the first day of entitlement to the old style ESA award,
- the initial words of regulation 152 included a reference to the claimant being entitled to the old style ESA award during the remainder of the first 4 weeks of the temporary absence that commenced when regulation 89 of the ESA Regulation 2013 applied to the claimant;
- (j) in regulation 153 (absence to receive medical treatment)—
- (i) a claimant had a new style ESA award in the circumstances referred to in paragraph (1)(b) of this article;
- (ii) a temporary absence from Great Britain commenced when regulation 90 of the ESA Regulations 2013 applied to the claimant; and
- (iii) the first 26 weeks of the temporary absence had not ended immediately before the first day of entitlement to the old style ESA award,
- the initial words of paragraph (1) of regulation 153 included a reference to the claimant being entitled to the old style ESA award during the remainder of the first 26 weeks of the temporary absence that commenced when regulation 90 of the ESA Regulations 2013 applied to the claimant;
- (k) in regulation 157 (disqualification for misconduct etc)—
- (i) in paragraph (3), for “Paragraph (2) does” there were substituted “Paragraphs (2) and (4) do”; and
- (ii) after paragraph (3) there were inserted—
- “(4) Subject to paragraph (3), a claimant is to be disqualified for receiving an employment and support allowance for any period determined by the Secretary to State under regulation 93(2) of the Employment and Support Allowance Regulations 2013 less any days during that period on which those Regulations applied to the claimant.
- (5) Where paragraph (4) applies to a claimant, paragraph (2) is not to apply to that claimant with respect to any matter referred to in paragraph (1) that formed the basis for the claimant’s disqualification under regulation 93(2) of the Employment and Support Allowance Regulations 2013.”; ►<sup>3</sup>◄
- (l) in regulation 159 (treating a claimant as not having limited capability for work), the existing words became paragraph (1) and—

<sup>1</sup>Word omitted in art. 11(2)(g) & paras. (2)(ga) & (gb) inserted by art. 9(2)(c) of S.I. 2013/1511, see art. 9(1) to this S.I. for when to apply.

<sup>2</sup>Arts. 2(i)-(l) inserted by arts. 9(2)(d) of S.I. 2013/1511, see art. 9(1) to this S.I. for when to apply.

<sup>3</sup>Word in art. 11(2)(k) omitted by art. 11(2) of S.I. 2014/1452. See art. 11(1) to this S.I. for when to apply.

(a) Regulation 147A was inserted by S.I. 2010/840.

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- (i) at the beginning of paragraph (1), there were inserted “Subject to paragraph (2),”; and
  - (ii) after paragraph (1), there were inserted–
- “(2) A claimant is to be treated as not having limited capability for work if–
- (a) under Part 1 of the Act as amended by the provisions of Schedule 3, and Part 1 of Schedule 14, to the Welfare Reform Act 2012 that remove references to an income-related allowance (“the former law”), the claimant was disqualified for receiving an employment and support allowance during a period of imprisonment or detention in legal custody;
  - (b) Part 1 of the Act as it has effect apart from the amendments made by Schedule 3, and Part 1 of Schedule 14, to the Welfare Reform Act 2012 that remove references to an income-related allowance (“the current law”) applied to the claimant with effect from a day that occurred during the period of imprisonment or detention in legal custody referred to in sub-paragraph (a) and during the period of six weeks with effect from the day on which the claimant was first disqualified as referred to in sub-paragraph (a); and
  - (c) the total of–
    - (i) the period for which the claimant was disqualified for receiving an employment and support allowance during the period of imprisonment or detention in legal custody when the former law applied to the claimant; and
    - (ii) the period for which the claimant was disqualified for receiving a contributory employment and support allowance during the period of imprisonment or detention in legal custody when the current law applied to the claimant.

<sup>1</sup>Art. 11(2)(m) inserted by art. (11)(2) of S.I. 2014/1452. See art. 11(1) to this S.I. for when to apply.

<sup>2</sup>Arts. (3)-(5) inserted by arts. 9(2)(e) of S.I. 2013/1511, see art. 9(1) to this S.I. for when to apply.

amounts to more than six weeks.◀▶<sup>1</sup>and

- (m) in Schedule 6 (housing costs), in paragraphs 8(1) and 9(1), each reference to an employment and support allowance included a reference to new style ESA.◀
- ▶<sup>2</sup>(3) Subject to paragraph (4), where this article applies, the 2007 Act is to be read as though–
  - (a) the reference to a contributory allowance in section (1A)(1) and (4) to (6);
  - (b) the first reference to a contributory allowance in section (1A)(3); and
  - (c) the first reference to a contributory allowance in section 1B, included a reference to a new style ESA award.
- (4) Where this article applies and the 2010 Transitional Regulations(a) apply to a person, paragraph (3)(c) becomes paragraph (3)(b) and, for paragraph (3)(a) and (b), there is substituted–
  - “(a) in section 1A as substituted by the 2010 Transitional Regulations–
    - (i) the reference to a contributory allowance in section 1A(1), (4) and (5); and
    - (ii) the first reference to a contributory allowance in section 1A(3); and”.
- (5) Where this article applies and a claimant–
  - (a) had a new style ESA award in the circumstances referred to in paragraph (1)(b); and

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(a) Section 1A is substituted for the purposes of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (S.I. 2010/1907) (referred to in the No. 9 Order as “the 2010 Transitional Regulations”) by paragraph 2A of Schedule 2 to those Regulations.

(b) the new style ESA award had not been preceded by an old style ESA award in the circumstances referred to in paragraph (1A)(c), Section 24(2) of the 2007 Act is to be read as if the beginning of the assessment phase (subject to section 24(3)) was the first day of the period for which the claimant was entitled to the new style ESA award.◀

*Art. 12 has been amended by the following S.I. 2014/3067. These amendments are subject to transitional provisions where a claim is made or treated as made, or, awarded, before 17.11.14. Refer to art. 3 of the respective S.I. for when to apply.*

►<sup>1</sup>Transition from old style JSA

12.—(1) This article applies where a person—

- (a) makes, or is treated as making, a claim for a jobseeker's allowance and, under article 4, the 1995 Act, as amended by the provisions of Part 1 of Schedule 14 to the Act that remove references to an income-based jobseeker's allowance, applies in relation to the claim; or
- (b) (i) has an old style JSA award (whether or not the award was made to the person as a member of a joint-claim couple) immediately before the appointed day in relation to a case of a claim for universal credit referred to in article 4(2)(a) to (d) (and any award made in respect of the claim), or an award of universal credit referred to in article 4(2)(e) or (f); and  
(ii) the old style JSA award consists of or includes a contribution-based jobseeker's allowance (which allowance therefore continues as a new style JSA award).

and, in the case of sub-paragraph (a), the condition referred to in paragraph (2) is satisfied.

(2) The condition is that the person previously—

- (a) made, or was treated as having made, a claim for a jobseeker's allowance (whether or not as a member of a joint-claim couple) and the 1995 Act, as it has effect apart from the provisions of Part 1 of Schedule 14 to the Act that remove references to an income-based jobseeker's allowance, applied in relation to the claim; or
- (b) had a new style JSA award and article 6(2) applied in relation to the award (which award therefore continued as an old style JSA award).

(3) Where this article applies, the JSA Regulations 2013 are to be read as if—

- (a) in regulation 15(3)(b) (victims of domestic violence), the reference to regulation 15 applying to the claimant included a reference to the claimant having been treated as being available for employment under regulation 14A(2) or (6) of the JSA Regulations 1996(a);
- (b) in regulation 36(1) (waiting days), where a person was entitled to an old style JSA award with effect from the first day of a jobseeking period by virtue of regulation 46(1)(a) of the JSA Regulations 1996(b) and, with effect from the second or third day of that period, that award continued as a new style JSA award in the circumstances referred to in paragraph (1)(b) of this article, the reference to a jobseeker's allowance included a reference to the old style JSA award;
- (c) in regulation 37 (jobseeking period)—
  - (i) the jobseeking period in relation to a claimant included any period that, under regulation 47 of the JSA Regulations 1996 (jobseeking period) (c), forms part of the jobseeking period for the purposes of the 1995 Act; and

<sup>1</sup>Art. 12 substituted by art. 10(2) of S.I. 2013/1511, see arts. 10(1) for when to apply.

(a) Regulation 14A was inserted by S.I. 2012/853 and amended by S.I. 2012/1479.

(b) Regulation 46 was amended by S.I. 1998/71, 2000/1978, 2003/511 and 2008/1554.

(c) Regulation 47 was amended by S.I. 1996/1517, 1996/2538, 1999/714, 1999/2226, 2001/518, 2001/1711, 2010/424, 2010/1160 and 2012/2568.

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- (ii) in paragraph (3), the reference to a day that is to be treated as a day in respect of which the claimant was entitled to a jobseeker's allowance included a reference to any day that, under regulation 47(4) of the JSA Regulations 1996, is to be treated as a day in respect of which the claimant was entitled to a contribution-based jobseeker's allowance.
- (d) in regulation 41 (persons temporarily absent from Great Britain), where a person had an old style JSA award in the circumstances referred to in paragraph (1)(b) of this article, the reference in paragraph (2)(b), (3)(a) and (c), (5)(a) and (6)(b) to entitlement to a jobseeker's allowance included a reference to the old style JSA award; and
- (e) in regulation 46 (short periods of sickness), after paragraph (5) there were inserted—
- “(6) Where—
- (a) a person has been treated under regulation 55(1) of the Jobseeker's Allowance Regulations 1996(a) as capable of work or as not having limited capability for work for a certain period; and
- (b) these Regulations apply to that person with effect from a day (“the relevant day”) within that period,
- the person is to be treated for the part of that period that begins with the relevant day as capable of work or as not having limited capability for work.
- (7) Where paragraph (6) applies to a person and the conditions in paragraph (1)(a) to (c) are fulfilled in relation to that person on any day within the part of a period referred to in paragraph (6), the requirement of paragraph (1) to treat the person as capable of work or as not having limited capability for work is to be regarded as satisfied with respect to the fulfilment of those conditions on that day.
- (8) For the purposes of paragraph (3), where paragraph (6) applies to a person, paragraph (3) is to apply to the person as though the preceding provisions of this regulation had applied to the person with respect to the person having been treated for a period, under regulation 55(1) of the Jobseeker's Allowance Regulations 1996 and paragraph (6), as capable of work or as not having limited capability for work.”.

(4) Where this article applies, the 1995 Act is to be read as though, in section 5 of the 1995 Act(b), the reference to a jobseeker's allowance in subsection (1) and the first reference to a jobseeker's allowance in subsection (2) included a reference to a contribution-based jobseeker's allowance.

(5) For the purposes of this article, “joint-claim couple” has the meaning given in section 1(4) of the 1995 Act.”◀

*Arts.12 is kept in force for certain situations, See arts. 10(1) of S.I. 2013/1511 for when to apply.*

Continuity of jobseeking period in the case of transition from old style JSA

12.—(1) Paragraph (2) applies where—

- (a) a person is entitled to a new style JSA award and they were previously entitled to an old style JSA award that was not in existence immediately before the first day on which the person in question is entitled to the new style JSA award; or

(a) Regulation 55 was amended by S.I. 1996/1517, 1999/2860, 2004/1869, 2008/1554, 2010/1907, 2011/674 and 2012/2568.

