

**2014 No. 1230****SOCIAL SECURITY****The Universal Credit (Transitional Provisions)  
Regulations 2014**

<i>Made</i> - - - -	<i>12th May 2014</i>
<i>Laid before Parliament</i>	<i>14th May 2014</i>
<i>Coming into force</i> -	<i>16th June 2014</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by section 42(2) and (3) of and paragraphs 1(1) and (2)(b), 3(1)(a) to (c), 4(1)(a), 5(1), (2)(c) and (d) and (3)(a) and 6 of Schedule 6 to the Welfare Reform Act 2012(a).

In accordance with section 172(1) of the Social Security Administration Act 1992(b) (“the 1992 Act”), the Secretary of State has referred proposals in respect of these Regulations to the Social Security Advisory Committee.

In accordance with section 176(1) of the 1992 Act and, in so far as these Regulations relate to housing benefit, the Secretary of State has consulted with organisations appearing to him to be representative of the authorities concerned in respect of proposals for these Regulations.

**PART 1****INTRODUCTORY****Citation and commencement**

**1.**—(1) These Regulations may be cited as the Universal Credit (Transitional Provisions) Regulations 2014.

(2) These Regulations come into force on 16th June 2014.

**Interpretation**

**2.**—(1) In these Regulations—

“the 2002 Act” means the Tax Credits Act 2002(c);

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

“the Act” means the Welfare Reform Act 2012;

“assessment period” has the same meaning as in the Universal Credit Regulations(e);

“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(f);

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(a) 2012 c. 5.

(b) 1992 c. 5.

(c) 2002 c. 21.

(d) 2007 c. 5.

(e) See regulation 21.

(f) S.I. 2013/380, amended by S.I. 2013/443.

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“contributory employment and support allowance” means a contributory allowance under Part 1 of the 2007 Act(a) as that Part 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 “exempt accommodation” omitted & defn. of “specified accommodation” inserted by reg. 3(a) & (b) of S.I. 2014/1626 as from 3.11.14.

▶<sup>1</sup>◀

“existing benefit” means income-based jobseeker’s allowance, income-related employment and support allowance, income support, housing benefit and child tax credit and working tax credit under the 2002 Act, but see also regulation 25(2);

“First-tier Tribunal” has the same meaning as in the Social Security Act 1998(b); “housing benefit” means housing benefit under section 130 of the Social Security Contributions and Benefits Act 1992(c);

“income-based jobseeker’s allowance” has the same meaning as in the Jobseekers Act 1995(d);

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

“income support” means income support under section 124 of the Social Security Contributions and Benefits Act 1992;

“joint-claim jobseeker’s allowance” means old style JSA, entitlement to which arises by virtue of section 1(2B) of the Jobseekers Act 1995(f);

“new claimant partner” has the meaning given in regulation 7;

“new style ESA” means an allowance under Part 1 of the 2007 Act as amended by the amendments made by Schedule 3, and Part 1 of Schedule 14, to the Act that remove references to an income-related allowance;

“new style JSA” means an allowance under the Jobseekers Act 1995 as amended by the amendments made by Part 1 of Schedule 14 to the Act that remove references to an income-based allowance;

“old style ESA” means an employment and support allowance under Part 1 of the 2007 Act as that Part 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;

“old style JSA” means a jobseeker’s allowance under the Jobseekers Act 1995 as that Act 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>“specified accommodation” means accommodation to which one or more of sub-paragraphs (2) to (5) of paragraph 3A of Schedule 1 to the Universal Credit Regulations(g) applies;◀

“partner” in relation to a person (“A”) means a person who forms part of a couple with A(h);

“tax credit” (including “child tax credit” and “working tax credit”), “tax credits” and “tax year” have the same meanings as in the 2002 Act(i);

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

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

(2) For the purposes of these Regulations—

(a) the date on which a claim for universal credit is made is to be determined in accordance with the Claims and Payments Regulations(k);

(a) See section 1(7).

(b) 1998 c. 14.

(c) 1992 c. 4.

(d) See section 1(4).

(e) See section 1(7).

(f) Subsection (2B) was inserted by the Welfare Reform and Pensions Act 1999 (c. 30), Schedule 7, paragraph 2 and repealed by the Welfare Reform Act 2012 (“the Act”), Schedule 14, Part 1.

(g) Paragraph 3A of Schedule 1 was inserted by S.I. 2014/771.

(h) See section 39 of the Act for the meaning of “couple”.

(i) See sections 1(1) and (2), 48(1) and 67.

(j) S.I. 2013/376.

(k) See regulation 10.

- (b) where a couple is treated, in accordance with regulation 9(8) of the Claims and Payments Regulations, as having made 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;
- (c) where a regulation refers to entitlement to an existing benefit on the date on which a claim for universal credit is made or treated as made, such entitlement is to be taken into account notwithstanding the effect of regulations 5, 7 and 8 or termination of an award of the benefit before that date by virtue of an order made under section 150(3) of the Act(a).

### **Revocation and saving of the Universal Credit (Transitional Provisions) Regulations 2013**

3.—(1) The Universal Credit (Transitional Provisions) Regulations 2013(b) (“the 2013 Regulations”) are revoked, subject to the savings in paragraphs (2) to (4).

(2) Chapters 2 and 3 of Part 2 (Pathfinder Group and treatment of invalid claims) of the 2013 Regulations continue to have effect in relation to a claim for universal credit—

- (a) which was made before the date on which these Regulations come into force (“the commencement date”); and
- (b) in respect of which no payment has been made to the claimant before the commencement date.

(3) Regulation 19 of the 2013 Regulations (advance payments of universal credit) continues to have effect in relation to an advance payment which was made in accordance with that regulation before the commencement date and regulation 17 of these Regulations does not apply to such a payment.

(4) Any other provision of the 2013 Regulations continues to have effect in so far as is necessary to give full effect to paragraphs (2) and (3).

## PART 2

### TRANSITION TO UNIVERSAL CREDIT

#### CHAPTER 1

#### ENTITLEMENT TO CLAIM UNIVERSAL CREDIT

### **Secretary of State discretion to determine that claims for universal credit may not be made**

4.—(1) Where the Secretary of State considers it necessary, in order to—

- (a) safeguard the efficient administration of universal credit; or
- (b) ensure the effective testing of systems for the administration of universal credit,

to cease to accept claims in any area, or in any category of case (either in all areas or in a specified area), the Secretary of State may determine that claims for universal credit may not be made in that area, or in that category of case.

(2) A determination under paragraph (1) has effect until it ceases to have effect in accordance with a further determination made by the Secretary of State.

(3) More than one determination under paragraph (1) may have effect at the same time.

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(a) See, in particular, S.I. 2013/983 (C. 41).

(b) S.I. 2013/386, amended by S.I. 2013/591, 803 and 2070.

## CHAPTER 2

## ENTITLEMENT TO OTHER BENEFITS

**Exclusion of entitlement to certain benefits**

- 5.—(1) Except as provided in paragraph (2), a claimant is not entitled to—
- (a) income support;
  - (b) housing benefit;
  - (c) a tax credit; or
  - (d) state pension credit under the State Pension Credit Act 2002(a),

in respect of any period when the claimant is entitled to universal credit(b).

- (2) Entitlement to universal credit does not preclude the claimant from entitlement—
- (a) to housing benefit in respect of ►<sup>1</sup>specified accommodation◄; or
  - (b) during the first assessment period for universal credit, where the claimant is a new claimant partner, to—
    - (i) income support, where an award to which the new claimant partner is entitled terminates, in accordance with regulation 7(4), after the first date of entitlement to universal credit;
    - (ii) housing benefit, where regulation 7(5)(b) applies and an award of housing benefit to which the new claimant partner is entitled terminates after the first date of entitlement to universal credit; or
    - (iii) a tax credit, where an award to which the new claimant partner is entitled terminates, in accordance with the 2002 Act, after the first date of entitlement to universal credit.

<sup>1</sup>Words in reg. 5(2)(a) substituted by reg. 3(2)(a) of S.I. 2014/1626 as from 3.11.14.

**Exclusion of claims for certain existing benefits**

6.—(1) Except as provided in paragraphs (5) to (9) a universal credit claimant may not make a claim for income support, housing benefit or a tax credit.

- (2) For the purposes of this regulation, a person is a universal credit claimant if—
- (a) the person is entitled to universal credit;
  - (b) the person has made a claim for universal credit, a decision has not yet been made on that claim and the person has not been informed (in accordance with an order made under section 150(3) of the Act) that he or she is not entitled to claim universal credit;

<sup>2</sup>Reg. 6(2)(ba) inserted by reg. 2(2)(a) of S.I. 2015/1780 as from 16.11.15.

- <sup>2</sup>(ba)(i) the conditions in regulation 6(1)(a), (b) and (c) or 6(2)(a), (b) and (c) of the Claims and Payments Regulations(5) (claims not required for entitlement to universal credit in certain cases) are met in relation to the person;
- (ii) he or she may be entitled to an award of universal credit without making a claim if the conditions in regulation 6(1)(d) and (e) or, as the case may be, 6(2)(d) and (e) of those Regulations are also met; and
- (iii) either the Secretary of State has no information in relation to the person which may indicate a change of circumstances as referred to in regulation 6(1)(e) or, as the case may be, 6(2)(e) of those Regulations, or the Secretary of State has such information but no decision has been made that the person is entitled to universal credit;◄

(a) 2002 c. 16.

(b) A person who is entitled to universal credit is not entitled to old style JSA or old style ESA (other than in certain circumstances where a person is a member of a couple at the time of entitlement), by virtue of S.I. 2013/983 (c. 41), and other orders made under section 150(3) of the Act, which bring into force repeals of the legislation relating to those benefits.

- (c) the person was previously entitled to a joint award of universal credit which terminated because the person ceased to be a member of a couple, he or she is not exempt (by virtue of regulation 9(6) of the Claims and Payments Regulations) from the condition of entitlement to universal credit that he or she makes a claim for it and the period of one month, starting with the date on which the person notified the Secretary of State that he or she had ceased to be a member of a couple, has not expired;
- <sup>1</sup>(ca) the person may be entitled to an award of universal credit in circumstances where, by virtue of regulation 9(6)(6), (7) or (10) of the Claims and Payments Regulations (claims for universal credit by members of a couple), it is not a condition of entitlement that he or she makes a claim for it, but no decision has yet been made as to the person's entitlement; ◀
- (d) the person is treated, under the Claims and Payments Regulations, as having made a claim for universal credit, ►<sup>1</sup>◀ but no decision has yet been made as to the person's entitlement;
- (e) a decision has been made that the person is 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 person has 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.
- (3) For the purposes of paragraph (1)—
- (a) a universal credit claimant makes a claim for benefit mentioned in that paragraph if the claimant takes any action which results in a decision on a claim being required under the relevant Regulations; and
- (b) except as provided in ►<sup>2</sup>paragraphs (5) to (7B)◀, it is irrelevant that the effect of any provision of the relevant Regulations is that, for the purposes of those Regulations, the claim is made or treated as made at a time when the claimant was not a universal credit claimant.
- (4) The relevant Regulations are—
- (a) in relation to a claim for income support, the Social Security (Claims and Payments) Regulations 1987(a) (“the 1987 Regulations”);
- (b) in relation to a claim for housing benefit, the Housing Benefit Regulations 2006(b) (“the 2006 Regulations”) or, as the case may be, the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(c) (“the 2006 (SPC) Regulations”);
- (c) in relation to a claim for a tax credit, the Tax Credits (Claims and Notifications) Regulations 2002(d).
- (5) A universal credit claimant is not precluded from making a claim for income support if—
- (a) first notification of the claimant's intention to make that claim was made, or deemed to be made, for the purposes of regulation 6(1A)(c) ►<sup>2</sup>or 6A◀ of the 1987 Regulations(e), before the date on which the claim for universal credit was made or treated as made; and
- (b) in accordance with the 1987 Regulations, the claimant's entitlement to income support in connection with the claim will (if the claimant is entitled to income support) pre-date—

<sup>1</sup>Regs. 6(2)(ca) inserted & words in sub-para. (d) omitted by reg. 2(2)(b)-(c) of S.I. 2015/1780 as from 16.11.15.

<sup>2</sup>Words substituted in reg. 6(3)(b) & inserted in para. (5)(a) by reg. 2(3) & (4) of S.I. 2015/1780 as from 16.11.15.

(a) S.I. 1987/1968.

(b) S.I. 2006/213.

(c) S.I. 2006/214.

(d) S.I. 2002/2014.

(e) Regulation 6(1A) was inserted by S.I. 1997/793; sub-paragraph (b) was amended by S.I. 2009/1490.

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- (i) the date, or anticipated date, of the claimant's entitlement to universal credit in connection with the current award or claim; or
- (ii) where the claimant is a new claimant partner and regulation 7(4) would apply to the award, the date on which it would terminate in accordance with that provision.

(6) A universal credit claimant is not precluded from making a claim for housing benefit if—

- (a) first notification of the claimant's intention to make that claim was given (within the meaning of regulation 83(5)(d) of the 2006 Regulations<sup>(a)</sup> or, as the case may be, regulation 64(6)(d) of the 2006 (SPC) Regulations<sup>(b)</sup>) before the date on which the claim for universal credit was made or treated as made; and
- (b) in accordance with the 2006 Regulations or, as the case may be, the 2006 (SPC) Regulations, the claimant's entitlement to housing benefit in connection with the claim will (if the claimant is entitled to housing benefit) pre-date—
  - (i) the date, or anticipated date, of the claimant's entitlement to universal credit in connection with the current award or claim; or
  - (ii) where the claimant is a new claimant partner and regulation 7(5)(b) would apply to the award, the date on which it would terminate in accordance with the 2006 Regulations or, as the case may be, the 2006 (SPC) Regulations.

(7) A universal credit claimant is not precluded from correcting or completing a claim for housing benefit which was defective within the meaning of the 2006 Regulations or the 2006 (SPC) Regulations if—

- (a) the defective claim was made before the date on which the claim for universal credit was made or treated as made; and
- (b) in accordance with the 2006 Regulations or, as the case may be, the 2006 (SPC) Regulations, the claimant's entitlement to housing benefit in connection with the claim will (if the claimant is entitled to housing benefit) pre-date—
  - (i) the date, or anticipated date, of the claimant's entitlement to universal credit in connection with the current award or claim; or
  - (ii) where the claimant is a new claimant partner and regulation 7(5)(b) would apply to the award, the date on which it would terminate in accordance with the 2006 Regulations or, as the case may be, the 2006 (SPC) Regulations.

