

2015 No. 32 (C. 3)

SOCIAL SECURITY

**The Welfare Reform Act 2012 (Commencement No. 9,
11, 13, 14, 16, 17 and 19 and Transitional and
Transitory Provisions (Amendment)) Order 2015**

Made - - - -

19th January 2015

The Secretary of State for Work and Pensions makes the following Order in exercise of the powers conferred by section 150(3) and (4)(a) and (b)(i) of the Welfare Reform Act 2012(a).

Citation

1. This Order may be cited as the Welfare Reform Act 2012 (Commencement No. 9, 11, 13, 14, 16, 17 and 19 and Transitional and Transitory Provisions (Amendment)) Order 2015.

Interpretation

2.—(1) In this Order—

“the Act” means the Welfare Reform Act 2012;

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

“employment and support allowance” means an employment and support allowance under Part 1 of the Welfare Reform Act 2007(c);

“jobseeker’s allowance” means a jobseeker’s allowance under the Jobseekers Act 1995(d);

“the No. 9 Order” means the Welfare Reform Act 2012 (Commencement No. 9 and Transitional and Transitory Provisions and Commencement No. 8 and Savings and Transitional Provisions (Amendment)) Order 2013(e);

“the No. 11 Order” means the Welfare Reform Act 2012 (Commencement No. 11 and Transitional and Transitory Provisions and Commencement No. 9 and Transitional and Transitory Provisions (Amendment)) Order 2013(f);

“the No. 13 Order” means the Welfare Reform Act 2012 (Commencement No. 13 and Transitional and Transitory Provisions) Order 2013(g);

“the No. 14 Order” means the Welfare Reform Act 2012 (Commencement No. 14 and Transitional and Transitory Provisions) Order 2013(h);

“the No. 16 Order” means the Welfare Reform Act 2012 (Commencement No. 16 and Transitional and Transitory Provisions) Order 2014(i);

“the No. 17 Order” means the Welfare Reform Act 2012 (Commencement No. 17 and Transitional and Transitory Provisions) Order 2014(j);

(a) 2012 c. 5.

(b) S.I. 1987/1968.

(c) 2007 c. 5.

(d) 1995 c. 18.

(e) S.I. 2013/983 (c. 41).

(f) S.I. 2013/1511 (c. 60).

(g) S.I. 2013/2657 (c. 107).

(h) S.I. 2013/2846 (c. 114).

(i) S.I. 2014/209 (c. 7).

(j) S.I. 2014/1583 (c. 61).

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“the No. 19 Order” means the Welfare Reform Act 2012 (Commencement No. 19 and Transitional and Transitory Provisions and Commencement No. 9 and Transitional and Transitory Provisions (Amendment)) Order 2014(a).

(2) For the purposes of this Order, the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013(b) apply for the purpose of deciding—

- (a) whether a claim for universal credit is made; and
- (b) the date on which such a claim is made.

(3) For the purposes of this Order, the Claims and Payments Regulations 1987 apply, subject to paragraphs (4) and (5), for the purposes of deciding—

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

(4) Subject to paragraph (5), for the purposes of this Order—

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

(5) Where, by virtue of—

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

a claim for an employment and support allowance or a jobseeker’s allowance is treated as made at a date that is earlier than the date on which the action referred to in paragraph (4)(a) is taken, the claim is treated as made on that earlier date.

Amendment of the No. 9, No. 11, No. 13, No. 14, No. 16, No. 17 and No. 19 Orders: cases to which the amendments apply

3.—(1) Articles 4, 6(1) and (2), 7, 8(1) and 9 apply in relation to a case where—

- (a) a claim for universal credit is made or treated as made;
- (b) an award of universal credit is made without a claim; or
- (c) a claim for an employment and support allowance or a jobseeker’s allowance is made,

and the claim for universal credit, an employment and support allowance or a jobseeker’s allowance is made or treated as made, or, as the case may be, the award of universal credit is made without a claim, on or after 26th January 2015.

(2) Articles 6(3) and 8(2) apply in relation to a case where a claim for universal credit, an employment and support allowance or a jobseeker’s allowance is made or treated as made on or after 2nd March 2015.

(a) S.I. 2014/2321 (c. 99).

(b) S.I. 2013/380.

(c) Para. (1F) was inserted by S.I. 2008/1554 and substituted by S.I. 2009/1490.