(b) Section 5 was amended by Part 1 of Schedule 14 of the Act; and the amendment (which forms part of the “amending provisions”) is commenced for certain cases by article 4 of the No. 9 Order and article 4 of this Order.



- (b) (i) the amending provisions have come into force under article 4(1) in relation to the case of a claim for universal credit referred to in article 4(2)(b) to (d) (and any award that is made in respect of the claim) or an award of universal credit referred to in article 4(2)(e) or (f); and
  - (ii) the person in question had an old style JSA award immediately before the appointed day, which consisted of or included a contribution-based jobseeker's allowance (which allowance therefore continues in existence as a new style JSA award).
- (2) Where this paragraph applies, regulation 37 of the JSA Regulations 2013 (jobseeking period) is to be read as if—
- (a) any reference in the regulation to the jobseeking period in relation to a claimant included a reference to any period that, under regulation 47 of the JSA Regulations 1996 (jobseeking period)(a), forms part of such a jobseeking period; and
  - (b) in paragraph (3) of the regulation, the reference to a day that is to be treated as a day in respect of which the claimant was entitled to a jobseeker's allowance included a reference to any day that, under regulation 47(4) of the JSA Regulations 1996, is to be treated as a day in respect of which the claimant was entitled to a contribution-based jobseeker's allowance.

*Art. 13 has been amended by the following S.I. 2014/3067. These amendments are subject to transitional provisions where a claim is made or treated as made, or, awarded, before 17.11.14. Refer to art. 3 of the respective S.I. for when to apply.*

►<sup>1</sup>Transition for new style JSA

13.—(1) This article applies when a person—

- (a) makes, or is treated as making, a claim for a jobseeker's allowance, (whether or not as a member of a joint-claim couple) and the 1995 Act, as it has effect apart from the provisions of Part 1 of Schedule 14 to the Act that remove references to an income-based jobseeker's allowance, applies in relation to the claim; or
- (b) has a new style JSA award and article 6(2) applies in relation to the award such that it continues as an old style JSA award,

and, in the case of sub-paragraph (a), the condition referred to in paragraph (2) is satisfied.

(2) The condition is that the person previously—

- (a) made, or was treated as having made, a claim for a jobseeker's allowance and, under article 4, the 1995 Act, as amended by the provisions of Part 1 of Schedule 14 to the Act that remove references to an income-based jobseeker's allowance, applied in relation to the claim; or
- (b) (i) had an old style JSA award immediately before the appointed day in relation to a case of a claim for universal credit referred to in article 4(2)(a) to (d) (and any award made in respect of the claim), or an award of universal credit referred to in article 4(2)(e) or (f); and
- (ii) the old style JSA award consisted of or included a contributory employment and support allowance (which allowance therefore continued as a new style JSA award).

<sup>1</sup>Art. 13 substituted by art. 11(2) of S.I. 2013/1511. See art. 11(1) for when to apply.

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(a) Regulation 47 was amended by S.I. 1996/1517, 1996/2538, 1999/714, 1999/2226, 2001/518, 2001/1711, 2010/424, 2010/1160 and 2012/2568.



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<sup>1</sup>Art. 13(3)(za) & (aa)-(ab) inserted & word in para. (3)(d) omitted by art. 12(2)(a)-(c) of S.I. 2014/1452. See art. 12(1) to this S.I. for when to apply.

(3) Where this article applies, the JSA Regulations 1996 are to be read as if—

- ▶<sup>1</sup>(za) in regulation 11, the references in paragraph (2)(a) and (b) to a jobseeker's allowance included a reference to new style JSA; ◀
- (a) in regulation 14A (victims of domestic violence), for the purposes of paragraph (3)(b) of that regulation, a person had been treated as available for employment on a day (under paragraph (2) of that regulation) where regulation 15 of the JSA Regulations 2013 applied to that person on that day;
- ▶<sup>1</sup>(aa) in regulation 17A(7)(a), in paragraph (a) of the definition of “benefit”, the reference to a jobseeker's allowance included a reference to new style JSA;
- (ab) in regulation 19(1)(r)(b), the reference to a jobseeker's allowance included a reference to new style JSA ◀
- (b) in regulation 46 (waiting days)—
  - (i) where a person was entitled to a new style JSA award with effect from the first day of a jobseeking period by virtue of regulation 36(1) of the JSA Regulations 2013 and, with effect from the second or third day of that period, that award continued as an old style JSA award in the circumstances referred to in paragraph (1)(b) of this article, the reference to a jobseeker's allowance in paragraph (1)(a) included a reference to the new style JSA award; and
- (c) in regulation 47 (jobseeking period)—
  - (i) the jobseeking period in relation to a claimant included any period that, under regulation 37 of the JSA Regulations 2013 (jobseeking period) forms part of the jobseeking period for the purposes of the 1995 Act; and
  - (ii) in paragraph (4), the reference to any day that is to be treated as a day in respect of which the claimant was entitled to a contribution-based jobseeker's allowance included a reference to a day that, under regulation 37(3) of the JSA Regulations 2013 (jobseeking period), is to be treated as a day in respect of which the claimant was entitled to a jobseeker's allowance;
- (d) in regulation 50 (persons temporarily absent from Great Britain), where a person had a new style JSA award in the circumstances referred to in paragraph (1)(b) of this article, the reference in paragraph (2)(b), (3)(a) and (c), (5)(a) and (c), (6AA)(a) and (6D)(b) to entitlement to a jobseeker's allowance included a reference to the new style JSA award(c); ▶<sup>1</sup>◀
- (e) in regulation 55 (short periods of sickness), after paragraph (5) there were inserted—

“(6) Where—

- (a) a person has been treated under regulation 46(1) of the Jobseeker's Allowance Regulations 2013 as capable of work or as not having limited capability for work for a certain period; and
- (b) these Regulations apply to that person with effect from a day (“the relevant day”) within that period,

the person is to be treated for the part of that period that begins with the relevant day as capable of work or as not having limited capability for work.

(7) Where paragraph (6) applies to a person and the conditions in paragraph (1)(a) to (c) are fulfilled in relation to that person on any day within the part of a period referred to in paragraph (6), the requirement of paragraph (1) to treat the person as capable of work or as not having limited capability for work is to be regarded as satisfied with respect to the fulfilment of those conditions on that day.

(a) Regulation 17A was inserted by S.I. 1998/1274; the definition of “benefit” was substituted by S.I. 1999/3083.

(b) Sub-paragraph (r) was substituted by S.I. 1998/1274 and amended by S.I. 2008/2831 and 2009/583.

(c) Paragraph (6AA) was inserted by S.I. 2004/1869 and amended by S.I. 2008/2767. Paragraph (6D) was inserted by 2012/2575.

(8) For the purposes of paragraph (3), where paragraph (6) applies to a person, paragraph (3) is to apply to the person as though the preceding provisions of this regulation had applied to the person with respect to the person having been treated for a period, under regulation 46(1) of the Jobseeker's Allowance Regulations 2013 and paragraph (6), as capable of work or as not having limited capability for work.”.

- <sup>1</sup>(f) in paragraphs 6(1) and 7(1) of Schedule 2 (housing costs), each reference to a jobseeker's allowance included a reference to new style JSA; and
- (g) in paragraph 13 of Schedule 2 (housing costs)(a)–
- (i) in paragraph (a) of sub-paragraph (1) (apart from sub-paragraph (ii)(bb) of that paragraph), each of the references to a jobseeker's allowance included a reference to new style JSA;
- (ii) in sub-paragraph (1)(b), the reference to a jobseeker's allowance included in reference to new style JSA; and
- (iii) in sub-paragraph (1)(c)(iv) and (f)(iii), the reference to the making of a claim for a jobseeker's allowance included a reference to the making of a claim for jobseeker's allowance where the 1995 Act, as it has effect as amended by the amending provisions, applied to the claim and the new style JSA award that resulted from the claim continued as an old style JSA award by virtue of article 6 of this Order. ◀

<sup>1</sup>Art. 13(3)(f) & (g) inserted by art. 12(2)(c) of S.I. 2014/1452. See art. 12(1) to this S.I. for when to apply.

(4) Where this article applies, the 1995 Act is to be read as though, in section 5 of the 1995 Act(b), the reference to a contribution-based jobseeker's allowance in subsection (1) and the first reference to a contribution-based jobseeker's allowance in subsection (2) included a reference to a new style JSA award.

(5) For the purposes of this article, “joint-claim couple” has the meaning given in section 1(4) of the 1995 Act.”. ◀

*Art. 13 is kept in force for certain situations. See art. 11(1) of S.I. 2013/1511 for when to apply.*

Continuity of jobseeking period in case of transition from new style JSA

13.—(1) Paragraph (2) applies where–

- (a) a person is entitled to an old style JSA award and they were previously entitled to a new style JSA award that was not in existence immediately before the first day on which the person in question is entitled to the old style JSA award; or
- (b) article 6(2) applies in relation to a new style JSA award (such that it continues as an old style JSA award).

(2) Where this paragraph applies, regulation 47 of the JSA Regulations 1996 (jobseeking period) is to be read as if–

- (a) any reference in the regulation to the jobseeking period in relation to a claimant included a reference to any period that, under regulation 37 of the JSA Regulations 2013 (jobseeking period), forms part of such a jobseeking period; and
- (b) in paragraph (4) of that regulation, the reference to any day that is to be treated as a day in respect of which the claimant was entitled to a contribution-based jobseeker's allowance is to be read as if it included a reference to a day that, under regulation 37(3) of the JSA Regulations 2013 (jobseeking period), is to be treated as a day in respect of which the claimant was entitled to a jobseeker's allowance.

(a) Relevant amendments of sub-para. (1) were made by S.I. 1996/1516 and 1517, 1999/2860, 2001/488 and 2011/674.

(b) Section 5 was amended by Part 1 of Schedule 14 to the Act; and the amendment (which forms part provisions”) is commenced for certain cases by article 4 of the No. 9 Order and article 4 of this Order.

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**Sanctions: transition from old style ESA in case of a new award**

- 14.**—(1) This article applies where—
- (a) a person is entitled to a new style ESA award and they were previously entitled to an old style ESA award that was not in existence immediately before the first day on which the person in question is entitled to the new style ESA award; and
  - (b) immediately before the old style ESA award terminated, payments were reduced under regulation 63 of the ESA Regulations 2008 (reduction of employment and support allowance)(a).
- (2) Where this article applies—
- (a) the failure which led to reduction of the old style ESA award (“the relevant failure”) is to be treated for the purposes of Part 8 of the ESA Regulations 2013, as a failure which is sanctionable under section 11J of the 2007 Act (sanctions)(b);
  - (b) the new style ESA award is to be reduced in relation to the relevant failure, in accordance with the provisions of this article and Part 8 of the ESA Regulations 2013 as modified by this article; and
  - (c) the reduction referred to in sub-paragraph (b) is to be treated, for the purposes of the ESA Regulations 2013, as a reduction under section 11J of the 2007 Act.
- (3) The reduction period for the purposes of the ESA Regulations 2013 is to be the number of days which is equivalent to the length of the fixed period applicable to the person under regulation 63 of the ESA Regulations 2008 in relation to the relevant failure, minus—
- (a) the number of days (if any) in that fixed period in respect of which the amount of the old style ESA award was reduced; and
  - (b) the number of days (if any) in the period starting with the day after the day on which the old style ESA award terminated and ending with the day before the first day on which the person is entitled to the new style ESA award.
- (4) Accordingly, regulation 51 of the ESA Regulations 2013 (general principles for calculating reduction periods) applies in relation to the relevant failure as if—
- (a) in paragraph (1), for the words “in accordance with regulations 52 and 53” there were substituted the words “in accordance with article 14 of the Welfare Reform Act 2012 (Commencement No. 9 and Transitional and Transitory Provisions and Commencement No. 8 and Savings and Transitional Provisions (Amendment)) Order 2013”; and
  - (b) in paragraph (3), for the words “in accordance with regulation 52 or 53” there were substituted the words “in accordance with article 14 of the Welfare Reform Act 2012 (Commencement No. 9 and Transitional and Transitory Provisions and Commencement No. 8 and Savings and Transitional Provisions (Amendment)) Order 2013”.