<sup>1</sup>Reg. 6(7A) & (7B) inserted by reg. 2(5) of S.I. 2015/1780 as from 16.11.15.

►<sup>1</sup>(7A) A claimant who is a universal credit claimant by virtue of sub-paragraph (ba) of paragraph (2) (and no other sub-paragraph) is not precluded from—

- (a) making a claim for income support for a period starting on or after the relevant date if first notification of the claimant's intention to make that claim was made, or deemed to be made, for the purposes of regulation 6(1A)(c) or 6A of the 1987 Regulations<sup>(c)</sup>, during the period starting with the relevant date and ending with 15th November 2015;
- (b) making a claim for housing benefit for a period starting on or after the relevant date if first notification of the claimant's intention to make that claim was given (within the meaning of regulation 83(5)(d) of the 2006 Regulations<sup>(d)</sup> or, as the case may be, regulation 64(6)(d) of the 2006 (SPC) Regulations<sup>(e)</sup>), during the period starting with the relevant date and ending with 15th November 2015;

(a) Regulation 83(5) has been amended by S.I. 2007/2911, 2008/1082, 2008/2299 and 2013/2070.

(b) Regulation 64(6) has been amended by S.I. 2007/2911 and 2008/2299.

(c) S.I. 1987/1968. This term is defined in S.I. 2014/1230, regulation 6(4)(a).

(d) S.I. 2006/213. This term is defined in S.I. 2014/1230, regulation 6(4)(b). Regulation 83(5)(d) was substituted by S.I. 2008/2299 and amended by S.I. 2013/2070.

(e) S.I. 2006/214. This term is defined in S.I. 2014/1230, regulation 6(4)(b). Regulation 64(6)(d) was substituted by S.I. 2008/2299.



- (c) correcting or completing a claim for housing benefit for a period starting on or after the relevant date, where that claim was defective within the meaning of the 2006 Regulations or the 2006 (SPC) Regulations and was made during the period starting with the relevant date and ending with 15th November 2015.

(7B) For the purposes of paragraph (7A), the “relevant date” is—

- (a) where the conditions in regulation 6(1)(a), (b) and (c) of the Claims and Payments Regulations are met in relation to the claimant, the day after the claimant’s last day of entitlement to universal credit;
- (b) where the conditions in regulation 6(2)(a), (b) and (c) of the Claims and Payments Regulations are met in relation to the claimant, the first date on which the claimant would have been entitled to universal credit if the claimant has been so entitled.◀

(8) A universal credit claimant is not precluded from making a claim for housing benefit in respect of ▶<sup>1</sup>specified accommodation◀.

<sup>1</sup>Words substituted in reg. 6(8) by reg. 3(2)(b) of S.I. 2014/1626 as from 3.11.14.

(9) A universal credit claimant is not precluded from making a claim for a tax credit which the claimant is treated as having made by virtue of regulation 7(7) or 8(4)(a).

#### Termination of awards of certain existing benefits: new claimant partners

7.—(1) This regulation applies where—

- (a) a person (“A”) who was previously entitled to universal credit ▶<sup>2</sup>◀ ceases to be so entitled on becoming a member of a couple;
- (b) the other member of the couple (“the new claimant partner”) was not entitled to universal credit ▶<sup>2</sup>◀ immediately before formation of the couple;

<sup>2</sup>Words omitted in reg. 7(1)(a) & (b) by reg. 3(3) of S.I. 2014/2887 as from 26.11.14.

*Words in reg. 7(1)(a) & (b) omitted but kept in force for saving provisions. See reg. 5 to S.I. 2014/2887 for when to apply.*

- (a) a person (“A”) who was previously entitled to universal credit as a single person ceases to be so entitled on becoming a member of a couple;
- (b) the other member of the couple (“the new claimant partner”) was not entitled to universal credit as a single person immediately before formation of the couple;
- (c) the couple is treated, in accordance with regulation 9(8) of the Claims and Payments Regulations, as having made a claim for universal credit; and
- (d) the Secretary of State is satisfied that the claimants meet the basic conditions specified in section 4(1)(a) to (d) of the Act (other than any of those conditions which they are not required to meet by virtue of regulations under section 4(2) of the Act).

(2) Subject to paragraphs (4) and (5), where this regulation applies, all awards of income support or housing benefit to which the new claimant partner would (were it not for the effect of these Regulations) have been entitled during the relevant period are to terminate, by virtue of this regulation—

- (a) on the day before the first date on which the joint claimants are entitled to universal credit in connection with the claim; or
- (b) if the joint claimants are not entitled to universal credit, on the day before the first date on which they would have been so entitled, if all of the basic and financial conditions applicable to them had been met; or





- (c) if the new claimant partner became entitled to an award after the date on which it would otherwise terminate under sub-paragraph (a) or (b), at the beginning of the first day of entitlement to that award.

(3) For the purposes of this regulation, “the relevant period” is the period starting with the first day of the assessment period (in relation to A’s award of universal credit) during which A and the new claimant partner formed a couple and ending with the date of formation of the couple.

(4) Where the new claimant partner was entitled during the relevant period to income support, he or she was at that time a member of a couple and the award included an amount in respect of the new claimant partner and their partner at that time (“P”), the award of income support terminates, by virtue of this regulation, on the date on which the new claimant partner and P ceased to be a couple for the purposes of the Income Support (General) Regulations 1987, unless it terminates on that date in accordance with other legislative provision, or terminated on an earlier date.

(5) An award of housing benefit to which the new claimant partner is entitled does not terminate by virtue of this regulation where—

- (a) the award is in respect of ►<sup>1</sup>specified accommodation◄; or  
 (b) the new claimant partner leaves the accommodation in respect of which housing benefit was paid, in order to live with A(a).

<sup>1</sup>Words in reg. 7(5)(a) & 8(3) by reg. 3(2)(c) of S.I. 2014/1626 as from 3.11.14.

(6) Where an award terminates by virtue of this regulation, any legislative provision under which the award terminates on a later date does not apply.

(7) Where the new claimant partner was, immediately before forming a couple with A, treated by regulation 11 as being entitled to a tax credit, the new claimant partner is to be treated, for the purposes of the 2002 Act, as having made a claim for the tax credit in question for the current tax year.

#### Termination of awards of certain existing benefits: other claimants

8.—(1) This regulation applies where—

- (a) a claim for universal credit (other than a claim which is treated, in accordance with regulation 9(8) of the Claims and Payments Regulations, as having been made) is made; and  
 (b) the Secretary of State is satisfied that the claimant meets the basic conditions specified in section 4(1)(a) to (d) of the Act (other than any of those conditions which the claimant is not required to meet by virtue of regulations under section 4(2) of the Act).

(2) Subject to paragraph (3), where this regulation applies, all awards of income support, housing benefit or a tax credit to which the claimant (or, in the case of joint claimants, either of them) is entitled on the date on which the claim is made are to terminate, by virtue of this regulation—

- (a) on the day before the first date on which the claimant is entitled to universal credit in connection with the claim; or  
 (b) if the claimant is not entitled to universal credit, on the day before the first date on which he or she would have been so entitled, if all of the basic and financial conditions applicable to the claimant had been met.

(3) An award of housing benefit to which a claimant is entitled in respect of ►<sup>1</sup>specified accommodation◄ does not terminate by virtue of this regulation.

(4) Where this regulation applies and the claimant (or, in the case of joint claimants, either of them) is treated by regulation 11 as being entitled to a tax credit—

(a) In which case, *see* S.I. 2006/213, regulation 79, as amended and S.I. 2006/214, regulation 59, as amended.

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- (a) the claimant (or, as the case may be, the relevant claimant) is to be treated, for the purposes of the 2002 Act and this regulation, as having made a claim for the tax credit in question for the current tax year; and
- (b) if the claimant (or the relevant claimant) is entitled on the date on which the claim for universal credit was made to an award of a tax credit which is made in respect of a claim which is treated as having been made by virtue of subparagraph (a), that award is to terminate, by virtue of this regulation—
  - (i) on the day before the first date on which the claimant is entitled to universal credit; or
  - (ii) if the claimant is not entitled to universal credit, on the day before the first date on which he or she would have been so entitled, if all of the basic and financial conditions applicable to the claimant had been met.

(5) Where an award terminates by virtue of this regulation, any legislative provision under which the award terminates on a later date does not apply.

#### **Treatment of ongoing entitlement to certain benefits: benefit cap**

**9.—**(1) This regulation applies where a claimant who is a new claimant partner, or who has (in accordance with regulation 26 of the Universal Credit Regulations) been awarded universal credit in respect of a period preceding the date on which the claim for universal credit was made or treated as made—

- (a) is entitled, in respect of the whole or part of the first assessment period for universal credit, to a welfare benefit (other than universal credit) mentioned in regulation 79(4) of the Universal Credit Regulations (circumstances where the benefit cap applies); and
- (b) is entitled to housing benefit at any time during the first assessment period for universal credit, or would be so entitled were it not for the effect of these Regulations.

(2) Where this regulation applies, regulation 79 of the Universal Credit Regulations applies, in relation to the claimant, as if the benefit in question was not included in the list of welfare benefits in paragraph (4) of that regulation.

#### **Treatment of overpayments**

**10.—**(1) This regulation applies where—

- (a) an award of universal credit is made to a claimant who was previously entitled to an existing benefit other than a tax credit or a joint-claim jobseeker's allowance; and
- (b) a payment of the existing benefit is made which includes payment (“the overpayment”) in respect of a period—
  - (i) during which the claimant is not entitled to that benefit (including non-entitlement which arises from termination of an award by virtue of an order made under section 150(3) of the Act or regulation 7, 8, or 14); and
  - (ii) which falls within an assessment period for universal credit.

(2) Where this regulation applies, for the purposes of calculating the amount of an award of universal credit in respect of an assessment period—

- (a) regulation 66 of the Universal Credit Regulations (what is included in unearned income?) applies as if the overpayment which was made in respect of that assessment period were added to the descriptions of unearned income in paragraph (1)(b) of that regulation; and
- (b) regulation 73 of the Universal Credit Regulations (unearned income calculated monthly) does not apply to the overpayment.

(3) In so far as any overpayment is taken into account in calculating the amount of an award of universal credit in accordance with this regulation, that payment may not be recovered as an overpayment under—

- (a) the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988(a);
- (b) the Housing Benefit Regulations 2006(b); or
- (c) the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(c).

*Reg. 11 modified by art. 6 of S.I. 2015/33 in certain circumstances from 28.1.15 in accordance with art. 3 of S.I. 2015/33.*

### Ongoing awards of tax credits

11.—(1) For the purposes of regulations 7(7) and 8(4)–

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

(2) The cases are–

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

(a) S.I. 1988/664.

(b) See regulations 99 to 107, as amended.

(c) See regulations 80 to 88, as amended.

**Modification of tax credits legislation: overpayments and penalties**

**12.**—(1) This regulation applies where—

- (a) a claim for universal credit is made, or is treated as having been made;
- (b) the claimant is, or was at any time during the tax year in which the claim is made or treated as made, entitled to a tax credit; and
- (c) the Secretary of State is satisfied that the claimant meets the basic conditions specified in section 4(1)(a) to (d) of the Act (other than any of those conditions which the claimant is not required to meet by virtue of regulations under section 4(2) of the Act).

(2) Where this regulation applies, the 2002 Act applies in relation to the claimant with the following modifications.

(3) In section 28—

- (a) in subsection (1)—
  - (i) after “tax year” in both places where it occurs, insert “or part tax year”;
  - (ii) at the end insert “or treated as an overpayment of universal credit”;
- (b) in subsections (3) and (4), after “repaid” insert “to the Board or, as the case may be, to the Secretary of State”;
- (c) omit subsection (5);
- (d) in subsection (6) omit “(apart from subsection (5))”.

►<sup>1</sup>(4) For section 29(4) substitute—

“(4) Where a notice states that this subsection applies in relation to an amount (or part of an amount), it may be recovered—

- (a) subject to provision made by regulations, by deduction from payments of any tax credit under an award made for any period to the person, or either or both of the persons, to whom the notice was given; or
- (b) subject to regulations made by the Secretary of State under the Social Security Administration Act 1992(a)—
  - (i) by deductions under section 71ZC of that Act (Deduction from benefit—including universal credit);
  - (ii) by deductions under section 71ZD of that Act (Deduction from earnings); or
  - (iii) as set out in section 71ZE of that Act (Court action etc).”◀

(5) In section 48 after the definition of “overpayment” insert—

““part tax year” means a period of less than a year beginning with 6th April and ending with the date on which the award of a tax credit terminated.”

(6) In Schedule 2, in paragraph 6(1)(a) and (c) and (2)(a), after “for the tax year” insert “or part tax year”.

**►<sup>2</sup>Modification of tax credits legislation: finalisation of tax credits**

**12A.**—(1) This regulation applies where—

- (a) a claim for universal credit is made, or is treated as having been made;
- (b) the claimant is, or was at any time during the tax year in which the claim is made or treated as made, entitled to a tax credit; and
- (c) the Secretary of State is satisfied that the claimant meets the basic conditions specified in section 4(1)(a) to (d) of the Act (other than any of those conditions which the claimant is not required to meet the virtue of regulations under section 4(2) of the Act).

<sup>1</sup>Reg. 12(4) substituted by reg. 2 of S.I. 2016/232 as from 1.4.16.

<sup>2</sup>Reg. 12A inserted by reg. 4(1) of S.I. 2014/1626 as from 3.11.14.

(a) 1992 c 5 Sections 71ZC, 71ZD and 71ZE were inserted by section 105 of the Welfare Reform Act 2012.

(2) Subject to paragraph (3), where this regulation applies, the amount of the tax credit to which the person is entitled is to be calculated in accordance with the 2002 Act and regulations made under that Act, as modified by the Schedule to these Regulations (“the modified legislation”).

(3) Where, in the opinion of the Commissioners for Her Majesty’s Revenue and Customs, it is not reasonably practicable to apply the modified legislation in relation to any case or category of cases, the 2002 Act and regulations made under that Act are to apply without modification in that case or category of cases. ◀

### **Appeals etc relating to certain existing benefits**

**13.**—(1) This regulation applies where, after an award of universal credit has been made to a claimant—

- (a) an appeal against a decision relating to the entitlement of the claimant to income support, housing benefit or a tax credit (a “relevant benefit”) is finally determined;
- (b) a decision relating to the claimant’s entitlement to income support is revised under section 9 of the Social Security Act 1998 (“the 1998 Act”) or superseded under section 10 of that Act;
- (c) a decision relating to the claimant’s entitlement to housing benefit is revised or superseded under Schedule 7 to the Child Support, Pensions and Social Security Act 2000(a); or
- (d) a decision relating to the claimant’s entitlement to a tax credit is revised under section 19 or 20 of the 2002 Act, or regulations made under section 21 of that Act, or is varied or cancelled under section 21A of that Act(b).

