
STATUTORY INSTRUMENTS

2014 No. 1230

The Universal Credit (Transitional Provisions) Regulations 2014

PART 2

TRANSITION TO UNIVERSAL CREDIT

CHAPTER 3

EFFECT OF TRANSITION TO UNIVERSAL CREDIT

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⁽¹⁾ (“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⁽²⁾, 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

⁽¹⁾ 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.

⁽²⁾ In which case, see paragraph (6).

- (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;
 - (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(3) (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

(3) Regulation 30 has been amended by [S.I. 2010/840](#) and [S.I. 2011/674](#).

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.