**Sanctions: transition from old style ESA in case of a continuing award**

- 15.**—(1) This article applies where—
- (a) the amending provisions have come into force under article 4(1) in relation to the case of a claim for universal credit referred to in ►<sup>1</sup>article 4(2)(a)◄ to (d) (and any award that is made in respect of the claim) or an award of universal credit referred to in article 4(2)(e) or (f);

<sup>1</sup>Word in art. 15(1)(a) substituted by art. 13 of S.I. 2014/1452. See art. 3 to this S.I. for when to apply.

*Words in art. 15(1)(a) kept in force for certain situations. See art. 3 to S.I.*

(a) Regulation 63 was amended by S.I. 2011/1349 and 2012/2756.

(b) Section 11J was inserted by section 57(2) of the Welfare Reform Act 2012 (c. 5).

*2014/1452 for when to apply*

- (a) the amending provisions have come into force under article 4(1) in relation to the case of a claim for universal credit referred to in article 4(2)(b) to (d) (and any award that is made in respect of the claim) or an award of universal credit referred to in article 4(2)(e) or (f);
  - (b) the person in question had an old style ESA award immediately before the appointed day which consisted of or included a contributory allowance (which allowance therefore continues as a new style ESA award); and
  - (c) immediately before the appointed day, payments under that award were reduced in accordance with regulation 63 of the ESA Regulations 2008 (reduction of employment and support allowance).
- (2) Where this article applies—
- (a) the failure which led to reduction of the old style ESA award (“the relevant failure”) is to be treated for the purposes of Part 8 of the ESA Regulations 2013, as a failure which is sanctionable under section 11J of the 2007 Act (sanctions);
  - (b) on and after the appointed day, the award (in its continuation as a new style ESA award) is to be reduced in relation to the relevant failure, in accordance with the provisions of this article and Part 8 of the ESA Regulations 2013 as modified by this article; and
  - (c) the reduction referred to in sub-paragraph (b) is to be treated, for the purposes of the ESA Regulations 2013, as a reduction under section 11J of the 2007 Act.

(3) The reduction period for the purposes of the ESA Regulations 2013 is to be the number of days which is equivalent to the length of the fixed period applicable to the person under regulation 63 of the ESA Regulations 2008 in relation to the relevant failure, minus the number of days (if any) in that period in respect of which the amount of the old style ESA award was reduced.

(4) Accordingly, regulation 51 of the ESA Regulations 2013 (general principles for calculating reduction periods) applies in relation to the relevant failure as if—

- (a) in paragraph (1), for the words “in accordance with regulations 52 and 53” there were substituted the words “in accordance with article 15 of the Welfare Reform Act 2012 (Commencement No. 9 and Transitional and Transitory Provisions and Commencement No. 8 and Savings and Transitional Provisions (Amendment)) Order 2013”; and
- (b) in paragraph (3), for the words “in accordance with regulation 52 or 53” there were substituted the words “in accordance with article 15 of the Welfare Reform Act 2012 (Commencement No. 9 and Transitional and Transitory Provisions and Commencement No. 8 and Savings and Transitional Provisions (Amendment)) Order 2013”.

#### **Escalation of sanctions: transition from old style ESA**

**16.—(1)** This article applies where a person is entitled to a new style ESA award and, at any time previously, the person was entitled to an old style ESA award.

(2) Where this article applies, for the purposes of determining the reduction period under regulation 52 of the ESA Regulations 2013 (low-level sanction) in relation to a sanctionable failure by the person to whom the new style award referred to in paragraph (1) was made, other than a failure which is treated as sanctionable under article 14 or 15—

- (a) a reduction of a new style ESA award in accordance with article 14 or 15 as the case may be; and
- (b) a reduction of an old style ESA award under the ESA Regulations 2008 which did not result in a reduction under article 14 or 15,

is, subject to paragraph (3), to be treated as arising from a sanctionable failure for which

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the reduction period which applies is the number of days which is equivalent to the length of the fixed period which applied under regulation 63 of the ESA Regulations 2008 (reduction of employment and support allowance).

(3) In determining a reduction period under regulation 52 of the ESA Regulations 2013 in accordance with paragraph (2), no account is to be taken of—

- (a) a reduction of a new style ESA award in accordance with article 14 or 15, as the case may be, if, at any time after that reduction, the person was entitled to an old style ESA award, an old style JSA award or income support;
- (b) a reduction of an old style ESA award under the ESA Regulations 2008 if, at any time after that reduction, the person was entitled to universal credit, a new style ESA award or a new style JSA award, and was subsequently entitled to an old style ESA award, an old style JSA award or income support.

**Sanctions: transition from old style JSA in case of a new award**

17.—(1) This article applies where—

- (a) a person is entitled to a new style JSA award and they were previously entitled to an old style JSA award that was not in existence immediately before the first day on which the person in question is entitled to the new style JSA award;
- (b) immediately before that old style award terminated, payments were reduced under section 19 (as it applied both before and after substitution by the Act) (before substitution: circumstances in which a jobseeker's allowance is not payable; after substitution: higher-level sanctions)(a) or 19A (other sanctions) of the 1995 Act(b), or under regulation 69B of the JSA Regulations 1996 (the period of a reduction under section 19B: Claimants ceasing to be available for employment etc.)(c); and
- (c) if the old style JSA award was made to a joint-claim couple within the meaning of the 1995 Act and the reduction related to—
  - (i) in the case of a reduction under section 19 as it applied before substitution by the Act, circumstances relating to only one member of the couple; or
  - (ii) in the case of a reduction under section 19 as it applied after substitution by the Act, a sanctionable failure by only one member of the couple,

the new style JSA award was made to that member of the couple.

(2) Where this article applies—

- (a) the circumstances or failure which led to reduction of the old style JSA award (in either case “the relevant failure”) is to be treated, for the purposes of the JSA Regulations 2013, as—
  - (i) a failure which is sanctionable under section 6J of the 1995 Act (higher-level sanctions)(d), where the reduction was under section 19 of the 1995 Act; or
  - (ii) a failure which is sanctionable under section 6K of the 1995 Act (other sanctions), where the reduction was under section 19A of the 1995 Act or regulation 69B of the JSA Regulations 1996;
- (b) the award of new style JSA is to be reduced in relation to the relevant failure, in accordance with the provisions of this article and Part 3 of the JSA Regulations 2013 (sanctions), as modified by this article; and
- (c) the reduction is to be treated, for the purposes of the JSA Regulations 2013, as

(a) Section 19 was substituted by section 46 of the Welfare Reform Act 2012 (c. 5). Section 19 before substitution was amended by paragraph 12 of Schedule 7 to the Welfare Reform and Pensions Act 1999 (c. 30) and paragraph 141 of Schedule 7 to the Social Security Act 1998 (c. 14).

(b) Section 19A was inserted by section 46 of the Welfare Reform Act 2012 (c. 5).

(c) S.I. 1996/207; reg 69B was inserted by S.I. 2012/2568.

(d) Sections 6J and 6K were inserted by section 49(3) of the Welfare Reform Act 2012 (c. 5).



a reduction under section 6J or, as the case may be, section 6K of the 1995 Act.

(3) The reduction period for the purposes of the JSA Regulations 2013 is to be the number of days which is equivalent to the length of the period of reduction of a jobseeker's allowance which is applicable to the person under regulation 69, 69A or 69B of the JSA Regulations 1996, minus—

- (a) the number of days (if any) in that period in respect of which the amount of a jobseeker's allowance was reduced; and
- (b) the number of days (if any) in the period starting with the day after the day on which the old style JSA award terminated and ending with the day before the first day on which the person is entitled to a new style JSA award.

(4) Accordingly, regulation 18 of the JSA Regulations 2013 (general principles for calculating reduction periods) applies in relation to the relevant failure as if—

- (a) in paragraph (1), for the words “in accordance with regulations 19, 20 and 21”, there were substituted the words “in accordance with article 17 of the Welfare Reform Act 2012 (Commencement No. 9 and Transitional and Transitory Provisions and Commencement No. 8 and Savings and Transitional Provisions (Amendment)) Order 2013”; and
- (b) in paragraph (3), for the words “in accordance with regulation 19, 20 or 21”, there were substituted the words “in accordance with article 17 of the Welfare Reform Act 2012 (Commencement No. 9 and Transitional and Transitory Provisions and Commencement No. 8 and Savings and Transitional Provisions (Amendment)) Order 2013”.

#### Sanctions: transition from old style JSA in case of a continuing award

18.—(1) This article applies where—

- (a) the amending provisions have come into force under article 4(1) in relation to the case of a claim for universal credit referred to in <sup>1</sup>article 4(2)(a) to (d) (and any award that is made in respect of the claim) or an award of universal credit referred to in article 4(2)(e) or (f);

*Words in art. 18(1)(a) keep in force for certain situations. See art. 3 to S.I. 2014/1452 for when to apply.*

- (a) the amending provisions have come into force under article 4(1) in relation to the case of a claim for universal credit referred to in article 4(2)(b) to (d) (and any award that is made in respect of the claim) or an award of universal credit referred to in article 4(2)(e) or (f);
- (b) the person in question had an old style JSA award immediately before the appointed day which consisted of or included a contribution-based allowance (which allowance therefore continues as a new style JSA award);
- (c) immediately before the appointed day, payments under that award were reduced under section 19 (as it applied both before and after substitution by the Act) (before substitution: circumstances in which a jobseeker's allowance is not payable; after substitution: higher-level sanctions) or 19A (other sanctions) of the 1995 Act, or under regulation 69B of the JSA Regulations 1996) (the period of a reduction under section 19B : Claimants ceasing to be available for employment etc.); and
- (d) if the old style JSA award was made to a joint-claim couple within the meaning of the 1995 Act and the reduction related to—
  - (i) in the case of a reduction under section 19 as it applied before substitution by the Act, circumstances relating to only one member of the couple; or
  - (ii) in the case of a reduction under section 19 as it applied after substitution by the Act, a sanctionable failure by only one member of the couple,

<sup>1</sup>Words in art. 18(1)(a) substituted by art. 13 of S.I. 2014/1452. See art. 3 to this S.I. for when to apply.



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the new style JSA award was made to that member of the couple.