(2) Where the claimant is a new claimant partner and, as a result of determination of the appeal or, as the case may be, revision or supersession of the decision the claimant would (were it not for the effect of these Regulations) be entitled to income support or housing benefit during the relevant period mentioned in regulation 7(3), awards of those benefits are to terminate in accordance with regulation 7.

(3) Where the claimant is not a new claimant partner and, as a result of determination of the appeal or, as the case may be, revision, supersession, variation or cancellation of the decision, the claimant would (were it not for the effect of these Regulations) be entitled to a relevant benefit on the date on which the claim for universal credit was made, awards of relevant benefits are to terminate in accordance with regulation 8.

(4) 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”).

(5) 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 a relevant benefit, as revised, superseded, varied or cancelled; and
- (b) any finding of fact by the First-tier Tribunal, Upper Tribunal or court.

### **Appeals etc relating to universal credit**

**14.**—(1) This regulation applies where—

- (a) a decision is made that a claimant is not entitled to universal credit (“the UC decision”);
- (b) the claimant becomes entitled to income support, housing benefit or a tax credit (a “relevant benefit”);

(a) 2000 c. 19.

(b) Section 21A was inserted by S.I. 2014/886.

- (c) an appeal against the UC decision is finally determined, or the decision is revised under section 9 of the Social Security Act 1998;
- (d) an award of universal credit is made to the claimant in consequence of entitlement arising from the appeal, or from the decision as revised; and
- (e) the claimant would (were it not for the effect of regulation 5 and this regulation) be entitled to both universal credit and a relevant benefit in respect of the same period.

(2) Subject to paragraph (3), where this regulation applies—

- (a) all awards of a relevant benefit to which the claimant would (were it not for the effect of these Regulations) be entitled are to terminate, by virtue of this regulation, at the beginning of the first day of entitlement to that award; and
- (b) any legislative provision under which an award would otherwise terminate on a later date does not apply.

(3) An award of housing benefit to which a claimant is entitled in respect of ►<sup>1</sup>specified accommodation◀ does not terminate by virtue of this regulation.

<sup>1</sup>Words in reg. 14(3) substituted by reg. 3(2)(e) of S.I. 2014/1626 as from 3.11.14.

## CHAPTER 3

### EFFECT OF TRANSITION TO UNIVERSAL CREDIT

#### **Modification of Claims and Payments Regulations in relation to universal credit claimants**

**15.—**(1) Where a claim for universal credit is made by a person who was previously entitled to an existing benefit, regulation 26 of the Claims and Payments Regulations (time within which a claim for universal credit is to be made) applies in relation to that claim with the modification specified in paragraph (2).

(2) In paragraph (3) of regulation 26, after sub-paragraph (a) insert—

“(aa) the claimant was previously in receipt of an existing benefit (as defined in the Universal Credit (Transitional Provisions) Regulations 2014) and notification of expiry of entitlement to that benefit was not sent to the claimant before the date that the claimant’s entitlement expired;”.

#### **Persons unable to act**

**16.—**(1) Paragraph (2) applies where—

- (a) a person (“P2”) has been appointed, or treated as appointed, under regulation 33(1) of the Social Security (Claims and Payments) Regulations 1987(a) (“the 1987 Regulations”) (persons unable to act) to exercise rights and to receive and deal with sums payable on behalf of a person who is unable to act (“P1”); or
- (b) a person (“P2”) has been appointed under regulation 18(3) of the Tax Credits (Claims and Notifications) Regulations 2002 (“the 2002 Regulations”) (circumstances where one person may act for another in making a claim—other appointed persons) to act for a person who is unable to act (“P1”) in making a claim for a tax credit.

(2) Where this paragraph applies and P1 is, or may be, entitled to universal credit, the Secretary of State may, if P2 agrees, treat the appointment of P2 as if it were made under regulation 57(1) of the Claims and Payments Regulations (persons unable to act) and P2 may carry out the functions set out in regulation 57(4) of those Regulations in relation to P1.

(3) Paragraph (4) applies where a person (“P2”) was appointed, or treated as appointed, under regulation 57(1) of the Claims and Payments Regulations to carry out functions in relation to a person who is unable to act (“P1”) and who was, or might

(a) Regulation 33(1) has been amended by S.I. 1999/2572, 2005/337 and 2007/2470.



have been, entitled to universal credit, but who has ceased to be so entitled, or was not in fact so entitled.

(4) Where this paragraph applies—

- (a) the Secretary of State may, if P2 agrees, treat the appointment of P2 as if it were made under regulation 33(1) of the 1987 Regulations and P2 may exercise rights and receive and deal with sums payable in respect of existing benefits on behalf of P1; and
- (b) the Board (within the meaning of the 2002 Regulations) may, if P2 agrees, treat the appointment of P2 as if it were made under regulation 18(3) of the 2002 Regulations and P2 may act for P1 in making a claim for a tax credit.

► **Waiting days**

**16A.**—(1) This regulation applies where a claimant (or, in the case of joint claimants, either of them)—

<sup>1</sup>Reg. 16A inserted by reg. 2(2) of S.I. 2015/1362 as from 3.8.15.

- (a) was entitled to old style JSA, old style ESA or income support at any time during the period of three months ending with the first day of the period in respect of which the claimant makes a claim for universal credit and ceased to be so entitled on starting paid work; or
- (b) does not fall within sub-paragraph (a) and was entitled to an existing benefit at any time during the period of one month ending on that day.

(2) Where this regulation applies, regulation 19A(3)(b) (waiting days) of the Universal Credit Regulations 2013 applies with the following modifications—

- (a) at the end of paragraph (v) omit “or”; and
- (b) after paragraph (vi) insert—

“(vii) was entitled to a benefit mentioned in paragraph (1)(a) of regulation 16A (waiting days) of the Universal Credit (Transitional Provisions) Regulations 2014 at any time during the period of three months ending on the relevant date and ceased to be so entitled on starting paid work; or  
 (viii) does not fall within sub-paragraph (vii) and was entitled to a benefit mentioned in paragraph (1)(b) of regulation 16A (waiting days) of the Universal Credit (Transitional Provisions) Regulations 2014 at any time during the period of one month ending on the relevant date.”.◀

**Advance payments of universal credit**

**17.**—(1) This regulation applies where—

- (a) the Secretary of State is deciding a claim for universal credit, other than a claim which is treated as having been made, in accordance with regulation 9(8) of the Claims and Payments Regulations;
- (b) the claimant is, or was previously, entitled to an existing benefit (“the earlier award”); and
- (c) if the earlier award terminated before the date on which the claim for universal credit was made, the claim for universal credit was made during the period of one month starting with the date of termination.

(2) Where this regulation applies—

- (a) a single claimant may request an advance payment of universal credit;
- (b) joint claimants may jointly request such a payment,

at any time during the first assessment period for universal credit.

(3) Where a request has been made in accordance with this regulation, the Secretary of State may make an advance payment to the claimant, or joint claimants, of such amount in respect of universal credit as the Secretary of State considers appropriate.





(4) After an advance payment has been made under this regulation, payments of any award of universal credit to the claimant or, in the case of joint claimants, to either or both of them, may be reduced until the amount of the advance payment is repaid.

### **Deductions from benefits**

**18.—**(1) This regulation applies where—

- (a) an award of universal credit is made to a claimant who—
  - (i) was entitled to income-based jobseeker’s allowance, income-related employment and support allowance or income support (a “relevant award”) on the date on which the claim for universal credit was made or treated as made;
  - (ii) is a new claimant partner who was, immediately before forming a couple with a person entitled to universal credit, the partner of a person (“P”) who was at that time entitled to a relevant award; or
  - (iii) is not a new claimant partner and was, immediately before making a claim for universal credit, the partner of a person (“P”) who was at that time entitled to a relevant award, where the award of universal credit is not a joint award to the claimant and P; and
- (b) on the relevant date, deductions in respect of fuel costs or water charges were being made under regulation 35 of the Social Security (Claims and Payments) Regulations 1987, in accordance with Schedule 9 to those Regulations**(a)**.

(2) In this regulation, the “relevant date” means—

- (a) where paragraph (1)(a)(i) applies and the claimant is not a new claimant partner, the date on which the claim for universal credit was made;
- (b) where paragraph (1)(a)(i) applies and the claimant is a new claimant partner, the date on which the claim for universal credit was treated as made;
- (c) where paragraph (1)(a)(ii) or (iii) applies, the date on which the claimant ceased to be the partner of P.

(3) Where this regulation applies, deductions in respect of fuel costs or, as the case may be, water charges, may be made from the award of universal credit in accordance with Schedule 6 to the Claims and Payments Regulations, without the need for any consent which would otherwise be required under paragraph 3(3) of that Schedule.

(4) For the purposes of this regulation, a deduction is to be taken into account even if the relevant award subsequently terminated by virtue of an order made under section 150(3) of the Act, regulation 7 or, as the case may be, regulation 8, before the date on which the deduction was first applied.

### **Transition from old style ESA**

**19.—**(1) This regulation applies where—

- (a) an award of universal credit is made to a claimant who was entitled to old style ESA on the date on which the claim for universal credit was made or treated as made (“the relevant date”); and
- (b) on or before the relevant date it had been determined that the claimant was entitled to the work-related activity component or to the support component.

(2) Where, on or before the relevant date, it had been determined that the claimant was entitled to the work-related activity component—

- (a) regulation 27(3) of the Universal Credit Regulations (award to include LCW and LCWRA elements) does not apply; and
- (b) the claimant is to be treated as having limited capability for work for the purposes of regulation 27(1)(a) of those Regulations and section 21(1)(a) of the Act.

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(a) Regulation 35 was substituted by S.I. 1988/522 and amended by S.I. 2001/18 and 2002/2441.

(3) Unless the assessment phase applied and had not ended at the relevant date(a), in relation to a claimant who is treated as having limited capability for work under paragraph (2)–

- (a) regulation 28 of the Universal Credit Regulations (period for which the LCW or LCWRA element is not to be included) does not apply; and
- (b) the LCW element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award with effect from the beginning of the first assessment period.

(4) Where, on or before the relevant date, it had been determined that the claimant was entitled to the support component–

- (a) regulation 27(3) of the Universal Credit Regulations does not apply; and
- (b) the claimant is to be treated as having limited capability for work and work-related activity for the purposes of regulation 27(1)(b) of those Regulations and section 19(2)(a) of the Act.

(5) Unless the assessment phase applied and had not ended at the relevant date, in relation to a claimant who is treated as having limited capability for work and work-related activity under paragraph (4)(4)(b)–

- (a) regulation 28 of the Universal Credit Regulations does not apply; and
- (b) the LCWRA element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period.

(6) For the purposes of this regulation, a determination that the claimant was entitled to the work-related activity component or, as the case may be, the support component, is to be taken into account even if the award of old style ESA subsequently terminated (in so far as it was an award of income-related employment and support allowance) before the date on which that determination was made, by virtue of an order made under section 150(3) of the Act.

(7) Where a claimant is treated, by virtue of this regulation, as having limited capability for work or, as the case may be, limited capability for work and work-related activity, the Secretary of State may at any time make a fresh determination as to these matters, in accordance with the Universal Credit Regulations.

(8) In this regulation and in regulations 20 to 27–

- “assessment phase”, “support component” and “work-related activity component” have the same meanings as in the 2007 Act(b);
- “incapacity benefit” and “severe disablement allowance” have the same meanings as in Schedule 4 to that Act;
- “LCW element” and “LCWRA element” have the same meanings as in the Universal Credit Regulations(c).

(9) For the purposes of this regulation and regulation 20, references to cases in which the assessment phase applied are references to cases in which sections 2(2)(a), 2(3)(a), 4(4)(a) and 4(5)(a) of the 2007 Act applied and references to cases in which the assessment phase did not apply are references to cases in which those sections did not apply(d).

#### **Transition from old style ESA before the end of the assessment phase**

**20.**—(1) This regulation applies where–

- (a) an award of universal credit is made to a claimant who was entitled to old style ESA on the date on which the claim for universal credit was made or treated as made (“the relevant date”); and

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(a) In which case, *see* regulation 20.

(b) *See* sections 2, 4 and 24(2).

(c) *See* regulation 27.

(d) For cases where those sections do not apply, *see* S.I. 2008/794, regulation 7, amended by S.I. 2008/3051, 2010/840 and 2012/874, 913 and 919.

- (b) on the relevant date, the assessment phase in relation to the claimant applied<sup>(a)</sup> and had lasted for less than 13 weeks.

(2) Where this regulation applies—

- (a) regulation 28(2) of the Universal Credit Regulations (period for which the LCW or LCWRA element is not to be included) does not apply; and
- (b) for the purposes of regulation 28 of those Regulations, the relevant period is—
  - (i) the period of 13 weeks starting with the first day of the assessment phase; or
  - (ii) where regulation 5 of the Employment and Support Allowance Regulations 2008 (the assessment phase - previous claimants) applied to the claimant, the period which ends when the sum of the periods for which the claimant was previously entitled to old style ESA and the period for which the claimant is entitled to universal credit is 13 weeks.

(3) Where, on the relevant date, the assessment phase in relation to the claimant applied and had not ended and had lasted for more than 13 weeks—

- (a) regulation 28 of the Universal Credit Regulations does not apply;
- (b) if it is subsequently determined in accordance with Part 5 of those Regulations that the claimant has limited capability for work the LCW element is (subject to the provisions of Part 4 of those Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period;
- (c) if it is subsequently determined in accordance with Part 5 of the Universal Credit Regulations that the claimant has limited capability for work and work-related activity the LCWRA element is (subject to the provisions of Part 4 of those Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period.

(4) For the purposes of this regulation, the fact that an assessment phase applied in relation to a claimant on the relevant date is to be taken into account even if the award of old style ESA subsequently terminated (in so far as it was an award of income-related employment and support allowance) before that date by virtue of an order made under section 150(3) of the Act.

► **Transition from jobseeker's allowance following an extended period of sickness**

<sup>1</sup>Reg. 20A inserted by reg. 6 of S.I. 2015/339 as from 30.3.15.