(2) Where this article applies—

- (a) the circumstances or failure which led to reduction of the old style JSA award (in either case “the relevant failure”) is to be treated, for the purposes of the JSA Regulations 2013, as—
  - (i) a failure which is sanctionable under section 6J of the 1995 Act (higher-level sanctions), where the reduction was under section 19 of the 1995 Act; or
  - (ii) a failure which is sanctionable under section 6K of the 1995 Act (other sanctions), where the reduction was under section 19A of the 1995 Act or regulation 69B of the JSA Regulations 1996;
- (b) the award (in its continuation as a new style JSA award) is to be reduced in relation to the relevant failure, in accordance with the provisions of this article and Part 3 of the JSA Regulations (sanctions), as modified by this article; and
- (c) the reduction is to be treated, for the purposes of the JSA Regulations 2013, as a reduction under section 6J or, as the case may be, section 6K of the 1995 Act.

(3) The reduction period for the purposes of the JSA Regulations 2013 is to be the number of days which is equivalent to the length of the period of reduction of a jobseeker’s allowance which is applicable to the person under regulation 69, 69A or 69B of the JSA Regulations 1996, minus the number of days (if any) in that period in respect of which the amount of a jobseeker’s allowance was reduced.

(4) Accordingly, regulation 18 of the JSA Regulations 2013 (general principles for calculating reduction periods) applies in relation to the relevant failure as if—

- (a) in paragraph (1), for the words “in accordance with regulations 19, 20 and 21”, there were substituted the words “in accordance with article 18 of the Welfare Reform Act 2012 (Commencement No. 9 and Transitional and Transitory Provisions and Commencement No. 8 and Savings and Transitional Provisions (Amendment)) Order 2013”; and
- (b) in paragraph (3), for the words “in accordance with regulation 19, 20 or 21”, there were substituted the words “in accordance with article 18 of the Welfare Reform Act 2012 (Commencement No. 9 and Transitional and Transitory Provisions and Commencement No. 8 and Savings and Transitional Provisions (Amendment)) Order 2013”.

**Escalation of sanctions: transition from old style JSA**

**19.—**(1) This article applies where a person is entitled to a new style JSA award and, at any time previously, the person was entitled to an old style JSA award.

(2) Where this article applies, for the purposes of determining the applicable reduction period under regulation 19 (higher-level sanction), 20 (medium-level sanction) or 21 (low-level sanction) of the JSA Regulations 2013 in relation to a sanctionable failure by the person other than a failure which is treated as sanctionable by virtue of article 17 or 18—

- (a) a reduction of a new style JSA award in accordance with article 17 or 18; and
- (b) a reduction of an old style JSA award under section 19 (as it applied both before and after substitution by the Act) or 19A of the 1995 Act, or under regulation 69B of the JSA Regulations 1996, which did not result in a reduction under article 17 or 18,

is, subject to paragraph (3), to be treated as arising from a sanctionable failure for which the reduction period is the number of days which is equivalent to the length of the period which applied under regulation 69, 69A or 69B of the JSA Regulations 1996.

(3) In determining a reduction period under regulation 19 (higher-level sanction), 20 (medium-level sanction) or 21 (low-level sanction) of the JSA Regulations 2013 in accordance with paragraph (2), no account is to be taken of—

- (a) a reduction of a new style JSA award in accordance with article 17 or 18 if, at any time after that reduction, the person was entitled to an old style JSA award, an old style ESA award or income support;
- (b) a reduction of an old style JSA award under section 19 (as it applied both before and after substitution by the Act) or 19A of the 1995 Act, or under regulation 69B of the JSA Regulations 1996, if, at any time after that reduction, the person was entitled to universal credit, a new style JSA award or a new style ESA award, and was subsequently entitled to an old style JSA award, an old style ESA award or income support.

#### Termination of sanctions under a new style ESA or JSA award

20.—(1) Paragraph (2) applies where—

- (a) a new style ESA award or new style JSA award terminates while there is an outstanding reduction period (within the meaning of regulation 55 of the ESA Regulations 2013 (reduction period to continue where award of employment and support allowance terminates) or regulation 23 of the JSA Regulations 2013 (reduction period to continue where award of jobseeker's allowance terminates)) and the claimant becomes entitled to an old style ESA award, an old style JSA award or income support during that period; or
- (b) article 6(2) applies to a new style ESA award or new style JSA award (such that it continues as an old style ESA award or an old style JSA award) and there is such an outstanding reduction period on the last day of the period of the new style ESA award or new style JSA award.

(2) Where this paragraph applies—

- (a) regulation 55 of the ESA Regulations 2013 or regulation 23 of the JSA Regulations 2013, as the case may be, are to cease to apply; and
- (b) the reduction period is to terminate on the first day of entitlement to an old style ESA award, old style JSA award or income support as the case may be.

#### Transitory provisions: appeals

21.—(1) Paragraph (2) applies where—

- (a) the amending provisions have come into force under article 4(1) in relation to the case of a claim referred to in article 4(2)(a) to (d) (and any award that is made in respect of the claim) or the case of an award referred to in article 4(2)(e) or (f);
- (b) the person is sent notice of a decision relating to a new style ESA award or a new style JSA award; and
- (c) the date of notification with respect to that decision is before 28th October 2013.

(2) Where this paragraph applies, the provisions mentioned in paragraph (3) apply for the purposes of any appeal in relation to that decision as if regulation 55 of the Decisions and Appeals Regulations 2013 (consequential amendments) did not apply in that person's case.

(3) The provisions referred to are the following provisions of the Social Security and Child Support (Decisions and Appeals) Regulations 1999(a)—

- (a) regulation 32 (late appeals)(b);
- (b) regulation 33 (notice of appeal); and
- (c) regulation 34 (death of a party to an appeal).

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(a) S.I. 1999/991.

(b) Regulation 32 was amended by S.I. 2002/1379, 2003/916, 2008/2683 and 2012/2007.

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(4) For the purposes of paragraph (1), “the date of notification” means the date on which the decision notice was posted to the person’s last known address by the Secretary of State.

**Transitional provision: references to contributory employment and support allowance and contribution-based jobseeker’s allowance**

<sup>1</sup>Words inserted in art. 22 by art. 14 of S.I. 2014/1452. See art. 3 to this S.I. for when to apply.

**22.** Where the amending provisions have come into force under article 4(1) in relation to the case of a claim referred to in article 4(2)(a) to (d) <sup>1</sup>or (g) <sup>1</sup>(and any award that is made in respect of the claim) or the case of an award referred to in article 4(2)(e) or (f), then, in relation to such a case, any reference in the Social Security Administration Act 1992(a) or the Social Security Contributions and Benefits Act 1992(b) to—

- (a) a contributory employment and support allowance is to be read as if it included a reference to a new style ESA award; and
- (b) a contribution-based jobseeker’s allowance is to be read as if it included a reference to a new style JSA award.

**Amendment of the Welfare Reform Act 2012 (Commencement No 8 and Savings and Transitional Provisions) Order 2013**

**23.**—(1) Article 5 of the Welfare Reform Act 2012 (Commencement No 8 and Savings and Transitional Provisions) Order 2013(c) (appointed day and saving for provisions relating to overpayments) is amended as follows.

- (2) In paragraph (3)(a), at the beginning insert “subject to paragraph (3A),”.
- (3) After paragraph (3) insert—
 

“(3A) In so far as section 105(1) of the 2012 Act inserts section 71ZB(1)(b) and (c) of the 1992 Act, those paragraphs come into force on 29th April 2013 only in so far as they relate respectively to a new style JSA award and a new style ESA award.”.
- (4) In paragraph (6), for “those benefits have been claimed before 29th April 2013” substitute “they relate respectively to an old style JSA award and an old style ESA award”.
- (5) After paragraph (6) add—
 

“(7) In this article, “old style JSA award”, “new style JSA award”, “old style ESA award” and “new style ESA award” have the same meaning as in article 2(1) of the Welfare Reform Act 2012 (Commencement No. 9 and Transitional and Transitory Provisions and Commencement No. 8 and Savings and Transitional Provisions (Amendment)) Order 2013.”.

**Appeals relating to ESA and JSA**

<sup>2</sup>Art. 24 inserted by art. 15 of S.I. 2014/1452 as from 16.6.14.

**24.**—(1) This article applies where, after an award of universal credit has been made to a claimant (where that award is made by virtue of the coming into force of the provisions of the Act referred to in Schedule 2, under any secondary legislation)—

- (a) an appeal against a decision relating to the entitlement of the claimant to an old style ESA award or an old style JSA award is finally determined; or
- (b) a decision relating to the claimant’s entitlement to such an award is revised under section 9 of the Social Security Act 1998 (“the 1998 Act”) or superseded under section 10 of that Act.

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(a) 1992 c. 5.  
 (b) 1992 c. 4.  
 (c) S.I. 2013/358.

(2) Where this article applies, the Secretary of State is to consider whether it is appropriate to revise under section 9 of the 1998 Act the decision in relation to entitlement to universal credit or, if that decision has been superseded under section 10 of that Act, the decision as so superseded (in either case, “the UC decision”).

(3) Where it appears to the Secretary of State to be appropriate to revise the UC decision, it is to be revised in such manner as appears to the Secretary of State to be necessary to take account of—

- (a) the decision of the First-tier Tribunal, Upper Tribunal or court, or, as the case may be, the decision relating to entitlement to an old style ESA award or an old style JSA award, as revised or superseded; and
- (b) any finding of fact by the First-tier Tribunal, Upper Tribunal or court.

(4) For the purposes of this article, “secondary legislation” means an instrument made under an Act. ◀

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

24th April 2013

*Freud*  
Parliamentary Under Secretary of State,  
Department for Work and Pensions

**SI 2013/983 (C. 41)**

**WELFARE REFORM ACT 2012 (COMMENCEMENT NO. 9 AND  
TRANSITIONAL AND TRANSITORY PROVISIONS AND  
COMMENCEMENT NO. 8 AND SAVINGS AND TRANSITIONAL  
PROVISIONS (AMENDMENT)) ORDER 2013**

SCHEDULE 1

Article 2(1)

POSTCODE DISTRICTS

*Modifications to this Schedule apply from varying dates as further postcodes are included. See Schedules to S.I.s 2013/1511 @ page 14.3309, 2013/2657 @ page 14.3345; 2013/2846 @ page 14.3355 and 2014/209 @ page 14.3371.*

1. M43
2. OL6
3. OL7
4. SK16

SCHEDULE 2

Article 3(2)

UNIVERSAL CREDIT PROVISIONS COMING INTO FORCE IN RELATION TO CERTAIN CLAIMS AND AWARDS

1. Section 1 (universal credit).
2. Section 2(1) (claims).
3. Section 3 (entitlement).
4. Section 4(1) and (4) (basic conditions).
5. Section 5 (financial conditions).
6. Section 6 (restrictions on entitlement).
7. Section 7(1) and (4) (basis of awards).
8. Section 8 (calculation of awards).
9. Section 9(1) (standard allowance).
10. Section 10(1) (responsibility for children and young persons).
11. Section 11(1) and (2) (housing costs).
12. Section 12(1) and (2) (other particular needs or circumstances).
13. Section 13 (work-related requirements: introductory).
14. Section 14 (claimant commitment).
15. Section 15(1) and (4) (work-focused interview requirement).
16. Section 16 (work preparation requirement).
17. Section 17(1), (2), (3)(a) to (e), (4) and (5) (work search requirement).
18. Section 18 (work availability requirement).
19. Section 19(1), (2)(a) to (c), (5) and (6) (claimants subject to no work-related requirements).
20. Section 20 (claimants subject to work-focused interview requirement only).
21. Section 21 (claimants subject to work preparation requirement).
22. Section 22 (claimants subject to all work-related requirements).
23. Section 23 (connected requirements).
24. Section 24(2), (3) and (4) (imposition of requirements).
25. Section 26(1) to (5) (higher-level sanctions).
26. Section 27(1) to (3) and (6) to (8) (other sanctions).



## COMMENCEMENT OF REPEALS IN PART 1 OF SCHEDULE 14 TO THE ACT

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Jobseekers Act 1995 (c. 18)	<p>Section 1(2A) to (2D) and (4).</p> <p>In section 2, in subsection (3C)(d), “contribution-based”.</p> <p>Sections 3 to 3B.</p> <p>In section 4–</p> <p>(a) in subsection (1), “contribution-based”;</p> <p>(b) subsections (3), (3A) and (6) to (11A).</p> <p>Section 4A.</p> <p>In section 5–</p> <p>(a) in the heading and in subsection (1) “contribution-based”;</p> <p>(b) in subsection (2), “contribution-based” in the first two places;</p> <p>(c) in subsection (3), “contribution-based”.</p> <p>Section 13.</p> <p>Sections 15 to 17.</p> <p>In section 17A(10), the definition of “claimant”.</p> <p>Section 23.</p> <p>Sections 26.</p> <p>In section 35(1)–</p> <p>(a) in the definition of “claimant”, the words from “except” to the end;</p> <p>(b) the definitions of “contribution-based jobseeker’s allowance”, “income-based jobseeker’s allowance”, “income-related employment and support allowance”, “joint-claim couple”, “joint-claim jobseeker’s allowance” and “the nominated member”.</p>

<i>Short title and chapter</i>	<i>Extent of repeal</i>
	<p>In section 38–</p> <ul style="list-style-type: none"> <li>(a) in subsections (3) and (4), “contribution-based”;</li> <li>(b) subsection (6).</li> </ul> <p>In Schedule 1–</p> <ul style="list-style-type: none"> <li>(a) in paragraph 6(1), “contribution-based”;</li> <li>(b) paragraphs 8 and 8A;</li> <li>(c) paragraphs 9 to 10;</li> <li>(d) in paragraph 11(1), “contribution-based”;</li> <li>(e) in paragraph 16(1) and (2)(d), “contribution-based”;</li> <li>(f) paragraph 18(b) and (c).</li> </ul>
Welfare Reform and Pensions Act 1999 (c. 30)	<p>In Schedule 7, paragraphs 2(3) and (4), 4, 5(3) and (4), 6, 9 to 11, 15 and 16.</p> <p>In Schedule 8, paragraph 29(2).</p>
State Pension Credit Act 2002 (c. 16)	In Schedule 2, paragraphs 36 to 38.
Income Tax (Earnings and Payments) Act 2003 (c. 1)	In Schedule 6, paragraphs 228 to 230.
Civil Partnership Act 2004 (c. 33)	In Schedule 24, paragraphs 118 to 122.
Welfare Reform Act 2007 (c. 5)	<p>In section 1–</p> <ul style="list-style-type: none"> <li>(a) in subsection (2), in the opening words, “either”;</li> <li>(b) in subsection (2)(a), “Part 1 of” and “that Part of”;</li> <li>(c) subsection (2)(b) and the preceding “or”;</li> <li>(d) in subsection (3)(f), the words from “(and” to “allowance”;</li> <li>(e) in subsection (3A), “Part 1 of”;</li> </ul>

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
	<p>(f) in subsection (6), the definition of “joint-claim jobseeker’s allowance”;</p> <p>(g) subsections (6A) and (7).</p> <p>In subsection 1A—</p> <p>(a) in the heading “contributory”;</p> <p>(b) in subsections (1) (in both places), (3) and (4), “Part 1 of”.</p> <p>Section 1B(2).</p> <p>In section 2, in the heading, “contributory”.</p> <p>In section 3, in the heading, “contributory”.</p> <p>Sections 4 to 6.</p> <p>Section 23.</p> <p>In section 24(1), the definitions of “contributory allowance” and “income-related allowance”.</p> <p>In section 26(1)(a), “or 4(4)(c) or (5)(c)”.</p> <p>Section 27(2)(a) and (4).</p> <p>In Schedule 1—</p> <p>(a) the heading to Part 1;</p> <p>(b) Part 2.</p> <p>In Schedule 2—</p> <p>(a) in the headings to paragraphs 6 and 7, “Contributory allowance:”;</p> <p>(b) paragraph 8;</p> <p>(c) paragraph 11(b) and (c);</p> <p>(d) paragraph 12, so far as not otherwise repealed.</p>
Welfare Reform Act 2009 (c. 24)	In Part 3 of Schedule 7, the entry relating to the Civil Partnership Act 2004.

SCHEDULE 4

Article 9

MODIFICATIONS OF THE 2010 TRANSITIONAL REGULATIONS

1. The 2010 Transitional Regulations are to be read as if the amendments set out in this Schedule were made.

2.—(1) Regulation 2 (interpretation) is amended as follows.

(2) In paragraph (1)—

- (a) insert at the appropriate places in the alphabetical order of the definitions—
  - ““the Claims and Payments Regulations” means the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013(a);”;
  - ““the Decisions and Appeals Regulations” means the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013(b);”;
  - ““the ESA Regulations” means the Employment and Support Allowance Regulations 2013(c);”;
- (b) omit—
  - (i) the definition of “income-related allowance”;
  - (ii) paragraphs (a) to (d) of the definition of “relevant deduction”(d);
- (c) in the definition of “benefit week”, for “the 2008 Regulations” substitute “the ESA Regulations”.

(3) In paragraph (3), omit “or awards”.

3. In regulation 4 (the notice commencing the conversion phase), omit paragraph (6).

4. In regulation 5 (deciding whether an existing award qualifies for conversion)—

- (a) in paragraph (1), omit “or awards”;
- (b) in paragraph (2)(a), for “or awards qualify” substitute “qualifies”;
- (c) in paragraph (2)(b), for “or awards do” substitute “does”;
- (d) in paragraph (6)(b), omit “or awards”.

5. In regulation 6(2) (application of certain enactments for purpose of making conversion decisions)—

- (a) for sub-paragraphs (b) and (c), substitute—
  - “(b) the ESA Regulations;
- (c) regulation 38(2) and (3) of the Claims and Payments Regulations (evidence and information in connection with an award);”;
- (b) for sub-paragraph (e), substitute—
  - “(e) the Decisions and Appeals Regulations.”

6. In regulation 7 (qualifying for conversion)(e)—

- (a) in paragraph (1)—
  - (i) omit “or awards”;
  - (ii) for “qualify” substitute “qualifies”;

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(a) S.I. 2013/380.

(b) S.I. 2013/381.

(c) S.I. 2013/379.

(d) The definition of “relevant deduction” was amended by S.I. 1988/522, 1992/1026, 2001/18, 2002/2441, 2002/3019 and 2002/3197.

(e) Regulation 7(1) was amended by S.I. 2010/2430 and 2012/913; regulation 7(2) was inserted by S.I. 2010/2430 and regulation 7(3) was inserted by S.I. 2012/913.

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- (b) in paragraphs (2)(b) and (3)(b), for “regulation 30 of the 2008 Regulations” substitute “regulation 26 of the ESA Regulations”.
7. In regulation 8(1) (amount of an employment and support allowance on conversion)(a), for “the 2008 Regulations” substitute “the ESA Regulations”.
8. In regulation 9(1) (determining entitlement to a transitional addition)–
- (a) for “or awards qualify” substitute “qualifies”;
- (b) omit “or 11(2) (transitional addition: income support)”.
9. In regulation 10 (transitional addition: incapacity benefit or severe disablement allowance)–
- (a) in paragraph (1), omit “(and for these purposes it is irrelevant whether the person is also entitled to any existing award of income support)”;
- (b) in paragraph (4)(a), for “paragraph (2) of regulation 67 of the 2008 Regulations (prescribed amounts for purpose of calculating a contributory allowance)” substitute “paragraph (1) of regulation 62 of the ESA Regulations (prescribed amounts)”.
10. Omit regulation 11 (transitional addition: income support).
11. In regulation 12 (regulations 10 and 11: supplementary)–
- (a) in the title, for “Regulations 10 and 11” substitute “Regulation 10”;
- (b) in paragraph (1), for “regulations 10 and 11” substitute “regulation 10”;
- (c) in paragraph (2), for “Amounts A and C are” substitute “Amount A is” and for “Amounts B and D are” substitute “Amount B is”;
- (d) for paragraph (3)(a), substitute–
- “(a) by virtue of an order made under section 150 of the Administration Act (annual up-rating of benefits)(b), there is an increase in the weekly rate which, in accordance with regulation 10(3) (transitional addition: incapacity benefit or severe disablement allowance), is to be used to calculate Amount A; and”;
- (e) in paragraph (4)(a), for “paragraph (3)(a)(i) or (ii)” substitute “paragraph (3)(a)”;
- (f) in paragraphs (3) and (4), omit “or C” and “or applicable amount (as the case may be)”.
12. In regulation 13(3) (the effective date of a conversion decision), omit “or awards”.
13. In regulation 14 (conversion decision that existing award qualifies for conversion)(c)–
- (a) in paragraph (1)–
- (i) for “Subject to paragraph (2A), paragraphs (2) to (6)” substitute “Paragraphs (2) to (5)”;
- (ii) for “or awards qualify” substitute “qualifies”;
- (b) for paragraph (2), substitute–
- “(2) On the effective date of the conversion decision P’s existing award is by virtue of this paragraph converted into, and shall have effect on and after that date as, a single award of an employment and support allowance of such amount as is specified in the conversion decision.”;

(a) Regulation 8(1) was amended by S.I. 2010/2430.

(b) c. 5. Relevant amendments of section 150 of the Social Security Administration Act 1992 were made by section 2(3) of the Social Security (Incapacity for Work) Act 1994 (c. 18), paragraph 21 of Schedule 11(2) to the Pensions Act 2004 (c. 35), section 6(2) of the Pensions Act 2007 (c. 22) and section 97(5) of the Welfare Reform Act 2012 (c. 5).

(c) Regulation 14(1) was amended by S.I. 2010/2430. Regulation 14(2A) and (2B) were inserted by S.I. 2010/2430. Regulation 14(3) to (7) were substituted for regulation 14(3) and (4) by S.I. 2010/2430.

- (c) omit paragraphs (2A), (2B) and (6);
- (d) in paragraph (4), omit “or awards”;
- (e) for paragraph (7), substitute—  
“(7) In this regulation paragraphs (2) to (5) are subject to regulation 17 (changes of circumstances before the effective date).”.