**20A.**—(1) This regulation applies where—

- (a) the claimant's first day of entitlement to universal credit ("the relevant date"), immediately follows the claimant's last day of entitlement to a jobseeker's allowance; and
- (b) immediately before the relevant date, the claimant was treated as capable of work or as not having limited capability for work under regulation 55ZA of the Jobseeker's Allowance Regulations 1996 or regulation 46A of the Jobseeker's Allowance Regulations 2013 (extended period of sickness).

(2) Where this regulation applies—

- (a) regulation 28(2) of the Universal Credit Regulations (period for which LCW or LCWRA element is not to be included) does not apply; and
- (b) for the purposes of regulation 28 of those Regulations, the relevant period is the period starting with the first day of the period for which the claimant was treated as capable of work or as not having limited capability for work as specified in paragraph (1)(b).◀

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(a) See regulation 19(8).

**Other claimants with limited capability for work: credits only cases**

- 21.—(1) This regulation applies where—
- (a) an award of universal credit is made to a claimant who was entitled to be credited with earnings equal to the lower earnings limit then in force under regulation 8B(2)(iv), (iva) or (v) of the Social Security (Credits) Regulations 1975(a) (“the 1975 Regulations”) on the date on which the claim for universal credit was made or treated as made (the “relevant date”); and
  - (b) neither regulation 19 nor regulation 20 applies to that claimant (whether or not, in the case of joint claimants, either of those regulations apply to the other claimant).
- (2) Where, on or before the relevant date, it had been determined that the claimant would have limited capability for work (within the meaning of Part 1 of the 2007 Act) if he or she was entitled to old style ESA—
- (a) regulation 27(3) of the Universal Credit Regulations does not apply; and
  - (b) the claimant is to be treated as having limited capability for work for the purposes of regulation 27(1)(a) of those Regulations and section 21(1)(a) of the Act.
- (3) Unless the notional assessment phase applied and had lasted for less than 13 weeks at the relevant date(b), in relation to a claimant who is treated as having limited capability for work under paragraph (2)—
- (a) regulation 28 of the Universal Credit Regulations does not apply; and
  - (b) the LCW element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award with effect from the beginning of the first assessment period.
- (4) Where, on or before the relevant date, it had been determined that the claimant would have limited capability for work-related activity (within the meaning of Part 1 of the 2007 Act) if he or she was entitled to old style ESA—
- (a) regulation 27(3) of the Universal Credit Regulations does not apply; and
  - (b) the claimant is to be treated as having limited capability for work and work-related activity for the purposes of regulation 27(1)(b) of those Regulations and section 19(2)(a) of the Act.
- (5) Unless the notional assessment phase applied and had lasted for less than 13 weeks at the relevant date, in relation to a claimant who is treated as having limited capability for work and work-related activity under paragraph (4)—
- (a) regulation 28 of the Universal Credit Regulations does not apply; and
  - (b) the LCWRA element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period.
- (6) Where, on the relevant date, the notional assessment phase in relation to the claimant to whom the award was made applied and had lasted for less than 13 weeks—
- (a) regulation 28(2) of the Universal Credit Regulations does not apply; and
  - (b) for the purposes of regulation 28 of those Regulations, the relevant period is the period of 13 weeks starting with the first day of the notional assessment phase.
- (7) Where, on the relevant date, the notional assessment phase in relation to the claimant applied and had not ended and had lasted for more than 13 weeks—
- (a) regulation 28 of the Universal Credit Regulations does not apply;

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(a) S.I. 1975/556. Regulation 8B was inserted by S.I. 1996/2367 and amended by S.I. 2000/3120, 2003/521, 2008/1554, 2010/385, 2012/913 and 2013/630. Sub-paragraph (a)(iva) was inserted by S.I. 2012/913.

(b) In which case, *see* paragraph (6).

- (b) if it is subsequently determined in accordance with Part 5 of those Regulations that the claimant has limited capability for work, the LCW element is (subject to the provisions of Part 4 of those Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period;
- (c) if it is subsequently determined in accordance with Part 5 of those Regulations that the claimant has limited capability for work and work-related activity, the LCWRA element is (subject to the provisions of Part 4 of those Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period.

(8) Where a claimant is treated, by virtue of this regulation, as having limited capability for work or, as the case may be, limited capability for work and work-related activity, the Secretary of State may at any time make a fresh determination as to these matters, in accordance with the Universal Credit Regulations.

(9) For the purposes of this regulation—

- (a) a determination that the claimant would have limited capability for work or, as the case may be, limited capability for work-related activity, if the claimant was entitled to old style ESA is to be taken into account even if the claimant subsequently ceased to be entitled as mentioned in paragraph (1)(a) before the date on which that determination was made because he or she became entitled to universal credit;
- (b) the fact that a notional assessment phase applied in relation to a claimant on the relevant date is to be taken into account even if the claimant subsequently ceased to be entitled as mentioned in paragraph (1)(a) before that date because the claimant became entitled to universal credit.
- (c) references to a determination that the claimant would have limited capability for work if the claimant was entitled to old style ESA do not include a determination made under regulation 30 of the Employment and Support Allowance Regulations 2008<sup>(a)</sup> (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made);
- (d) references to cases in which the notional assessment phase applied are references to cases in which sections 2(2)(a), 2(3)(a), 4(4)(a) and 4(5)(a) of the 2007 Act would have applied to the claimant if he or she had been entitled to old style ESA in addition to the entitlement mentioned in paragraph (1)(a), but do not include cases in which the claimant is entitled as mentioned in paragraph (1)(a) under regulation 8B(2)(iva) of the 1975 Regulations;
- (e) subject to sub-paragraph (f), the “notional assessment phase” is the period of 13 weeks starting on the day on which the assessment phase would have started in relation to the claimant, if he or she had been entitled to old style ESA and sections 2(2)(a), 2(3)(a), 4(4)(a) and 4(5)(a) of the 2007 Act had applied;
- (f) the notional assessment phase has not ended if, at the end of the 13 week period referred to in sub-paragraph (e), no determination has been made as to whether a claimant would have limited capability for work (within the meaning of Part 1 of the 2007 Act) if the claimant was entitled to old style ESA.

**Transition from income support payable on the grounds of incapacity for work or disability ►<sup>1</sup>and other incapacity benefits◄**

**22.—(1)** This regulation applies where an award of universal credit is made to a claimant ►<sup>1</sup>(other than a claimant to whom regulation 23 or 24 applies)◄ who was entitled to income support on the grounds of incapacity for work or disability on the date on which the claim for universal credit was made or treated as made ►<sup>1</sup>or is entitled to incapacity benefit or severe disablement allowance.◄

<sup>1</sup>Words in heading to reg. 22 & in para. (1) inserted by reg. 5(1)(a) & (b) of S.I. 2014/1626 as from 13.10.14.

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



## Regs. 22-23

- (2) Where this regulation applies—
- (a) if it is determined in accordance with Part 5 of the Universal Credit Regulations that the claimant has limited capability for work—
    - (i) the claimant is to be treated as having had limited capability for work for the purposes of regulation 27(1)(a) of the Universal Credit Regulations (award to include LCW and LCWRA elements) from the beginning of the first assessment period;
    - (ii) regulation 28 of those Regulations (period for which the LCW or LCWRA element is not to be included) does not apply; and
    - (iii) the LCW element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award with effect from the beginning of the first assessment period;
  - (b) if it is determined in accordance with Part 5 of the Universal Credit Regulations that the claimant has limited capability for work and work-related activity—
    - (i) the claimant is to be treated as having had limited capability for work and work-related activity for the purposes of regulation 27(1)(b) of the Universal Credit Regulations from the beginning of the first assessment period;
    - (ii) regulation 28 of those Regulations does not apply; and
    - (iii) the LCWRA element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period.
- (3) In this regulation—
- “income support on the grounds of incapacity for work or disability” means an award of income support which is an “existing award” within the meaning of Schedule 4 to the 2007 Act.

<sup>1</sup>Words inserted in heading to reg. 23 & para. (1)(a) & sub-para. (b) substituted by reg. 5(2)(a) & (b) of S.I. 2014/1626 as from 13.10.14.

### Transition from other incapacity benefits<sup>1</sup>: assessment under the 2010 Regulations<sup>2</sup>

- 23.—**(1) This regulation applies where—
- (a) an award of universal credit is made to a claimant who is entitled to incapacity benefit or severe disablement allowance<sup>(a)</sup> <sup>1</sup> (“the relevant award”) <sup>2</sup>; and
  - <sup>1</sup>(b) on or before the date on which the claim for universal credit is made or treated as made, a notice has been issued to the claimant under regulation 4 of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (“the 2010 Regulations”) (notice commencing the conversion phase).<sup>2</sup>
- <sup>2</sup>(1A) Where this regulation applies, regulations 27(3) (award to include LCW and LCWRA elements) and 38 (determination of limited capability for work and work-related activity) of the Universal Credit Regulations do not apply and the question whether a claimant has limited capability for work, or for work and work-related activity, is to be determined, for the purposes of the Act and the Universal Credit Regulations, in accordance with this regulation.<sup>2</sup>
- (2) <sup>2</sup>Where it is determined in accordance with the 2010 Regulations that the relevant award qualifies for conversion into an award in accordance with regulation 7 of those Regulations (qualifying for conversion) and that award includes the work-related activity component<sup>2</sup>—
- (a) <sup>2</sup>;
  - (b) the claimant is to be treated as having had limited capability for work for the purposes of regulation 27(1)(a) of the Universal Credit Regulations from the beginning of the first assessment period;

<sup>2</sup>Reg. 23(1A) inserted, words in para. (2) substituted & sub-para. (2)(a) omitted by reg. 5(2)(c) & (d) of S.I. 2014/1626 as from 13.10.14.

(a) See regulation 19(8).



- (c) regulation 28(1) of those Regulations (period for which LCW or LCWRA element is not to be included) does not apply;
- (d) the LCW element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period; and
- (e) the claimant is to be treated as having limited capability for work for the purposes of section 21(1)(a) of the Act.

(3) ►<sup>1</sup>Where it is determined in accordance with the 2010 Regulations that the relevant award qualifies for conversion into an award in accordance with regulation 7 of those Regulations and that award includes the support component◀←

- (a) ►<sup>1</sup>◀;
- (b) the claimant is to be treated as having had limited capability for work and work-related activity for the purposes of regulation 27(1)(b) of the Universal Credit Regulations from the beginning of the first assessment period;
- (c) regulation 28(1) of those Regulations does not apply;
- (d) the LCWRA element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period; and
- (e) the claimant is to be treated as having limited capability for work and work-related activity for the purposes of section 19(2)(a) of the Act.

<sup>1</sup>Words in reg. 23(3) substituted & sub-para. (a) omitted by reg. 5(2)(e)(i) & (ii) of S.I. 2014/1626 as from 13.10.14.

#### Transition from other incapacity benefits: claimants approaching pensionable age

24.—(1) This paragraph applies where—

- (a) an award of universal credit is made to a claimant who is entitled to incapacity benefit or severe disablement allowance;
- (b) no notice has been issued to the claimant under regulation 4 (notice commencing the conversion phase) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (“the 2010 Regulations”);
- (c) the claimant will reach pensionable age (within the meaning of the 2010 Regulations<sup>(a)</sup>) within the period of one year; and
- (d) the claimant is also entitled to—
  - (i) personal independence payment, where neither the daily living component nor the mobility component is payable at the enhanced rate<sup>(b)</sup>;
  - (ii) disability living allowance under section 71 of the Social Security Contributions and Benefits Act 1992 (“the 1992 Act”), where the care component is payable at the middle rate within the meaning of section 72(4) of that Act or the mobility component is payable at the lower rate within the meaning of section 73(11) of that Act (or both components are payable at those rates);

<sup>(a)</sup> See regulation 2(1).

<sup>(b)</sup> See the Act, sections 78-80.



- (iii) attendance allowance under section 64 of the 1992 Act, where the allowance is payable at the lower rate in accordance with section 65 of that Act;
  - (iv) an increase in the weekly rate of disablement pension under section 104 of the 1992 Act (increase where constant attendance needed), where the increase is of an amount which is equal to or less than the amount specified in paragraph 2(a) of Part V of Schedule 4 to that Act; or
  - (v) any payment based on the need for attendance which is paid as an addition to a war disablement pension (which means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003(a)), where the amount of that payment is equal to or less than the amount specified in paragraph 2(a) of Part V of Schedule 4 to the 1992 Act.
- (2) Where paragraph (1) applies and paragraph (3) does not apply–
- (a) regulation 27(3) of the Universal Credit Regulations (award to include LCW and LCWRA elements) does not apply;
  - (b) the claimant is to be treated as having limited capability for work for the purposes of regulation 27(1)(a) of those Regulations from the beginning of the first assessment period;
  - (c) regulation 28(1) of the Universal Credit Regulations (period for which LCW or LCWRA element is not to be included) does not apply;
  - (d) the LCW element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period; and
  - (e) the claimant is to be treated as having limited capability for work for the purposes of section 21(1)(a) of the Act.
- (3) This paragraph applies where–
- (a) an award of universal credit is made to a claimant who is entitled to incapacity benefit or severe disablement allowance;
  - (b) no notice has been issued to the claimant under regulation 4 of the 2010 Regulations;
  - (c) the claimant will reach pensionable age (within the meaning of the 2010 Regulations) within the period of one year; and
  - (d) the claimant is also entitled to–
    - (i) personal independence payment, where either the daily living component or the mobility component is (or both components are) payable at the enhanced rate;
    - (ii) disability living allowance under section 71 of the 1992 Act, where the care component is payable at the highest rate within the meaning of section 72(4) of that Act or the mobility component is payable at the higher rate within the meaning of section 73(11) of that Act (or both components are payable at those rates);
  - (iii) attendance allowance under section 64 of the 1992 Act, where the allowance is payable at the higher rate in accordance with section 65 of that Act;
  - (iv) armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011;
  - (v) an increase in the weekly rate of disablement pension under section 104 of the 1992 Act, where the increase is of an amount which is greater than the amount specified in paragraph 2(a) of Part V of Schedule 4 to that Act; or

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(a) 2003 c. 1.

- (vi) any payment based on the need for attendance which is paid as an addition to a war disablement pension (which means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003), where the amount of that payment is greater than the amount specified in paragraph 2(a) of Part V of Schedule 4 to the 1992 Act.
- (4) Where paragraph (3) applies (whether or not paragraph (1) also applies)–
  - (a) regulation 27(3) of the Universal Credit Regulations does not apply;
  - (b) the claimant is to be treated as having limited capability for work and work-related activity for the purposes of regulation 27(1)(b) of those Regulations from the beginning of the first assessment period;
  - (c) regulation 28(1) of the Universal Credit Regulations does not apply;
  - (d) the LCWRA element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period; and
  - (e) the claimant is to be treated as having limited capability for work and work-related activity for the purposes of section 19(2)(a) of the Act.

#### Transition from other incapacity benefits: supplementary

**25.—**(1) Where an award of universal credit is made to a claimant who is entitled to incapacity benefit or severe disablement allowance, regulation 66 of the Universal Credit Regulations (what is included in unearned income?) applies to the claimant as if incapacity benefit or, as the case may be, severe disablement allowance were added to the descriptions of unearned income in paragraph (1)(b) of that regulation.

<sup>1</sup>Word inserted in reg. 25(1) by reg. 5(3) of S.I. 2014/1626 as from 13.10.14.

(2) For the purposes of regulations <sup>1</sup>22, <sup>2</sup>23 and 24 and this regulation only, incapacity benefit and severe disablement allowance are prescribed benefits under paragraph 1(2)(b) of Schedule 6 to the Act.

#### Other claimants with incapacity for work: credits only cases where claimant is approaching pensionable age

**26.—**(1) This regulation applies where–

- (a) an award of universal credit is made to a claimant who was entitled to be credited with earnings equal to the lower earnings limit then in force under regulation 8B(2)(a)(i), (ii) or (iii) of the Social Security (Credits) Regulations 1975 on the date on which the claim for universal credit was made or treated as made;
- (b) the claimant will reach pensionable age within the meaning of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 within the period of one year; and
- (c) <sup>2</sup>none of regulations 22, 23 or 24 apply <sup>1</sup>to that claimant (whether or not, in the case of joint claimants, <sup>2</sup>any <sup>1</sup>of those regulations apply to the other claimant).

<sup>2</sup>Words in reg. 26(1)(c) substituted by reg. 5(4)(a) of S.I. 2014/1626 as from 13.10.14.

(2) Where the claimant is entitled to a payment, allowance or increased rate of pension specified in regulation 24(1)(d) and is not entitled to a payment, allowance or increased rate of pension specified in regulation 24(3)(d)–

- (a) regulation 27(3) of the Universal Credit Regulations (award to include LCW and LCWRA elements) does not apply;
- (b) the claimant is to be treated as having limited capability for work for the purposes of regulation 27(1)(a) of those Regulations from the beginning of the first assessment period;

- (c) regulation 28(1) of the Universal Credit Regulations (period for which the LCW or LCWRA element is not to be included) does not apply;
- (d) the LCW element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period; and
- (e) the claimant is to be treated as having limited capability for work for the purposes of section 21(1)(a) of the Act.

(3) Where the claimant is entitled to a payment, allowance or increased rate of pension specified in regulation 24(3)(d) (whether or not the claimant is also entitled to a payment, allowance or increased rate of pension specified in regulation 24(1)(d))—

- (a) regulation 27(3) of the Universal Credit Regulations does not apply;
- (b) the claimant is to be treated as having limited capability for work and work-related activity for the purposes of regulation 27(1)(b) of those Regulations from the beginning of the first assessment period;
- (c) regulation 28(1) of the Universal Credit Regulations does not apply;
- (d) the LCWRA element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period; and
- (e) the claimant is to be treated as having limited capability for work and work-related activity for the purposes of section 19(2)(a) of the Act.

►<sup>1</sup>(4) Where the claimant is not entitled to a payment, allowance or increased rate of pension specified in either regulation 24(1)(d) or regulation 24(3)(d)—

- (a) if it is determined in accordance with Part 5 of the Universal Credit Regulations that the claimant has limited capability for work—
  - (i) the claimant is to be treated as having had limited capability for work for the purposes of regulation 27(1)(a) of the Universal Credit Regulations from the beginning of the first assessment period;
  - (ii) regulation 28 of the Universal Credit Regulations does not apply; and
  - (iii) the LCW element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award with effect from the beginning of the first assessment period; and
- (b) if it is determined in accordance with Part 5 of the Universal Credit Regulations that the claimant has limited capability for work and work-related activity—
  - (i) the claimant is to be treated as having had limited capability for work and work-related activity for the purposes of regulation 27(1)(b) of the Universal Credit Regulations from the beginning of the first assessment period;
  - (ii) regulation 28 of the Universal Credit Regulations does not apply; and
  - (iii) the LCWRA element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period. ◀

<sup>1</sup>Para. (4) inserted by reg. 5(4)(b) of S.I. 2014/1626 as from 13.10.14.

#### **Other claimants with incapacity for work: credits only cases**

27.—(1) This regulation applies where—

- (a) an award of universal credit is made to a claimant who was entitled to be credited with earnings equal to the lower earnings limit then in force under regulation 8B(2)(a)(i), (ii) or (iii) of the Social Security (Credits) Regulations 1975 on the date on which the claim for universal credit was made or treated as made; and

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- (b) none of regulations 22, 23, 24 or 26 apply to that claimant (whether or not, in the case of joint claimants, any of those regulations apply to the other claimant).

## (2) Where this regulation applies–

- (a) if it is determined in accordance with Part 5 of the Universal Credit Regulations that the claimant has limited capability for work–
  - (i) the claimant is to be treated as having had limited capability for work for the purposes of regulation 27(1)(a) of the Universal Credit Regulations (award to include LCW and LCWRA elements) from the beginning of the first assessment period;
  - (ii) regulation 28 of the Universal Credit Regulations (period for which the LCW or LCWRA element is not to be included) does not apply; and
  - (iii) the LCW element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award with effect from the beginning of the first assessment period;
- (b) if it is determined in accordance with Part 5 of the Universal Credit Regulations that the claimant has limited capability for work and work-related activity–
  - (i) the claimant is to be treated as having had limited capability for work and work-related activity for the purposes of regulation 27(1)(b) of the Universal Credit Regulations from the beginning of the first assessment period;
  - (ii) regulation 28 of the Universal Credit Regulations does not apply; and
  - (iii) the LCWRA element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period.

**Meaning of “qualifying young person”**

**28.** Where a person who would (apart from the provision made by this regulation) be a “qualifying young person” within the meaning of regulation 5 of the Universal Credit Regulations is entitled to an existing benefit–

- (a) that person is not a qualifying young person for the purposes of the Universal Credit Regulations; and
- (b) regulation 5(5) of those Regulations applies as if, after “a person who is receiving” there were inserted “an existing benefit (within the meaning of the Universal Credit (Transitional Provisions) Regulations 2014),”.

**Support for housing costs****29.—**(1) Paragraph (3) applies where–

- (a) an award of universal credit is made to a claimant who–
  - (i) was entitled to income-based jobseeker’s allowance, income-related employment and support allowance or income support (a “relevant award”) at any time during the period of one month ending with the day on which the claim for universal credit was made or treated as made (or would have been so entitled were it not for termination of that award by virtue of an order made under section 150(3) of the Act or the effect of these Regulations); or
  - (ii) was at any time during the period of one month ending with the day on which the claim for universal credit was made or treated as made, the partner of a person (“P”) who was at that time entitled to a relevant award, where the award of universal credit is not a joint award to the claimant and P; and
- (b) on the relevant date, the relevant award included an amount in respect of housing costs under–



- (i) paragraphs 14 to 16 of Schedule 2 to the Jobseeker's Allowance Regulations 1996(a) ("the 1996 Regulations");
  - (ii) paragraphs 16 to 18 of Schedule 6 to the Employment and Support Allowance Regulations 2008(b) ("the 2008 Regulations"); or, as the case may be,
  - (iii) paragraphs 15 to 17 of Schedule 3 to the Income Support (General) Regulations 1987(c) ("the 1987 Regulations").
- (2) In this regulation, the "relevant date" means—
- (a) where paragraph (1)(a)(i) applies and the claimant was not entitled to the relevant award on the date on which the claim for universal credit was made or treated as made, the date on which the relevant award terminated;
  - (b) where paragraph (1)(a)(i) applies, the claimant is not a new claimant partner and he or she was entitled to the relevant award on the date on which the claim for universal credit was made, that date;
  - (c) where paragraph (1)(a)(i) applies, the claimant is a new claimant partner and he or she was entitled to the relevant award on the date on which the claim for universal credit was treated as made, that date;
  - (d) where paragraph (1)(a)(ii) applies, the date on which the claimant ceased to be the partner of P or, if earlier, the date on which the relevant award terminated.
- (3) Where this paragraph applies, paragraph 5 of Schedule 5 to the Universal Credit Regulations (no housing costs element under this Schedule for qualifying period) does not apply.
- (4) Paragraph (5) applies where paragraph (1)(a) applies, but the relevant award did not include an amount in respect of housing costs because the claimant's entitlement (or, as the case may be, P's entitlement) was nil by virtue of—
- (a) paragraph 6(1)(c) or 7(1)(b) of Schedule 2 to the 1996 Regulations;
  - (b) paragraph 8(1)(c) or 9(1)(b) of Schedule 6 to the 2008 Regulations; or, as the case may be,
  - (c) paragraph 6(1)(c) or 8(1)(b) of Schedule 3(d) to the 1987 Regulations.
- (5) Where this paragraph applies—
- (a) paragraph 5(2) of Schedule 5 to the Universal Credit Regulations does not apply; and
  - (b) the "qualifying period" referred to in paragraph 5 of that Schedule is the period of  $\blacktriangleright^{1273}\blacktriangleleft$  days starting with the first day on which the claimant (or, as the case may be, P) was entitled to the relevant award, taking into account any period which was treated as a period of continuing entitlement under—
    - (i) paragraph 13 of Schedule 2 to the 1996 Regulations(e);
    - (ii) paragraph 15 of Schedule 6 to the 2008 Regulations(f); or, as the case may be,

<sup>1</sup>Words in reg. 29 substituted by reg. 6(2) of S.I. 2015/1647 subject to reg. 8 (savings provision) of that S.I. as from 1.4.16.

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(a) S.I. 1996/207. Paragraph 15 was amended by S.I. 2008/2767; paragraph 16 was amended by S.I. 2006/217 and 2378. The Regulations have been modified in their application to certain claimants by S.I. 2008/3195, as amended by S.I. 2009/3257 and 2011/2425.

(b) S.I. 2008/794. The Regulations have been modified in their application to certain claimants by S.I. 2008/3195, as amended by S.I. 2009/3257.

(c) S.I. 1987/1967. Paragraph 16 was amended by S.I. 2008/2767; paragraph 17 was amended by S.I. 2006/217 and 2378. The Regulations have been modified in their application to certain claimants by S.I. 2008/3195, as amended by S.I. 2009/3257.

(d) Paragraphs 6(1) and 8(1) were amended by S.I. 1995/2927.

(e) Paragraph 13 was amended by S.I. 1996/1516, 1517 and 2538, 1997/827 and 2863, 1998/2231, 1999/714, 1921 and 2860, 2000/724 and 1978, 2001/488 and 1029, 2002/841 and 3019, 2005/2465, 2006/2378, 2008/698, 1554, 1826 and 2767, 2009/480 and 2011/674 and 2425. *See* also paragraph 18(1)(c) of Schedule 2.

(f) Paragraph 15 was amended by S.I. 2008/2428, 2011/674, 2425 and 2428 and 2013/388 and 591. *See* also paragraph 20(1)(c) of Schedule 6.



(iii) paragraph 14 of Schedule 3 to the 1987 Regulations(a), provided that, throughout that part of the qualifying period after the award of universal credit is made, receipt of universal credit is continuous and the claimant otherwise qualifies for the inclusion of an amount calculated under Schedule 5 to the Universal Credit Regulations in their award.

(6) For the purposes of—

- (a) paragraph (1)(b) of this regulation, inclusion of an amount in respect of housing costs in a relevant award is to be taken into account even if the relevant award subsequently terminated by virtue of an order made under section 150(3) of the Act, regulation 7 or, as the case may be, regulation 8, before the date on which that amount was included in the award;
- (b) paragraph (5)(b) of this regulation, entitlement to a relevant award is to be treated as having continued until the relevant date even if the award subsequently terminated by virtue of an order made under section 150(3) of the Act, regulation 7 or, as the case may be, regulation 8, before that date.

### **Sanctions: transition from old style ESA**

**30.**—(1) This regulation applies where—

- (a) an award of universal credit is made to a claimant who was previously entitled to old style ESA (“the ESA award”); and
- (b) on the relevant date, payments in respect of the ESA award were reduced under regulation 63 of the Employment and Support Allowance Regulations 2008(b) (“the 2008 Regulations”).

(2) In this regulation, the “relevant date” means—

- (a) where the claimant was not entitled to old style ESA on the date on which the claim for universal credit was made or treated as made, the date on which the ESA award terminated;
- (b) where the claimant is not a new claimant partner and was entitled to old style ESA on the date on which the claim for universal credit was made, that date;
- (c) where the claimant is a new claimant partner and was entitled to old style ESA on the date on which the claim for universal credit was treated as made, that date.

(3) Where this regulation applies—

- (a) the failure which led to reduction of the ESA award (“the ESA failure”) is to be treated, for the purposes of the Universal Credit Regulations, as a failure which is sanctionable under section 27 of the Act;
- (b) the award of universal credit is to be reduced in relation to the ESA failure, in accordance with the provisions of this regulation and Chapter 2 of Part 8 of the Universal Credit Regulations (sanctions), as modified by this regulation; and
- (c) the reduction is to be treated, for the purposes of the Universal Credit Regulations, as a reduction under section 27 of the Act.

(4) The reduction period for the purposes of the Universal Credit Regulations(c) is a period of the number of days which is equivalent to the length of the fixed period applicable to the person under regulation 63(7) of the 2008 Regulations in relation to the ESA failure, minus—

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(a) Paragraph 14 was amended by S.I. 1995/2927, 1996/206 and 1944, 1997/2863, 1998/2231, 1999/714, 1921 and 3178, 2000/724 and 1981, 2001/488 and 1029, 2002/841 and 3019, 2005/2465, 2006/2378, 2008/698, 1554, 2428 and 2767 and 2011/674. See also S.I. 1996/206, regulation 32.

(b) Regulation 63 was amended by S.I. 2011/1349, 2012/2756 and 2013/630.

(c) See regulation 101(1).

- (a) the number of days (if any) in that period in respect of which the amount of old style ESA was reduced; and
- (b) if the ESA award terminated before the first date of entitlement to universal credit in connection with the current award, the number of days (if any) in the period after termination of that award, before the start of the universal credit award.