**14.** In regulation 15 (conversion decision that existing award does not qualify for conversion)(a)–

- (a) in paragraph (1)–
  - (i) for “Subject to paragraphs (2A) and (4), paragraphs (2), (3) and (6)” substitute “Subject to paragraph (4), paragraphs (2) and (3)”;
  - (ii) for “or awards do” substitute “does”;
- (b) for paragraph (2), substitute—  
“(2) P’s entitlement to an existing award of incapacity benefit or severe disablement allowance shall terminate by virtue of this paragraph immediately before the effective date of P’s conversion decision.”;
- (c) omit paragraphs (2A), (2B) and (6);
- (d) in paragraph (4)(a)–
  - (i) for “the 2008 Regulations” substitute “the ESA Regulations”;
  - (ii) in paragraph (i), for “regulation 22(1) (failure to provide information or evidence requested in relation to limited capability for work)” substitute “regulation 18(1) (failure to provide information in relation to limited capability for work)”;
  - (iii) in paragraph (ii), for “regulation 23(2) (failure to attend for a medical examination to determine whether the claimant has limited capability for work)” substitute “regulation 19(2) (claimant may be called for a medical examination to determine whether the claimant has limited capability for work)”;
- (e) in paragraph (5)–
  - (i) in sub-paragraph (c), omit “or awards”;
  - (ii) in sub-paragraph (d), omit “or those existing awards”;
- (f) for paragraph (7), substitute—  
“(7) In this regulation paragraphs (2) and (3) are subject to regulation 17 (changes of circumstances before the effective date).”.

**15.** In regulation 16 (application of other enactments applying to employment and support allowance)(b)–

- (a) in paragraph (1A)(b), for “regulation 145(1) of the 2008 Regulations” substitute “regulation 86 of the ESA Regulations”;
- (b) in paragraph (2)(e)(ii), for “the 2008 Regulations” substitute “the ESA Regulations”;
- (c) in paragraph (2)(e)(iii), omit “(being regulations consequentially amended by regulations made under Part 1 of the 2007 Act)”.

**16.** In regulation 17 (changes of circumstances before the effective date)(c)–

- (a) omit “or awards” in both places where it occurs;
- (b) in paragraph (a)(ii)–
  - (i) omit “regulation 14(2B)(a) (termination of an existing award of incapacity benefit or severe disablement allowance where entitlement to award of income support continues).”;

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(a) Regulation 15(1) was amended by S.I. 2010/2430. Regulation 15(2A) and (2B) were inserted by S.I. 2010/2430; regulation 15(6) and (7) were substituted for regulation 15(6) by S.I. 2010/2430.

(b) Regulation 16(1A) was inserted by S.I. 2012/757.

(c) Regulation 17 was amended by S.I. 2010/2430.



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(ii) for “(termination of existing awards which do not qualify for conversion)” substitute “(termination of an existing award which does not qualify for conversion)”;

(c) omit paragraph (c).

**17.** In regulation 18 (reducing the transitional addition: general rule), for paragraph (2) substitute—

“(2) For the purposes of paragraph (1), a relevant increase is an increase in any amount applicable to the person under regulation 62(1) or (2) of the ESA Regulations, which is not excluded by paragraph (3).”.

**18.** In regulation 21 (termination of transitional addition)(a)—

(a) in paragraph (1)(b)—

(i) for “, (3), (3A) and (4)” substitute “, (3) and (3A)” and (4)”;

(ii) omit “an employment and support allowance (entitlement to which arises from sections 1(2)(a) or 1(2)(b) of the 2007 Act), or to” and “or to an income-related allowance”;

(b) omit paragraph (4);

(c) in paragraph (5)(a), for “regulation 145(1) of the 2008 Regulations (linking rules)” substitute “regulation 86 of the ESA Regulations (linking period)”;

(d) in paragraph (5)(c)(ii), for “regulation 30 of the 2008 Regulations” substitute “regulation 26 of the ESA Regulations”;

(e) in paragraph (5A)(c), for “regulation 145(1) of the 2008 Regulations (linking rules)” substitute “regulation 86 of the ESA Regulations (linking period)”;

(f) omit paragraph (6);

(g) in paragraph (7)—

(i) for “, 1A and 2” substitute “and 1A”;

(ii) omit “or additions, as the case may be,” in both places where it occurs;

(iii) for “an allowance which is referred to in paragraph (1)(b)” substitute “a contributory allowance”.

**19.** In regulation 22 (disapplication of certain enactments following conversion decision), omit paragraphs (c) and (d).

**20.** In Schedule 1 (modification of enactments: making conversion decisions)—

(a) in paragraph 2(a), for the modified section 1(2) substitute **(b)**—

“(2) Subject to the provisions of this Part, a notified person is entitled to an employment and support allowance if the person satisfies the basic conditions and is entitled to an existing award of incapacity benefit or severe disablement allowance.”;

(b) for paragraph 6, substitute **(c)**—

“**6.** Schedule 1 to the 2007 Act(**d**) is to be read as if paragraphs 1 to 6 were omitted.”;

(c) in the heading to Part 2, for “the 2008 Regulations” substitute “the ESA Regulations”;

(d) in paragraph 10, for “Regulation 30” substitute “Regulation 26”(**e**);

(e) omit paragraph 10A(**f**);

(a) Regulation 21 was amended by S.I. 2010/2430, 2012/913 and 2012/919.

(b) Paragraph 2 was substituted by S.I. 2010/2430.

(c) Paragraph 6 was amended by S.I. 2010/2430.

(d) Schedule 1 was amended by paragraph 11 of Schedule 1(3) to the Pensions Act 2007 (c. 22), section 13 of the Welfare Reform Act 2009 (c. 24) and by paragraph 65 of Schedule 2, paragraph 26 of Schedule 3 and Part 1 of Schedule 14 to, the Welfare Reform Act 2012 (c. 5).

(e) Paragraph 10 was amended by S.I. 2010/2430.

(f) Paragraph 10A was inserted by S.I. 2010/2430.

- (f) in paragraph 11, for “Regulation 75” substitute “Regulation 68”(a);
- (g) in paragraph 12, for “Regulation 144” substitute “Regulation 85”(b);
- (h) in the sub-heading to Part 3, for “Social Security (Claims and Payments) Regulations 1987” substitute “The Claims and Payments Regulations”;
- (i) in paragraph 13(c)–
  - (i) for “Regulation 32 of the Social Security (Claims and Payments) Regulations 1987” substitute “Regulation 38 of the Claims and Payments Regulations”;
  - (ii) in sub-paragraph (a), for “paragraph (1)” substitute “paragraph (2)”;
  - (iii) in sub-paragraph (b), for “paragraph (1A)” substitute “paragraph (3)”.

21.—(1) Schedule 2 (modification of enactments: after the conversion phase) is amended as follows.

(2) In paragraph 2–

- (a) in sub-paragraph (a), in the modified section 1(2)(d)–
  - (i) in paragraph (a), for “or awards into a single award of an employment and support allowance;” substitute “into an award of an employment and support allowance; and”;
  - (ii) omit paragraph (c) and for “; and” at the end of paragraph (b) substitute “;”;

(b) in sub-paragraph (b) in the modified section 1(7)–

- ▶<sup>1</sup>(i) for the definition of “contributory allowance”, substitute–

“employment and support allowance” means an employment and support allowance to which a person is entitled by virtue of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations(e) which was based on an award of incapacity benefit or severe disablement allowance to which the person was entitled.”,

and for “; and” following that definition substitute “.”;◀
- (ii) omit the definition of “income-related allowance”.

<sup>1</sup>Para. 21(2)(b)(i) substituted and (2A) inserted in Sch. 4 by art. 7(a) & (b) of S.I. 2013/1511 as from 1.7.13.

▶<sup>1</sup>(2A) In paragraph 2A–

- (a) in paragraph (1), omit “contributory”; and
- (b) in paragraph (2), in the substituted section 1A(f)–
  - (i) in paragraphs (1) and (3) to (5), for “a contributory allowance” substitute “an employment and support allowance”; and
  - (ii) in paragraph (3), omit “Part 1 of”.◀

(3) In paragraph 3(b), for “regulation 147A of the 2008 Regulations” substitute “regulation 87 of the ESA Regulations”(g).

(4) Omit paragraphs 4 and 4A(h).

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(a) Paragraph 11 was amended by S.I. 2010/2430.

(b) Paragraph 12 was amended by S.I. 2010/2430.

(c) Paragraph 13 was amended by S.I. 2010/2430.

(d) Paragraph 2(a) was amended by S.I. 2010/2430.

(e) 2010/1907. Paragraph 2A of Schedule 2 was inserted by S.I. 2012/913.

(f) Section 1A of the Welfare Reform Act 2007 (c. 5) was inserted by section 51(11) of the Welfare Reform Act 2012 (c. 5) (“the Act”) and amended by paragraph 26 of Schedule 3 to the Act and Part 1 of Schedule 14 to the Act. These amendments (which form part of the “amending provisions”) are commenced for certain cases by article 4 of the No. 9 Order and article 4 of this Order.

(g) Paragraph 3(b) was amended by S.I. 2010/2430.

(h) Paragraph 4 was amended by, and paragraph 4A was inserted by, S.I. 2010/2430.

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(5) In paragraph 6A(a)–

- (a) in sub-paragraph (a), after paragraph (iv) insert “and”;
- (b) in sub-paragraph (b), for “; and” substitute “.”;
- (c) omit sub-paragraph (c).

(6) In the heading to Part 3, for “the 2008 Regulations” substitute “the ESA Regulations”.

(7) In paragraph 8, for “regulation 147A of the 2008 Regulations” substitute “regulation 87 of the ESA Regulations”(b).

(8) In paragraph 10, for “regulation 30” substitute “regulation 26”(c).

“(9) For paragraph 11, substitute(d)–

**11.** Regulation 39 (exempt work) is to be read as if, in the definition of “work period” in paragraph (6), after “referred to in paragraph (1)(c)”, in both places where it occurs, there were inserted “, or any work done in accordance with regulation 17(4)(a) of the Social Security (Incapacity for Work)(General) Regulations 1995(e).

(10) For paragraph 12, substitute(f)–”

**“12.** . Regulation 62 (prescribed amounts) is to be read as if, in paragraph (1), for sub-paragraphs (a) and (b) there were substituted–

- (a) (i) where the claimant satisfies the conditions set out in section 2(2) or (3) of the Act, ►<sup>1</sup>£72.40◄; or
- (ii) where the claimant does not satisfy the conditions set out in section 2(2) or (3) of the Act–
  - (aa) where the claimant is aged not less than 25, ►<sup>1</sup>£72.40◄; or
  - (bb) where the claimant is aged less than 25, ►<sup>1</sup>£57.35◄; and
- (b) the amount of any transitional addition to which the person is entitled under regulation 10 of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010.”

(9) Omit paragraph 13(g).

(10) In paragraph 14(h)–

- (a) for “Regulation 75” substitute “Regulation 68”;
- (b) for “paragraph 38” substitute “paragraph 11”.

(11) In paragraph 15–

- (a) in the introductory words(i), for “Regulation 147A” substitute “regulation 87”;
- (b) in the inserted regulation(j)–
  - (i) in the description of the number of the regulation, for “147A.–” substitute “87.–”;
  - (ii) in paragraph (2), for “regulation 19” substitute “regulation 15”;

<sup>1</sup>Amounts in para. 21(8) substituted by art. 12(2)(a) & (b) of S.I. 2014/147 as from 7.4.14.