(5) Accordingly, regulation 101 of the Universal Credit Regulations (general principles for calculating reduction periods) applies in relation to the ESA failure as if, in paragraphs (1) and (3), for “in accordance with regulations 102 to 105”, there were substituted “in accordance with regulation 30 of the Universal Credit (Transitional Provisions) Regulations 2014”.

(6) For the purposes of this regulation, a determination that payments in respect of the ESA award are to be reduced under regulation 63 of the 2008 Regulations is to be taken into account even if the ESA award subsequently terminated (in so far as it was an award of income-related employment and support allowance) on a date before the date on which that determination was made, by virtue of an order made under section 150(3) of the Act.

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

**31.—**(1) This regulation applies where an award of universal credit is made to a claimant who was at any time previously entitled to old style ESA.

(2) Where this regulation applies, for the purposes of determining the reduction period under regulation 104 of the Universal Credit Regulations (low-level sanction) in relation to a sanctionable failure by the claimant, other than a failure which is treated as sanctionable by virtue of regulation 30—

- (a) a reduction of universal credit in accordance with regulation 30; and
- (b) any reduction of old style ESA under the Employment and Support Allowance Regulations 2008 (“the 2008 Regulations”) which did not result in a reduction under regulation 30,

is, subject to paragraph (3), to be treated as arising from a sanctionable failure for which 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 2008 Regulations.

(3) In determining a reduction period under regulation 104 of the Universal Credit Regulations in accordance with paragraph (2), no account is to be taken of—

- (a) a reduction of universal credit in accordance with regulation 30 if, at any time after that reduction, the claimant was entitled to an existing benefit;
- (b) a reduction of old style ESA under the 2008 Regulations if, at any time after that reduction, the claimant was entitled to universal credit, new style ESA or new style JSA, and was subsequently entitled to an existing benefit.

#### **Sanctions: transition from old style JSA**

**32.—**(1) This regulation applies where—

- (a) an award of universal credit is made to a claimant who was previously entitled to old style JSA (“the JSA award”);
- (b) on the relevant date, payments in respect of the JSA award were reduced under section 19 (as it applied either before or after substitution by the Act<sup>(a)</sup>) or section 19A of the Jobseekers Act 1995 (“the 1995 Act”), or under regulation 69B of the Jobseeker’s Allowance Regulations 1996<sup>(b)</sup> (“the 1996 Regulations”); and

(a) See section 46.

(b) Regulation 69B was inserted by S.I. 2012/2568 and amended by S.I. 2013/443.

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- (c) if the 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 award of universal credit was made to that person.
- (2) In this regulation, the “relevant date” means—
- (a) where the claimant was not entitled to old style JSA on the date on which the claim for universal credit was made or treated as made, the date on which the JSA award terminated;
  - (b) where the claimant is not a new claimant partner and was entitled to old style JSA on the date on which the claim for universal credit was made, that date;
  - (c) where the claimant is a new claimant partner and was entitled to old style JSA on the date on which the claim for universal credit was treated as made, that date.
- (3) Where this regulation applies—
- (a) the circumstances or failure which led to reduction of the JSA award (in either case, “the JSA failure”) is to be treated, for the purposes of the Universal Credit Regulations, as—
    - (i) a failure which is sanctionable under section 26 of the Act, where the reduction was under section 19 of the 1995 Act; or
    - (ii) a failure which is sanctionable under section 27 of the Act, where the reduction was under section 19A of the 1995 Act or regulation 69B of the 1996 Regulations;
  - (b) the award of universal credit is to be reduced in relation to the JSA failure, in accordance with the provisions of this regulation and Chapter 2 of Part 8 of the Universal Credit Regulations (sanctions), as modified by this regulation; and
  - (c) the reduction is to be treated, for the purposes of the Universal Credit Regulations, as a reduction under section 26 or, as the case may be, section 27 of the Act.
- (4) The reduction period for the purposes of the Universal Credit Regulations is a period of the number of days which is equivalent to the length of the period of reduction which is applicable to the person under regulation 69, 69A or 69B of the 1996 Regulations, minus—
- (a) the number of days (if any) in that period in respect of which the amount of old style JSA was reduced; and
  - (b) if the award of old style JSA terminated before the first date of entitlement to universal credit in connection with the current award, the number of days (if any) in the period after termination of that award, before the start of the universal credit award.
- (5) Accordingly, regulation 101 of the Universal Credit Regulations applies in relation to the JSA failure as if, in paragraphs (1) and (3), for “in accordance with regulations 102 to 105”, there were substituted “in accordance with regulation 32 of the Universal Credit (Transitional Provisions) Regulations 2014”.
- (6) Where the JSA award was made to a joint-claim couple within the meaning of the 1995 Act and the JSA failure related to only one member of the couple, the daily reduction rate for the purposes of the Universal Credit Regulations **(a)** is the amount calculated in accordance with regulation 70(3) of the 1996 Regulations **(b)** in respect of the JSA award, divided by seven and rounded down to the nearest 10 pence, unless regulation 111(2) or (3) of the Universal Credit Regulations (daily reduction rate) applies.

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(a) See regulation 111.

(b) Regulation 70 was substituted by S.I. 2012/2568.

(7) Where the daily reduction rate is to be determined in accordance with paragraph (6), regulation 111(1) of the Universal Credit Regulations applies in relation to the JSA failure as if, for the words from “an amount equal to” to the end there were substituted the words “an amount determined in accordance with regulation 32 of the Universal Credit (Transitional Provisions) Regulations 2014”.

(8) For the purposes of this regulation, a determination that payments in respect of the JSA award are to be reduced under regulation 69, 69A or 69B of the 1996 Regulations is to be taken into account even if the JSA award subsequently terminated (in so far as it was an award of income-based jobseeker’s allowance) on a date before the date on which that determination was made, by virtue of an order made under section 150(3) of the Act.

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

**33.—**(1) This regulation applies where an award of universal credit is made to a claimant who was at any time previously entitled to old style JSA.

(2) Where this regulation applies, for the purposes of determining the applicable reduction period under regulation 102 (higher-level sanction), 103 (medium-level sanction) or 104 (low-level sanction) of the Universal Credit Regulations in relation to a sanctionable failure by the person, other than a failure which is treated as sanctionable by virtue of regulation 32—

- (a) a reduction of universal credit in accordance with regulation 32; and
- (b) any reduction of old style JSA under section 19 or 19A of the Jobseekers Act 1995 (“the 1995 Act”), or under regulation 69B of the 1996 Regulations which did not result in a reduction under regulation 32,

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 1996 Regulations.

(3) In determining a reduction period under regulation 102, 103 or 104 of the Universal Credit Regulations in accordance with paragraph (2), no account is to be taken of—

- (a) a reduction of universal credit in accordance with regulation 32 if, at any time after that reduction, the claimant was entitled to an existing benefit;
- (b) a reduction of old style JSA under section 19 or 19A of the 1995 Act, or under regulation 69B of the 1996 Regulations if, at any time after that reduction, the claimant was entitled to universal credit, new style ESA or new style JSA, and was subsequently entitled to an existing benefit.

#### **Sanctions: temporary return to certain existing benefits**

**34.** If an award of universal credit terminates while there is an outstanding reduction period (within the meaning of regulation 107 of the Universal Credit Regulations) and the claimant becomes entitled to old style JSA, old style ESA or income support (“the relevant benefit”) during that period—

- (a) regulation 107 of the Universal Credit Regulations (reduction period to continue where award terminates) ceases to apply; and
- (b) the reduction period is to terminate on the first date of entitlement to the relevant benefit.

#### **Loss of benefit penalties: transition from existing benefits other than tax credits**

**35.—**(1) Subject to paragraph (6), this regulation applies in the cases set out in paragraphs (2) to (4).

(2) The first case is where—

- (a) an award of universal credit is made to a claimant who is an offender;

- (b) the claimant was entitled to old style JSA, old style ESA, income support or housing benefit (“the earlier award”) at any time during the period of one month ending with the date on which the claim for universal credit was made or treated as made (or would have been so entitled were it not for termination of that award by virtue of an order made under section 150(3) of the Act or, as the case may be, the effect of these Regulations); and
  - (c) payments in respect of the earlier award were, on the relevant date, subject to a restriction under section 6B (loss of benefit in case of conviction, penalty or caution for benefit offence), 7 (repeated benefit fraud) or 8 (effect of offence on joint-claim jobseeker's allowance) of the 2001 Act.
- (3) The second case is where–
- (a) an award of universal credit is made to a claimant who is an offender;
  - (b) another person who was the offender’s family member (but is no longer their family member) was entitled to old style JSA, old style ESA, income support or housing benefit (“the earlier award”) at any time during the period of one month ending with the date on which the claim for universal credit was made or treated as made; and
  - (c) payments in respect of the earlier award were, on the relevant date, subject to a restriction under section 9 (effect of offence on benefits for members of offender’s family) of the 2001 Act.
- (4) The third case is where–
- (a) an award of universal credit is made to a claimant who is an offender’s family member;
  - (b) the offender, or the claimant, was entitled to old style JSA, old style ESA, income support or housing benefit (“the earlier award”) at any time during the period of one month ending with the date on which the claim for universal credit was made or treated as made; and
  - (c) payments in respect of the earlier award were, on the relevant date, subject to a restriction under section 6B, 7, 8 or, as the case may be, 9 of the 2001 Act.
- (5) Where this regulation applies–
- (a) any subsequent payment of universal credit to the claimant in respect of an assessment period which falls wholly or partly within the remainder of the disqualification period applicable to the offender is to be reduced in accordance with regulation 36; and
  - (b) regulation 3ZB of the 2001 Regulations(a) does not apply.
- (6) This regulation does not apply if the earlier award was a joint-claim jobseeker’s allowance and–
- (a) payments in respect of the award were, on the relevant date, subject to a restriction under section 8(2) of the 2001 Act; or
  - (b) the award of universal credit is not made to joint claimants who were, on the relevant date, both entitled to the joint-claim jobseeker’s allowance.
- (7) In this regulation and in regulation 36–
- “the 2001 Act” means the Social Security Fraud Act 2001(b);
- “the 2001 Regulations” means the Social Security (Loss of Benefit) Regulations 2001(c);
- “disqualification period” has the meaning given in the 2001 Act(d), interpreted in accordance with the 2001 Regulations(e);

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(a) Regulation 3ZB was inserted by S.I. 2013/385.

(b) 2001 c. 11. See sections 6B and 7.

(c) S.I. 2001/4022.

(d) See sections 6B and 7.

(e) See regulations 1A and 2 which were substituted by S.I. 2010/1260 and amended by S.I. 2013/385.

“earlier award” is to be interpreted in accordance with paragraph (2)(b), (3)(b) or, as the case may be, (4)(b) and, for the purposes of regulation 36, where there is more than one earlier award, the term refers to the award to which the claimant became entitled most recently;

“offender” means an offender within the meaning of the 2001 Act(a);

“offender’s family member” has the same meaning as in the 2001 Act(b);

“the relevant date” means—

- (a) in relation to the first case—
  - (i) where the claimant was not entitled to the earlier award on the date on which the claim for universal credit was made or treated as made, the date on which the earlier award terminated;
  - (ii) where the claimant is not a new claimant partner and was entitled to the earlier award on the date on which the claim for universal credit was made, that date;
  - (iii) where the claimant is a new claimant partner and was entitled to the earlier award on the date on which the claim for universal credit was treated as made, that date;
- (b) in relation to the second case, the date on which the person entitled to the earlier award ceased to be the offender’s family member or, if the award terminated before that date, the date on which the earlier award terminated;
- (c) in relation to the third case—
  - (i) where the claimant was entitled to the earlier award but that entitlement terminated before the date on which the claim for universal credit was made or treated as made, the date on which the earlier award terminated;
  - (ii) where the claimant is not a new claimant partner and was entitled to the earlier award on the date on which the claim for universal credit was made, that date;
  - (iii) where the claimant is a new claimant partner and was entitled to the earlier award on the date on which the claim for universal credit was treated as made, that date;
  - (iv) where the offender’s family member was entitled to the earlier award, the date on which that person ceased to be the offender’s family member or, if earlier, the date on which the earlier award terminated.

(8) For the purposes of this regulation, the fact that payments in respect of an earlier award were subject to a restriction is to be taken into account, even if the earlier award subsequently terminated before the date on which payments became subject to a restriction by virtue of an order made under section 150(3) of the Act (in so far as it was an award of income-based jobseeker’s allowance or income-related employment and support allowance), regulation 7 or, as the case may be, regulation 8.

#### Loss of benefit penalties: reduction of universal credit

**36.—**(1) Subject to paragraph (6) and to regulation 38, where regulation 35 applies, the amount of a reduction of universal credit in respect of an assessment period is to be calculated by multiplying the daily reduction rate by the number of days in the assessment period, unless paragraph (2) applies.

<sup>1</sup>Words in reg. 36(1) inserted by reg. 6(1) of S.I. 2014/1626 as from 13.10.14.

(2) Where the disqualification period ends during an assessment period, the amount of the reduction for that assessment period is (subject to paragraph (6)) to be calculated by multiplying the daily reduction rate by the number of days in the assessment period which are within the disqualification period.

(3) Subject to paragraphs (4) and (5), the daily reduction rate where regulation 35 applies is an amount which is equal to—

(a) See sections 6B(1), 7(1) and 9(2)(c).

(b) See section 9(2)(a).



- (a) the monetary amount by which payments in respect of the earlier award were reduced in accordance with section 6B or 7 of the 2001 Act or, as the case may be, regulation 3, 3ZA(a) or 17 of the 2001 Regulations in respect of the last complete week before the relevant date (within the meaning of regulation 35);
- (b) multiplied by 52;
- (c) divided by 365; and
- (d) rounded down to the nearest 10 pence.

(4) Where the monetary amount by which payments in respect of the earlier award would have been reduced would, if the claimant had remained entitled to the earlier award, have changed during the disqualification period because of an order made under section 150 of the Social Security Administration Act 1992 (annual up-rating of benefits)–

- (a) the daily reduction rate is to be calculated in accordance with paragraph (3), but on the basis of the new amount by which payments would have been reduced; and
- (b) any adjustment to the reduction of universal credit is to take effect from the first day of the first assessment period to start after the date of the change.

(5) Where the earlier award was a joint-claim jobseeker's allowance, the daily reduction rate is an amount which is equal to–

- (a) the amount of the standard allowance<sup>(b)</sup> applicable to the joint claimants under regulation 36 of the Universal Credit Regulations (table showing amounts of elements);
- (b) multiplied by 12;
- (c) divided by 365;
- (d) reduced by 60%; and
- (e) rounded down to the nearest 10 pence.

(6) The amount of the reduction under this regulation in respect of any assessment period is not to exceed the amount of the standard allowance which is applicable to the claimant in respect of that period.

<sup>1</sup>Regs. 37 & 38 inserted by reg. 6(2) of S.I. 2014/1626 as from 13.10.14.

►<sup>1</sup>**Loss of benefit penalties: transition from working tax credit**

**37.—**(1) This regulation applies where an award of universal credit is made to a claimant who–

- (a) was previously entitled to working tax credit; and
- (b) is an offender, within the meaning of the 2002 Act<sup>(c)</sup>.

(2) Where this regulation applies, the Social Security (Loss of Benefit) Regulations 2001<sup>(d)</sup> apply as if in regulation 3ZB of those Regulations–

- (a) in paragraph (1) at the beginning there were inserted “Subject to regulation 38 of the Universal Credit (Transitional Provisions) Regulations 2014,”;
- (b) “disqualification period” includes a disqualification period within the meaning of the 2002 Act<sup>(e)</sup>;
- (c) “offender” includes an offender within the meaning of the 2002 Act; and

(a) Regulation 3ZA was inserted by S.I. 2013/385.

(b) See section 9 of the Act.

(c) See sections 36A and 36C, inserted by section 120 of the Welfare Reform Act 2012 (“the Act”).

(d) S.I. 2001/4022. Regulation 3ZB was inserted by S.I. 2013/385.

(e) See section 36A(6) and 36C(5).



- (d) “offender’s family member” includes a person who is a member of the family (within the meaning of section 137(1) of the Social Security Contributions and Benefits Act 1992(**a**)) of a person who is an offender within the meaning of the 2002 Act.

**Loss of benefit penalties: maximum total reduction**

**38.** Where regulations 35 and 37 both apply to a claimant, the total amount of a reduction of universal credit in respect of any assessment period under—

- (a) regulation 36; and  
(b) regulation 3ZB of the Social Security (Loss of Benefit) Regulations 2001,

must not exceed the amount of the standard allowance(**b**) which is applicable to the claimant in respect of that period.◀

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

12th May 2014

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

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(a) 1992 c. 4. The definition of “family” was amended by paragraph 46 of Schedule 24 to the Civil Partnership Act 2004 (c. 33).

(b) See section 9 of the Act.



►<sup>1</sup>Schedule

Regulation 12A

<sup>1</sup>Sch. inserted by reg. 4(2) of S.I. 2014/1626 as from 3.11.14.

## Modification of tax credits legislation (finalisation of tax credits)

**Modifications to the Tax Credits Act 2002**

1. Paragraphs 2 to 10 prescribe modifications to the application of the 2002 Act where regulation 12A of these Regulations applies.

2. In section 7 (income test)–

- (a) in subsection (3), before “current year income” in each place where it occurs, insert “notional”;
- (b) in subsection (4)–
  - (i) for “current year” substitute “current part year”;
  - (ii) in paragraphs (a) and (b), before “tax year” insert “part”;
- (c) after subsection (4), insert–

“(4A) In this section “the notional current year income” means–

- (a) in relation to persons by whom a joint claim for a tax credit is made, the aggregate income of the persons for the part tax year to which the claim relates, divided by the number of days in that part tax year, multiplied by the number of days in the tax year in which the part tax year is included and rounded down to the next whole number of pence; and
- (b) in relation to a person by whom a single claim for a tax credit is made, the income of the person for that part tax year, divided by the number of days in that part tax year, multiplied by the number of days in the tax year in which the part tax year is included and rounded down to the next whole number of pence.”.

3. In section 17 (final notice)–

- (a) in subsection (1)–
  - (i) omit “the whole or”; and
  - (ii) in sub-paragraph (a), before “tax year” insert “part”;
- (b) in subsection (3), before “tax year” insert “part”;
- (c) in subsections (4)(a) and (4)(b), for “current year” in both places where it occurs, substitute “current part year”;
- (d) in subsection (5)(a) for “current year” in both places where it occurs, substitute “current part year”;
- (e) omit subsection (8).

4. In section 18 (decisions after final notice)–

- (a) in subsection (1), before “tax year” insert “part”;
- (b) omit subsections (6) to (9);
- (c) in subsection (10), for “subsection (1), (5), (6) or (9)” substitute “subsection (1) or (5)”;
- (d) in subsection (11)–
  - (i) after “subsection (5)” omit “or (9)”;
  - (ii) omit paragraph (a);
  - (iii) in paragraph (b) omit “in any other case.”;
  - (iv) before “tax year” in each place where it occurs, insert “part”.

5. In section 19 (power to enquire)–

- (a) in subsection (1)(a) and (b), before “tax year” insert “part”;
- (b) in subsection (3), before “tax year” insert “part”;

## Sch.

- (c) for subsection (5) substitute–  
“(5) “The relevant section 18 decision” means the decision under subsection (1) of section 18 in relation to the person or persons and the part tax year.”;
  - (d) for subsection (6) substitute–  
“(6) “The relevant section 17 date” means the date specified for the purposes of subsection (4) of section 17 in the notice given to a person or persons under that section in relation to the part tax year.”;
  - (e) in subsection (11), before “tax year” insert “part”;
  - (f) in subsection (12), before “tax year” in each place where it occurs, insert “part”.
- 6.** In section 20 (decisions on discovery)–
- (a) in subsection (1), before “tax year” insert “part”;
  - (b) in subsection (4)(a), before “tax year” insert “part”;
  - (c) in subsection (5)(b), before “tax year” insert “part”;
  - (d) in subsection (6)–
    - (i) before “tax year” insert “part”;
    - (ii) in paragraph (a), for “section 18(1), (5), (6) or (9)” substitute “section 18(1) or (5)”;
  - (e) in subsection (7), before “tax year” in each place where it occurs, insert “part”.
- 7.** In section 21 (decisions subject to official error), for “18(1), (5), (6) or (9)” substitute “18(1) or (5)”.
- 8.** In section 23 (notice of decisions)–
- (a) in subsection (1), for “18(1), (5), (6) or (9)” substitute “18(1) or (5)”;
  - (b) in subsection (3)–
    - (i) after “18(1)” omit “or (6)”;
    - (ii) for paragraph (b) substitute–  
“(b) the notice of the decision under subsection (1) of section 18.”.
- 9.** In section 30(1) (underpayments), before “tax year” in each place where it occurs, insert “part”.
- 10.** In section 38 (appeals)–
- (a) in subsection (1)(b), before “tax year” insert “part”;
  - (b) for subsection (2), substitute–  
“(2) “The relevant section 18 decision” means the decision under subsection (1) of section 18 in relation to the person or persons and the tax credit for the part tax year.”.

### **Modifications to the Tax Credits (Definition and Calculation of Income) Regulations 2002**

**11.** Paragraphs 12 to 23 prescribe modifications to the application of the Tax Credits (Definition and Calculation of Income) Regulations 2002(a) where regulation 12A of these Regulations applies.

**12.** In regulation 2(2) (interpretation), after the definition of “the Macfarlane Trusts” insert–

““part tax year” means a period of less than a year beginning with 6th April and ending with the date on which the award of a tax credit terminated;”.

**13.** In regulation 3 (calculation of income of claimant)(b)–

- (a) in paragraph (1)–

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(a) S.I. 2002/2006.

(b) Regulation 3 was amended by S.I. 2003/732 and 2815, 2006/745 and 766, 2007/824 and 1305 and 2014/658.

- (i) before “tax year” insert “part”;
- (ii) in Steps 1 and 2, after “of the claimant, or, in the case of a joint claim, of the claimants” insert “received in or relating to the part tax year”;
- (iii) in the second and third sentences of Step 4, before “year” insert “part”;
- (b) in paragraph (6A)(a), for the words from “ending on 31st March” to the end, substitute “ending on the last day of the month in which the claimant’s award of a tax credit terminated”;
- (c) in paragraph (8)(b), before “year” insert “part”.

**14. In regulation 4 (employment income)(b)–**

- (a) in paragraph (1)(a), before “tax year” insert “part”;
- (b) in paragraph (1)(b), (c), (d), (e), (g) and (k), before “year” insert “part”;
- (c) in paragraph (1)(f), after “ITEPA” insert “which is treated as received in the part tax year and in respect of which the charge arises in the part tax year”;
- (d) in paragraph (1)(h), after “week” insert “in the part tax year”;
- (e) in paragraph (1)(i), for “that year” substitute “the tax year” and after “ITEPA” insert “which is treated as received in the part tax year”;
- (f) in paragraph (1)(j), after “applies” insert “which is received in the part tax year”;
- (g) in paragraph (1)(l), for “that year” substitute “the tax year” and after “ITEPA” insert “in respect of which the charge arises in the part tax year”;
- (h) in paragraph (1)(m), after “paid” insert “in the part tax year”;
- (i) in paragraph (4), in the first sentence and in the title of Table 1, after “employment income” insert “received in the part tax year”;
- (j) in paragraph (5), after “calculating earnings” insert “received in the part tax year”.

**15. In regulation 5 (pension income)(c)–**

- (a) in paragraph (1), after ““pension income” means” insert “any of the following received in or relating to the part tax year”;
- (b) in paragraph (2), in the first sentence and in the title of Table 2, after “pension income” insert “received in or relating to the part tax year”;
- (c) in paragraph (3), after “income tax purposes”, insert “in relation to the part tax year”.

**16. In regulation 6 (trading income)(d)–**

- (a) re-number the existing regulation as paragraph (1);
- (b) in paragraph (1) (as so re-numbered)–
  - (i) in sub-paragraph (a), for “taxable profits for the tax year” substitute “actual or estimated taxable profits attributable to the part tax year”;
  - (ii) in sub-paragraph (b), for “taxable profit for the” substitute “actual or estimated taxable profit attributable to the part tax”;
- (c) after paragraph (1) insert–
  - “(2) Actual or estimated taxable profits attributable to the part tax year (“the relevant trading income”) is to be calculated by reference to the basis period (determined by reference to the rules in Chapter 15 of Part 2 of ITTOIA) ending during the tax year in which the claimant made, or was treated as making, a claim for universal credit.
  - (3) The relevant trading income is to be calculated by–
    - (a) taking the figure for the actual or estimated taxable income earned in the basis period;

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(a) Paragraph (6A) was inserted by S.I. 2003/732 and amended by S.I. 2007/824.

(b) Regulation 4 was amended by S.I. 2003/732 and 2815, 2004/762 and 2663, 2006/766, 2007/824, 2008/604 and 2169, 2009/2887, 2010/2494, 2012/848 and 2014/658.

(c) Regulation 5 was amended by S.I. 2003/732, 2006/745 and 766, 2008/604 and 2010/2914.

(d) Regulation 6 was amended by S.I. 2006/766.

- (b) dividing that figure by the number of days in the basis period to give the daily figure; and
- (c) multiplying the daily figure by the number of days in the part tax year on which the trade, profession or vocation was carried on.”.

**17. In regulation 7 (social security income)(a)–**

- (a) in paragraph (1), after “social security income” insert “received in the part tax year”;
- (b) in paragraph (3), in the opening words and in the title of Table 3, after “social security income” insert “received in the part tax year”.

**18. In regulation 8 (student income)(b),** after “in relation to a student” insert “, any of the following which is received in the part tax year”.

**19. In regulation 10 (investment income)(c)–**

- (a) in paragraph (1), after “gross amount” insert “received in the part tax year”;
- (b) in paragraph (1)(e), before “year” insert “part tax”;
- (c) in paragraph (2), in the opening words and in the title of Table 4, after “investment income” insert “received in the part tax year”.

**20. In regulation 11(1) (property income)(d)–**

- (a) omit “annual”;
- (b) after “taxable profits” insert “for the part tax year”.

**21. In regulation 12(1) (foreign income)(e),** before “year” insert “part tax”.

**22. In regulation 13 (notional income),** after “means income” insert “received in the part tax year”.

**23. In regulation 18 (miscellaneous income)(f),** after “means income” insert “received in the part tax year”.

**Modifications to the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002**

**24. Paragraphs 25 to 27** prescribe modifications to the application of the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002(g) where regulation 12A of these Regulations applies.

**25. In regulation 2 (interpretation)–**

- (a) after the definition of “the income threshold” insert–  
““part tax year” means a period of less than a year beginning with 6th April and ending with the date on which the award of a tax credit terminated;”;
- (b) in the definition of “the relevant income” insert “as modified by the Universal Credit (Transitional Provisions) Regulations 2014” at the end.

**26. In regulation 7(3) (determination of rate of working tax credit)(h)–**

- (a) in Step 1, in the definition of “MR”, after “maximum rate” insert “(determined in the manner prescribed at the date on which the award of the tax credit terminated)”;

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(a) Regulation 7 was amended by S.I. 2003/732 and 2815, 2008/1879, 2009/697, 2010/2494 and 2014/658.

(b) Regulation 8 was amended by S.I. 2003/2815, 2006/766, 2008/2169 and 2012/848.

(c) Regulation 10 was amended by S.I. 2003/732 and 2815, 2006/766, 2007/824 and 2010/751.

(d) Regulation 11(1) was amended by S.I. 2003/2815 and 2006/766.

(e) Regulation 12(1) was amended by S.I. 2006/766.

(f) Regulation 18 was amended by S.I. 2006/766.

(g) S.I. 2002/2008.

(h) Regulation 7(3) was amended by S.I. 2008/796, 2011/1035 and 2012/849.



- (b) in Step 3–
  - (i) in the definition of “I”, before “tax year” insert “part”;
  - (ii) in the definition of “N1”, before “tax year” insert “part”.

**27. In regulation 8(3) (determination of rate of child tax credit)(a)–**

- (a) in Step 1, in the definition of “MR”, after “maximum rate” insert “(determined in the manner prescribed at the date on which the award of the tax credit terminated)”;
- (b) in Step 3–
  - (i) in the definition of “I”, before “tax year” insert “part”;
  - (ii) in the definition of “N1”, before “tax year” insert “part”.

**Modifications to the Tax Credits (Claims and Notifications) Regulations 2002**

**28.** Paragraphs 29 to 34 prescribe modifications to the application of the Tax Credits (Claims and Notifications) Regulations 2002**(b)** where regulation 12A of these Regulations applies.

**29.** In regulation 4 (interpretation), omit paragraph (b)**(c)**.

**30.** Omit regulation 11 (circumstances in which claims to be treated as made)**(d)**.

**31.** Omit regulation 12 (further circumstances in which claims to be treated as made)**(e)**.

**32.** In regulation 13 (circumstances in which claims made by one member of a couple to be treated as also made by the other)–

- (a) in paragraph (1)**(f)**, after “prescribed by paragraph” omit “(2) or”;
- (b) omit paragraph (2)**(g)**.