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(a) Paragraph 6A was inserted by S.I. 2010/2430.  
 (b) Paragraph 8 was amended by S.I. 2010/2430.  
 (c) Paragraph 10 was amended by S.I. 2010/2430.  
 (d) Paragraph 11 was amended by S.I. 2010/2430.  
 (e) S.I. 1995/311. Regulation 17(4)(a) was amended by S.I. 2010/840 and 2011/674.  
 (f) Paragraph 12 was amended by S.I. 2010/2430.  
 (g) Paragraph 13 was amended by S.I. 2010/2430.  
 (h) Paragraph 14 was amended by S.I. 2010/2430.  
 (i) The introductory words were amended by S.I. 2010/840 and 2010/2430.  
 (j) Paragraph (5)(c) of regulation 147A of S.I. 2008/794, as substituted by paragraph 15, was amended by S.I. 2000/1596, 2002/1379, 2008/2683, 2010/2430 and 2011/2425. Paragraph 5A of the substituted regulation 147A was inserted by S.I. 2011/2425.

- (iii) in paragraph (4)(a), for “regulation 22 or 23” substitute “regulation 18 or 19”;
  - (iv) for “regulation 30”, in all places where it occurs, substitute “regulation 26”;
  - (v) in paragraph (5)(c), for the words from “, struck out” to “(notice of appeal)”, substitute “or struck out”;
  - (vi) in paragraph (5A), for “either–” and sub-paragraphs (a) and (b), substitute “receives the First-tier Tribunal’s notification that the appeal is dismissed, withdrawn or struck out.”.
- (12) Omit paragraph 16(a).
- (13) In the sub-heading before paragraph 17, for “Social Security (Claims and Payments) Regulations 1987” substitute “The Claims and Payments Regulations”.
- (14) In paragraph 17, for “The Social Security (Claims and Payments) Regulations 1987” substitute “The Claims and Payments Regulations”(b).
- (15) For paragraph 18 substitute(c)–
- “**18.** Regulation 7 (claims not required for entitlement to an employment and support allowance in certain cases) is to read as if–
- (a) the existing provisions were renumbered as paragraph (1);
  - (b) after paragraph (1) there were inserted–
- (2) It is also not to be a condition of entitlement to an employment and support allowance that a claim be made for it where any of the following conditions are met–
- (a) the claimant–
    - (i) has made and is pursuing an appeal against a conversion decision made by virtue of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 which embodies a determination that the beneficiary does not have limited capability for work; or
    - (ii) was entitled to an employment and support allowance by virtue of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 and has made and is pursuing an appeal against a later decision which embodies a determination that the claimant does not have limited capability for work; or
  - (b) the claimant is entitled to an existing award which is subject to conversion under the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010.” “
- (16) In paragraph 19, for “regulation 26C” substitute “regulation 51”(d).
- (17) In paragraph 20(e)–
- (a) for “regulation 32(1B)” substitute “regulation 38(4)”;
  - (b) in sub-paragraph (a), for the words “sub-paragraph (a)” substitute “sub-paragraph (b)”;
  - (c) in sub-paragraph (b), for “(ab)” substitute “(bb)”.
- (18) Omit paragraph 21(f).

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(a) Paragraph 16 was amended by S.I. 2010/2430.

(b) Paragraph 17 was amended by S.I. 2010/2430.

(c) Paragraph 18 was amended by S.I. 2010/840 and 2010/2430.

(d) Paragraph 19 was amended by S.I. 2008/1554 and 2010/2430.

(e) Paragraph 20 was amended by S.I. 2010/2430.

(f) Paragraph 21 was amended by S.I. 2010/2430.

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- (19) In paragraph 22, for “Schedule 9B” substitute “Schedule 7”(a).
- (20) In paragraph 22A(b), in the inserted text omit paragraph (2B).
- (21) In paragraph 23(c), in the inserted text omit paragraph (2B).
- (22) In paragraph 24(d), in the inserted text omit paragraph (2B).
- (23) In paragraph 25(e), in the inserted text omit paragraph (2B).

(24) In the sub-heading before paragraph 25A, for “Social Security and Child Support (Decisions and Appeals) Regulations 1999” substitute “Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013”.

- (25) In paragraph 25A(f)–
  - (a) in sub-paragraph (1), for “Regulation 3 of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (revision of decisions)” substitute “Regulation 5 of the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013 (revision on any grounds)”;
  - (b) in sub-paragraph (1)(b), for “paragraph (9)(a)” substitute “paragraphs (2)(a) and (b)”;
  - (c) for sub-paragraph (1)(c), substitute–
    - “(c) in paragraph (2)(a), for “in the case of an advance award under regulation 32, 33 or 34 of the Claims and Payment Regulations 2013” there were substituted, “in the case of an advance award under regulation 32, 33 or 34 of the Claims and Payment Regulations 2013 or a conversion decision within the meaning of regulation 5(2)(a) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010”.”;
  - (d) for sub-paragraph (2), substitute–
    - “(2) Regulation 23(1)(a) of those Regulations (change of circumstances) is to be read as if for “in the case of an advance award under regulation 32, 33 or 34 of the Claims and Payments Regulations 2013” there were substituted “in the case of an advance award under regulation 32, 33 or 34 of the Claims and Payments Regulations 2013 or a conversion decision within the meaning of regulation 5(2)(a) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010.” “

(26) Omit paragraph 27(g).

**22. In Schedule 3–**

- (a) for “The Social Security (Claims and Payments) Regulations 1987” substitute “the Claims and Payments Regulations”;
- (b) for “The Social Security and Child Support (Decisions and Appeals) Regulations 1999” substitute “the Decisions and Appeals Regulations”.

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(a) Paragraph 22 was amended by S.I. 2001/18 and 2010/2430.

(b) Paragraph 22A was inserted by S.I. 2010/2430.

(c) Paragraph 23 was amended by S.I. 2010/2430.

(d) Paragraph 24 was amended by S.I. 2008/1554 and 2010/2430.

(e) Paragraph 25 was amended by S.I. 2008/1554 and 2010/2430.

(f) Paragraph 25A was inserted by S.I. 2010/2430.

(g) Paragraph 27 was inserted by S.I. 2011/2425.

►<sup>1</sup>SCHEDULE 5

THE GATEWAY CONDITIONS

*Para. 1 has been amended by the following S.I.'s 2014/1661, 2014/1923 & 2015/1537. These amendments are subject to transitional provisions where a claim is made or treated as made, or, awarded, before 28.7.2014. Refer to article 3 of the respective S.I.'s for when to apply.*

<sup>1</sup>Sch. 5 inserted by art. 16 of S.I. 2014/1452. (See art. 3 of that S.I. for when to apply).

**Personal characteristics**

1. The claimant must be—

- (a) aged at least 18 years, but under 60 years and six months;
- (b) ►<sup>2</sup>◄
- <sup>3</sup>(b) a single person (where that expression has the meaning given by section 40 of the Act); ◄
- (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.

<sup>2</sup>Para. 1(b) omitted by art. 4(7)(a) of S.I. 2014/1923. (See art. 3 of that S.I. for when to apply).

<sup>3</sup>Para. 1(b) inserted by art. 2(4)(a) of S.I. 2015/101. (See art. 3 of this S.I. for when to apply).

**Fitness to work**

2. (1) The claimant 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 paragraph, “confinement” has the same meaning as in regulation 8(4) of the Universal Credit Regulations.

(3) The claimant—

- (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(a) (“a statement of fitness for work”) in respect of the date on which the claim for universal credit is made, unless it has been determined, since the statement was given, that the claimant 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 the claimant does not consider himself or herself to be unfit for work; and
- (d) must not have been the subject of a determination that the claimant has limited capability for work within the meaning of the 2007 Act, unless it has subsequently been determined that the claimant does not have limited capability for work within the meaning of that Act.

*Para. 3 has been amended by the following S.I.'s 2014/1661, 2014/1923 & 2015/32. These amendments are subject to transitional provisions where a claim is made or treated as made, or, awarded, before 28.7.2014. Refer to article 3 of the respective S.I.'s for when to apply.*

**Existing benefits**

3.—(1) The claimant must not be entitled to—

- <sup>3</sup>(a) old style ESA;
- (b) old style JSA;
- (c) income support; ◄

<sup>3</sup>Para. 3(1)(a)-(c) substituted by art. 4(4)(b)(i) of S.I. 2014/1661 as from 30.6.14.

(a) S.I. 1976/615. Schedule 1 was substituted by S.I. 2010/137.



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- (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(a); or
- (f) personal independence payment under Part 4 of the Act(b).

<sup>1</sup>Para. 3(2), (5) & (6) omitted & 3(3)(a) substituted by art. 4(4)(b)(ii) to (iv) of S.I. 2014/1661 as from 30.6.14.

- (2) ►<sup>1</sup>◄.
- (3) The claimant must not be awaiting–
  - <sup>1</sup>(a) a decision on a claim for–
    - (i) any benefit mentioned in sub-paragraph (1)(a) to (c);
    - (ii) a tax credit; or
    - (iii) housing benefit;◄
  - (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(c), a decision that the claimant is not entitled to old style JSA, old style ESA or income support; or
    - (ii) to the relevant authority (within the meaning of the Child Support, Pensions and Social Security Act 2000(d)) to consider whether to revise, under Schedule 7 to that Act, a decision that the claimant is not entitled to housing benefit.
- (4) If the claimant has appealed against a decision that he or she is not entitled to a benefit mentioned in sub-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)-(6) ►<sup>1</sup>◄.

*Para. 4 has been amended by the following S.I.'s 2014/1661, 2014/1923 & 2013/983, 2015/10 & 2015/1537. These amendments are subject to transitional provisions where a claim is made or treated as made, or awarded, before 28.7.2014. Refer to article 3 of the respective S.I.'s for when to apply.*

### Income and capital

<sup>2</sup>Para. 4 substituted by art. 4(7)(b) of S.I. 2014/1923. (See art. 3 of that S.I. for when to apply).

- <sup>2</sup>4.—(1) The claimant is a single claimant, the claimant must declare that, during the period of one month starting with the date on which the claim for universal credit is made, the claimant's earned income is expected not to exceed £330.
- (2) if the claim for universal credit is made by a couple as joint claimants, they must declare that, during the period of one month starting with the date on which the claim is made–
  - (a) in relation to each member of the couple, the earned income of that member is expected not to exceed £330; and
  - (b) the couple's total earned income is expected not to exceed £525.
- (3) If the claimant is a single claimant and is a not member of a couple, the couple's total capital must not exceed £6,000.
- (4) If the claimant is a single claimant and is a member of a couple, the couple's total capital must not exceed £6,000.

- (a) 1992 c. 4. Section 71 was amended by the Welfare Reform and Pensions Act 1999 (c. 30), section 67(1).
- (b) See the Act, s. 77.
- (c) 1998 c. 14. The section has been amended in a way that is not relevant to this Order. See, in relation to consideration of revision under s. 9, s. 12(2)(b) and (3A), inserted by section 102 of the Act.
- (d) 2000 c. 19.

(5) If the claim for universal credit is made by a couple as joint claimants, the couple's total capital must not exceed £6,000.

(6) For the purposes of this paragraph, "couple" has the same meaning as it has in section 39 of the Act and "earned income" and "capital" have the same meaning as they have in Part 6 of the Universal Credit Regulations. ◀

### Housing

5. The claimant must not—

- (a) be homeless (within the meaning of section 175 of the Housing Act 1996<sup>(a)</sup>) and must currently reside at his or her 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 the claimant by or on behalf of the person by whom the accommodation is provided, with a view to enabling the claimant to live there;
- (c) reside in the same household as a person who is a member of the regular forces or the reserve forces (within the meaning of section 374 of the Armed Forces Act 2006<sup>(b)</sup>) and who is absent from the household in connection with that role; or
- (d) own, or partly own, the property in which he or she resides.