**33.** In regulation 15(1)**(c)** (persons who die after making a claim)–

- (a) omit “the whole or” and “after the end of that tax year but”; and
- (b) for “section 18(1), (5), (6) or (9)” substitute “section 18(1) or (5)”.

**34.** In regulation 33 (dates to be specified in notices)**(h)**–

- (a) in paragraph (a), for the words from “not later than 31st July” to “if later”, substitute “not less than 30 days after the date on which the notice is given”;
- (b) omit paragraph (b) and the “and” which precedes it.

**Modification to the Tax Credits (Payment by the Commissioners) Regulations 2002**

**35.** Paragraph 36 prescribes a modification to the application of the Tax Credits (Payment by the Commissioners) Regulations 2002**(i)** where regulation 12A of these Regulations applies.

**36.** Omit regulation 7 (prescribed circumstances for certain purposes)**(j)**.

**Modification to the Tax Credits (Residence) Regulations 2003**

**37.** Paragraph 38 prescribes a modification to the application of the Tax Credits (Residence) Regulations 2003**(k)** where regulation 12A of these Regulations applies.

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- (a) Regulation 8(3) was amended by S.I. 2011/1035 and 2012/849.
  - (b) S.I. 2002/2014
  - (c) Regulation 4(b) was amended by S.I. 2009/697.
  - (d) Regulation 11 was amended by S.I. 2004/762, 2008/604, 2009/697 and 2010/751.
  - (e) Regulation 12 was amended by S.I. 2010/751 and 2914.
  - (f) Regulation 13(1) was amended by S.I. 2005/2919 and 2008/2169.
  - (g) Regulation 13(2) was amended by S.I. 2005/2919 and 2010/751.
  - (h) Regulation 33 was substituted by S.I. 2004/762 and amended by S.I. 2007/824.
  - (i) S.I. 2002/2173.
  - (j) Regulation 7 was amended by S.I. 2005/2200.
  - (k) S.I. 2003/654.

**38.** In regulation 3(5)(a) (circumstances in which a person is treated as not being in the United Kingdom)(a), omit “under regulation 11 or 12 of the Tax Credits (Claims and Notifications) Regulations 2002 or otherwise”.

**Amendments relating to transition from incapacity benefit or severe disablement allowance**

**5.—(1)** In regulation 22 (transition from income support payable on the grounds of incapacity for work or disability)–

- (a) at the end of the heading insert “and other incapacity benefits”; and
- (b) in paragraph (1)–
  - (i) after “to a claimant” insert “(other than a claimant to whom regulation 23 or 24 applies)”; and
  - (ii) at the end insert “or is entitled to incapacity benefit or severe disablement allowance”.

(2) In regulation 23 (transition from other incapacity benefits)–

- (a) at the end of the heading insert “: assessment under the 2010 Regulations”;
- (b) in paragraph (1)–
  - (i) in sub-paragraph (a) at the end insert “(“the relevant award”)”; and
  - (ii) for sub-paragraph (b) substitute–

“(b) on or before the date on which the claim for universal credit is made or treated as made, a notice has been issued to the claimant under regulation 4 of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (“the 2010 Regulations”) (notice commencing the conversion phase).”;

- (c) after paragraph (1) insert–
 

“(1A) Where this regulation applies, regulations 27(3) (award to include LCW and LCWRA elements) and 38 (determination of limited capability for work and work-related activity) of the Universal Credit Regulations do not apply and the question whether a claimant has limited capability for work, or for work and work-related activity, is to be determined, for the purposes of the Act and the Universal Credit Regulations, in accordance with this regulation.”;
- (d) in paragraph (2)–
  - (i) for the opening words substitute “Where it is determined in accordance with the 2010 Regulations that the relevant award qualifies for conversion into an award in accordance with regulation 7 of those Regulations (qualifying for conversion) and that award includes the work-related activity component”; and
  - (ii) omit sub-paragraph (a); and
- (e) in paragraph (3)–
  - (i) for the opening words substitute “Where it is determined in accordance with the 2010 Regulations that the relevant award qualifies for conversion into an award in accordance with regulation 7 of those Regulations and that award includes the support component”; and
  - (ii) omit sub-paragraph (a).

(3) In regulation 25 (transition from other incapacity benefits: supplementary), in paragraph (2) after “For the purposes of regulations” insert “22,”.

(4) In regulation 26 (other claimants with incapacity for work: credits only cases where claimant is approaching pensionable age)–

- (a) in paragraph (1)(c)–

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(a) Regulation 3(5) was substituted by S.I. 2004/1243.

- (i) for “neither regulation 22 nor regulation 24 applies” substitute “none of regulations 22, 23 or 24 apply”; and
- (ii) for “either” substitute “any”; and
- (b) after paragraph (3) insert–
  - “(4) Where the claimant is not entitled to a payment, allowance or increased rate of pension specified in either regulation 24(1)(d) or regulation 24(3)(d)–
- (a) if it is determined in accordance with Part 5 of the Universal Credit Regulations that the claimant has limited capability for work–
  - (i) the claimant is to be treated as having had limited capability for work for the purposes of regulation 27(1)(a) of the Universal Credit Regulations from the beginning of the first assessment period;
  - (ii) regulation 28 of the Universal Credit Regulations does not apply; and
  - (iii) the LCW element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award with effect from the beginning of the first assessment period; and
- (b) if it is determined in accordance with Part 5 of the Universal Credit Regulations that the claimant has limited capability for work and work-related activity–
  - (i) the claimant is to be treated as having had limited capability for work and work-related activity for the purposes of regulation 27(1)(b) of the Universal Credit Regulations from the beginning of the first assessment period;
  - (ii) regulation 28 of the Universal Credit Regulations does not apply; and
  - (iii) the LCWRA element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period.”.

#### **Amendments relating to loss of tax credits penalties**

**6.**—(1) In regulation 36(1) (loss of benefit penalties: reduction of universal credit) after “Subject to paragraph (6)” insert “ and to regulation 38”.

(2) After regulation 36 insert–

#### **“Loss of benefit penalties: transition from working tax credit**

**37.**—(1) This regulation applies where an award of universal credit is made to a claimant who–

- (a) was previously entitled to working tax credit; and
- (b) is an offender, within the meaning of the 2002 Act<sup>(a)</sup>.
- (2) Where this regulation applies, the Social Security (Loss of Benefit) Regulations 2001<sup>(b)</sup> apply as if in regulation 3ZB of those Regulations–
  - (a) in paragraph (1) at the beginning there were inserted “Subject to regulation 38 of the Universal Credit (Transitional Provisions) Regulations 2014,”;
  - (b) “disqualification period” includes a disqualification period within the meaning of the 2002 Act<sup>(c)</sup>;
  - (c) “offender” includes an offender within the meaning of the 2002 Act; and

<sup>(a)</sup> See sections 36A and 36C, inserted by section 120 of the Welfare Reform Act 2012 (“the Act”).

<sup>(b)</sup> S.I. 2001/4022. Regulation 3ZB was inserted by S.I. 2013/385.

<sup>(c)</sup> See sections 36A(6) and 36C(5).

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- (d) “offender’s family member” includes a person who is a member of the family (within the meaning of section 137(1) of the Social Security Contributions and Benefits Act 1992(a)) of a person who is an offender within the meaning of the 2002 Act.

**Loss of benefit penalties: maximum total reduction**

**38.** Where regulations 35 and 37 both apply to a claimant, the total amount of a reduction of universal credit in respect of any assessment period under–

- (a) regulation 36; and  
(b) regulation 3ZB of the Social Security (Loss of Benefit) Regulations 2001, must not exceed the amount of the standard allowance(b) which is applicable to the claimant in respect of that period. ◀

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(a) 1992 c. 4. The definition of “family” was amended by paragraph 46 of Schedule 24 to the Civil Partnership Act 2004 (c. 33).

(b) See section 9 of the Act.

**EXPLANATORY NOTE**

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

These Regulations make provision for the second phase of the replacement of certain “existing benefits” by universal credit, a new benefit established by the Welfare Reform Act 2012 (c. 5). The existing benefits are income-based jobseeker’s allowance, income-related employment and support allowance, income support, housing benefit, working tax credit and child tax credit. The Regulations revoke the Universal Credit (Transitional Provisions) Regulations 2013 (S.I. 2013/386), which related to the first phase of implementation of the change. They replace Part 3 of those Regulations, which dealt with the effect of transition to universal credit. It is intended that Part 2 of those Regulations, which dealt with entitlement to claim universal credit, will be replaced with provision made by order under section 150 of the Welfare Reform Act 2012.

Regulation 3 provides for revocation of the Universal Credit (Transitional Provisions) Regulations 2013, subject to certain savings. These concern claimants who claimed universal credit before the date on which these Regulations come into force.

Part 2 of the Regulations makes provision about claimants who move from existing benefits to universal credit and, in particular, about how matters which are relevant to the award of an existing benefit are to have effect in relation to an award of universal credit.

Regulation 4 provides a discretion for the Secretary of State temporarily to exclude claims in any area, or in any category of case, if he considers that this is necessary in order to safeguard the efficient administration of universal credit, or to ensure the effective testing of administrative systems.

Regulation 5 prevents a claimant who is entitled to universal credit from also being entitled to income support, housing benefit, tax credits or state pension credit (subject to limited exceptions). Provision to similar effect is made in relation to “old style JSA” and “old style ESA” by virtue of Commencement Orders made under section 150(3) of the Act, which bring into force repeals of the legislation relating to those benefits. In these Regulations, references to “old style JSA” and “old style ESA” are to the versions of jobseeker’s allowance and employment and support allowance which include an income-based, or income-related, allowance.

Universal credit claimants are excluded from claiming income support, housing benefit or tax credits by regulation 6, except in certain cases where notice of intention to claim has previously been given, or a defective claim has previously been made, and entitlement will run from a date before the claimant became entitled to universal credit. Again, similar provision is made in relation to old style JSA and old style ESA by orders made under section 150(3) of the Act.

Under regulation 7, most awards of income support and housing benefit to a claimant who has formed a couple with a universal credit claimant will terminate on the day before the first date of entitlement to universal credit. Awards of tax credits will terminate in accordance with the Tax Credits Act 2002 (c. 21) as a result of the claimant’s change of relationship status. Similar provision is made by regulation 8 in relation to other claimants, although in this case awards of tax credits also terminate, by virtue of regulation 8, on the day before the first date of entitlement to universal credit (or, where no award of universal credit is made, on the day before the first date on which the claimant would have been entitled to universal credit if all the applicable conditions had been met). Regulation 11 provides for a claimant to be treated as entitled to an award of a tax credit in certain cases, for the purposes of regulations 7 and 8. Entitlement to old style JSA and old style ESA will similarly terminate (in so far as the awards are of an income-based or income-related allowance) by virtue of orders made under section 150(3) of the Act.

Regulation 9 provides, in certain cases, for entitlement to some welfare benefits to be disregarded for the purposes of the benefit cap during the claimant's first assessment period for universal credit. This will apply where a claimant is entitled to universal credit from a date before the date on which they made a claim, or were treated as making a claim, and they were previously entitled to housing benefit (which may already have been subject to the benefit cap). Overpayments of existing benefits (other than tax credits or joint-claim jobseeker's allowance) which may arise on transition to universal credit will be off-set against entitlement to universal credit, under regulation 10.

Where a claim for universal credit is made by a claimant who was previously entitled to a tax credit, regulation 12 provides for the Tax Credits Act 2002 to apply to that claimant with certain modifications, so that any overpayments of tax credits may be treated as overpayments of universal credit and appropriate time limits apply in relation to the imposition of penalties.

Regulation 13 deals with appeals which are determined, and decisions about existing benefits which are revised or superseded, after the appellant has become entitled to universal credit. Entitlement to income support, housing benefit or a tax credit arising from an appeal, revision or supersession will terminate in accordance with regulation 7 or 8 and a decision made about entitlement to universal credit may be revised to take account of any findings of fact by the appeal body. Regulation 14 relates to the situation where a claimant successfully appeals a decision that they are not entitled to universal credit, or such a decision is revised, after the claimant has become entitled to income support, housing benefit or a tax credit. In this case, the award of the existing benefit terminates at the beginning of the first day of entitlement if there would otherwise be an overlap with the award of universal credit.

Where a claim for universal credit is made by a claimant who was previously entitled to an existing benefit, regulation 15 modifies the application of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013 (S.I. 2013/380) in relation to the claimant. The effect is that the time for claiming universal credit may be extended by up to one month, if the claimant was not given advance notice of termination of the award of existing benefit. Under regulation 16, a person who has been appointed to act on behalf of a claimant in relation to existing benefits may be treated as having been appointed to act on their behalf in relation to universal credit and vice versa.

Where a claim for universal credit is made by a claimant who was entitled to an existing benefit before they became entitled to universal credit, regulation 17 allows the claimant to apply for an advance payment of universal credit during their first assessment period. Repayment is by reduction of subsequent payments. Where certain deductions were made from an award of an existing benefit, regulation 18 allows deductions in respect of the same items to be made from an award of universal credit without the need for consents which might otherwise be required.

Regulation 19 provides that a claimant may be treated as having limited capability for work, or limited capability for work and work-related activity, for the purposes of an award of universal credit, if they were previously entitled to the work-related activity component, or the support component, of old style ESA. Where a claimant was in the process of assessment of their capability for work in connection with an award of old style ESA at the time that award terminated, the assessment period for universal credit will be adjusted accordingly, under regulation 20. Similar provision is made in regulation 21, in respect of claimants who were not entitled to old style ESA, but who were entitled to credits of contributions and earnings on the grounds of limited capability for work.

Transition to universal credit from existing incapacity benefits is dealt with in regulations 22 to 25. Transition from income support awarded on the grounds of incapacity for work or disability is dealt with in regulation 22 and transition from incapacity benefit or severe disablement allowance is dealt with in regulations 23 to 25. In both cases, the limited capability for work or limited capability for work and work-related activity elements may be included in an award of universal credit with effect from the start of the first assessment period, if the claimant is subsequently assessed as having limited capability for work or, in the case of a claimant approaching pensionable age, is entitled to certain other benefits. Similar provision is made in regulations 26 and 27 in respect of claimants who were not entitled to an incapacity benefit, but who were entitled to credits of earnings under the Social Security (Credits) Regulations 1975 (S.I. 1975/556) on the grounds of incapacity for work.