*Paras. 6 & 7 has been amended by the following S.I.'s 2014/1661, 2014/1923 & 2015/32. These amendments are subject to transitional provisions where a claim is made or treated as made, or, awarded, before 28.7.2014. Refer to article 3 of the respective S.I.'s for when to apply.*

### Caring responsibilities

6.—(1) There must not be—

- (a) a child living with the claimant some or all of the time;
- (b) a person ("the young person") living with the claimant some or all of the time if—
  - (i) the young person is not a child, but is under the age of 20; and
  - (ii) the claimant 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.

(2) The claimant must not—

- (a) be an adopter (within the meaning of the Universal Credit Regulations<sup>(c)</sup>) with whom a child is expected to be placed during the period of ▶<sup>1</sup>two months ◀ beginning with the date on which the claim for universal credit is made;
- (b) be a foster parent;
- (c) be liable to pay child support maintenance under the Child Support Act 1991<sup>(d)</sup>; or
- (d) 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.

<sup>1</sup>Words in para. 6(2)(a) substituted by art. 4(4)(d) & (e)(i) of S.I. 2014/1661 as from 30.6.14.

(3) For the purposes of this paragraph—

- (a) "child" has the same meaning as in Part 1 of the Act<sup>(e)</sup>;
- (b) "foster parent" means—

(a) 1996 c. 52.

(b) 2006 c. 52.

(c) See regulation 2, as amended by S.I. 2013/803.

(d) 1991 c. 48.

(e) See section 40 of the Act.

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- (i) in relation to England, a person who is approved as a foster parent under the Fostering Services (England) Regulations 2011<sup>(a)</sup>;
- (ii) in relation to Wales, a person who is approved as a foster parent under the Fostering Services (Wales) Regulations 2003<sup>(b)</sup>;
- (iii) in relation to Scotland, a person who is approved as a kinship carer or a foster carer under the Looked After Children (Scotland) Regulations 2009<sup>(c)</sup>.

*Paras. 6 & 7 has been amended by the following S.I.'s 2014/1661 & 2014/1923. These amendments are subject to transitional provisions where a claim is made or treated as made, or, awarded, before 28.7.2014. Refer to article 3 of the respective S.I.'s for when to apply.*

### Other requirements

#### 7. The claimant—

<sup>1</sup>Words in para. 7(a) substituted by art. 4(4)(d) & (e)(i) of S.I. 2014/1661 as from 30.6.14.

- ▶<sup>1</sup>(a) must not be carrying on a trade, profession or vocation in respect of which he or she receives self-employed earnings (within the meaning of regulation 57 of the Universal Credit Regulations) and must declare that he or she does not expect to carry on such a trade, profession or vocation during the period of one month starting with the date on which the claim for universal credit is made;◀
- (b) must not be receiving education or undertaking a course of training of any kind and must declare that he or she does 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>(d)</sup> (“the 2005 Act”);
  - (ii) a receiver appointed under Part 7 of the Mental Health Act 1983<sup>(e)</sup> and treated as a deputy by virtue of the 2005 Act; or
  - (iii) any other person acting on the claimant’s 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, or a current account with a Credit Union (within the meaning of the Credit Unions Act 1979<sup>(f)</sup>) ▶<sup>2</sup>;
- (f) must not be—
  - (i) a company director, within the meaning of the Companies Act 2006<sup>(g)</sup>; or
  - (ii) a member of a limited liability partnership, within the meaning of the Limited Liability Partnerships Act 2000<sup>(h)</sup>.◀

<sup>2</sup>Para. 7(f) inserted & word in para. 8 substituted by art. 4(4)(e)(ii) & (f) of S.I. 2014/1661 as from 30.6.14. (See art. 3 of that S.I. for when to apply).

Para. 8 has been amended by S.I.2015/101. These amendments are subject to transitional provisions where a claim is made or treated as made, or, awarded, before 6.4.15. Refer to article 3 of the respective S.I. for when to apply.

(a) S.I. 2011/581. See regulation 27.

(b) S.I. 2003/237. See regulation 28, substituted by S.I. 2010/746.

(c) S.I. 2009/210. See regulations 10 and 22.

(d) 2005 c. 9.

(e) 1983 c. 20.

(f) 1979 c. 34.

(g) 2006 c. 46.

(h) 2000 c. 12.

**Declarations**

8.—<sup>1</sup>(1) <sup>2</sup>A declaration which is required by paragraph 2(3)(c), 4(1) <sup>3</sup>, 4(2) or 7(a) or (b) is to be made by such method as may be required by the Secretary of State in relation to the person by whom it is to be made.

<sup>1</sup>(2) A declaration which is required by paragraph 4(2) in relation to a couple may be made on behalf of the couple by both members of the couple or by either of them.

<sup>1</sup>Para. 8 renumbered as para. 8(1) & para. 8(2) inserted by art. 4(7)(c) of S.I. 2014/1923. (See art. 3 of that S.I. for when to apply).  
<sup>2</sup>Words in para. 7(a) substituted by art. 4(4)(d) & (e)(i) of S.I. 2014/1661 as from 30.6.14.

**EXPLANATORY NOTE**

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

This Order commences provisions of the Welfare Reform Act 2012 (c. 5) (“the Act”) that relate to universal credit (UC) and the abolition of income-related employment and support allowance and of income-based jobseeker’s allowance, by reference to the cases set out in articles 3 and 4. It also makes transitional provision with respect to that abolition, and other provision as referred to below.

An award of an employment and support allowance (ESA) under Part 1 of the Welfare Reform Act 2007 (c. 5) in a case where income-related employment and support allowance has been abolished is referred to as a “new style ESA award” and an award of a jobseeker’s allowance (JSA) under the Jobseekers Act 1995 (c. 18) in a case where income-based jobseeker’s allowance has been abolished is referred to as a “new style JSA award”.

An award of ESA under Part 1 of the Welfare Reform Act 2007 in a case where income-related employment and support allowance has not been abolished is referred to as an “old style ESA award” and an award of JSA under the Jobseekers Act 1995 in a case where income-based jobseeker’s allowance has not been abolished is referred to as an “old style JSA award”.

Article 3(1) brings into force on 29th April 2013 various provisions relating to UC including certain supplementary and consequential provisions set out in Schedule 2 to the Act.

Article 3(2) brings into force provisions relating to UC in Part 1 of the Act, as set out in Schedule 2, where one of six different cases referred to in article 3(3), relating to claims for UC and any resulting award and to awards of UC without a claim, applies.

The case in article 3(3)(a) relates to the making of a claim for UC in respect of a period that begins on or after 29th April 2013 where a person resides in a “relevant district” at the time that the claim is made (the “relevant districts” are described in Schedule 1). Other conditions (“Pathfinder Group conditions”) for making a claim for UC are set out in the Universal Credit (Transitional Provisions) Regulations 2013 (S.I. 2013/386).

The other cases referred to in article 3(3) relate to situations where—

- a) a person claims UC and provides incorrect information as to their residence in a relevant district but this is only discovered once payments of UC have been made;
- b) a single person becomes a member of a couple where the other member is entitled to UC;
- c) a couple cease to be a couple and the member of the couple who is not exempt from making a claim for UC, makes a claim within a period of 1 month;
- d) a person is awarded UC as a result of changes in their income within 6 months of their income being such that they were not entitled to UC;
- e) a couple cease to be a couple and an award of UC is made without a claim to the member of the couple who is exempt from making a claim or an award of UC is made without a claim to a couple where the members of the couple were previously entitled to UC as single claimants. In addition, where an award of UC is made without a claim to a member of a couple where the other member of the couple has died.

Article 4(1) brings into force provisions relating to the abolition of income-related employment and support allowance and of income-based jobseeker’s allowance (“the amending provisions”) including the repeal of provisions relating to the abolished allowances as set out in Schedule 3, where one of six different cases applies.

Under article 4(2)(a), the amending provisions come into force in relation to a claim for UC, ESA or JSA, and any award that is made in respect of the claim, where a person claims UC, ESA or JSA in respect of a period that begins on or after 29th April 2013 and, at the time that the claim is made, resides in a relevant district and meets the Pathfinder Group conditions.

Under article 4(2)(b), the amending provisions come into force in relation to a claim for UC and any award that is made in respect of the claim where a person claims UC in respect of a period that begins on or after 29th April 2013 and provides incorrect information as to their residence in a relevant district, or as to their meeting the Pathfinder Group conditions, but this is only discovered once payments of UC have been made.

The other cases in article 4(2) are the same as the cases in (b) to (e) above that relate to UC.

Article 4(4) provides that a reference in paragraph (1) to an award of UC includes a reference to any claim for ESA or JSA, and any award that is made in respect of that claim, where the claim is made within the period of the UC award by a person to whom the award is made and with respect to a period that commences on or after the first day of entitlement to UC. It also includes a reference to any notice under the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit)(Existing Awards)(No. 2) Regulations 2010 (S.I. 2010/1907) (“2010 Transitional Regulations”) that is issued to such a person, relating to the conversion of existing awards of incapacity benefit (IB) and severe disablement allowance (SDA) to ESA, and to any award of ESA that is made as a result of a conversion decision, where the notice is issued within the period of the UC award.

Article 5 contains provisions that apply in connection with article 4.

Article 6 makes transitional provision with respect to the case where—

- a) a person has a new style ESA award or new style JSA award;
- b) any award of UC has come to an end;
- c) the person applies for supersession of the decision to make the award or makes a claim for UC, any claim for UC does not fall within the cases in article 4(2)(b) to (d), and the person does not reside in a relevant district or does not meet the Pathfinder Group conditions at the time that the application is received or the claim is made.

Subject to certain other conditions being satisfied, the award is treated as though the amending provisions had not come into force, such that the person is able to claim income-related ESA or income-based JSA once again.

Article 7 provides for the appointed day and transitional provisions for the provisions in the Act that relate to claimant responsibilities in relation to a new style ESA award or a new style JSA award; these provisions come into force in relation to any case with respect to which the amending provisions come into force.

Article 8 brings into force provisions of Schedule 11 to the Act that concern consideration of revision before appeal.

Article 9 and Schedule 4 provide for transitional provisions whereby, in relation to cases with respect to which the amending provisions have come into force, the 2010 Transitional Regulations are to be read as if the amendments set out in Schedule 4 were made; the amendments substitute references to provisions that apply to new style ESA awards including the Employment and Support Allowance Regulations 2013 (S.I. 2013/379).

Articles 10 and 11 provide for transitional provisions with respect to assessments of limited capability for work or for work and work-related activity where a person has a new style ESA award and previously had an old style ESA award, or vice versa.

Articles 12 and 13 provide for transitional provisions with respect to the continuity of jobseeking periods where a person has a new style JSA award and previously had an old style JSA award, or vice versa.

Articles 14 to 16 provide for transitional provisions in relation to sanctions where a person has a new style ESA award and previously had an old style ESA award and was subject to sanctions. Articles 17 to 19 make similar provision for JSA.



SI 2013/983 (C. 41)

**WELFARE REFORM ACT 2012 (COMMENCEMENT NO. 9 AND  
TRANSITIONAL AND TRANSITORY PROVISIONS AND  
COMMENCEMENT NO. 8 AND SAVINGS AND TRANSITIONAL  
PROVISIONS (AMENDMENT)) ORDER 2013**