(d) Paras. (4ZA) to (4ZD) were inserted by S.I. 2000/1982 and para. (4ZC) was amended by S.I. 2009/1490. Para. (4A) was inserted by S.I. 1996/1460, substituted by S.I. 1997/793 and amended by S.I. 1999/3108, 2000/1982 and 2009/1490.

(3) Articles 5 and 6(4) apply in relation to a case where a claim for universal credit, an employment and support allowance or a jobseeker's allowance is made or treated as made on or after 6th April 2015.

Amendment of the No. 9 Order

4.—(1) Where this article applies, the No. 9 Order is amended as follows.

(2) In article 2(1)(a) (interpretation)—

- (a) after the definition of “the Digital Service Regulations 2014” insert—
““disability living allowance” means an allowance under section 71 of the Social Security Contributions and Benefits Act 1992(b);”;
- (b) after the definition of “old style JSA” insert—
““personal independence payment” means an allowance under Part 4 of the Act;”.

(3) In article 4(c) (day appointed for the abolition of income-related employment and support allowance and income-based jobseeker's allowance), at the end add—

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

(9) For the purposes of paragraph (8), the acts referred to are—

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

(4) For article 5(5) to (7)(d) (provisions that apply in connection with the abolition of income-related employment and support allowance and income-based jobseeker's allowance under article 4) substitute—

“(5) For the purposes of article 4(2)(a) and (g), the Claims and Payments Regulations 1987 apply, subject to paragraphs (6) and (7), for the purposes of deciding—

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

(6) Subject to paragraph (7),—

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

(a) Article 2 was amended by S.I. 2014/1452 (c. 56) and S.I. 2014/3094 (c. 133); there are other amendments not relevant to this Order.

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

(c) Article 4 was substituted by S.I. 2014/1452 (c. 56) and amended by S.I. 2014/1923 (c. 88).

(d) Article 5 was substituted by S.I. 2014/1452 (c. 56) and amended by S.I. 2014/1923 (c. 88).

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(7) Where, by virtue of—

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

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

(5) In Schedule 5 (gateway conditions)—

- (a) in paragraph 3(1) (existing benefits)—
 - (i) in paragraph (e) omit “under section 71 of the Social Security Contributions and Benefits Act 1992”; and
 - (ii) in paragraph (f) omit “under Part 4 of the Act”; and
- (b) in paragraph 6(a) (caring responsibilities)—

(i) for sub-paragraph (1) substitute—

“(1) There must not be a child or young person living with the claimant some or all of the time if the child or young person—

- (a) has been certified as severely sight impaired or blind by a consultant ophthalmologist;
- (b) is looked after by a local authority, within the meaning of section 22 of the Children Act 1989(b) or section 17(6) of the Children (Scotland) Act 1995(c), save where the child or young person is so looked after during any period referred to in regulation 4A(1)(a) of the Universal Credit Regulations(d); or
- (c) is entitled to a disability living allowance or personal independence payment.”;

(ii) for sub-paragraph (2)(a) substitute—

“(a) be an adopter (within the meaning of the Universal Credit Regulations(e)) with whom a child has been placed during the period of 12 months ending immediately before the date on which the claim for universal credit is made or with whom a child is expected to be placed during the period of two months beginning with that date; or”; and

(iii) in sub-paragraph (3), at the end add—

“;

(c) “young person” means a person—

- (i) who is not a child but who is under the age of 20; and
- (ii) for whom the claimant would be responsible for the purposes of regulation 4 of the Universal Credit Regulations, if the person were a qualifying young person within the meaning of regulation 5 of those Regulations.”.

(a) Sch. 5 was inserted by S.I. 2014/1452 (c. 56) and para. 6 was amended by S.I. 2014/1661 (c. 69).

(b) 1989 c. 41. Section 22 was amended by section 107 of, and para. 19 of Sch. 5 to, the Local Government Act 2000 (c. 22), section 2 of the Children (Leaving Care) Act 2000 (c. 35), section 116(2) of the Adoption and Children Act 2002 (c. 38), section 52 of the Children Act 2004 (c. 31), section 39 of, and para. 1 and 6 of Sch. 3 to, the Children and Young Persons Act 2008 (c. 23) and section 99 of the Children and Families Act 2014 (c. 6).

(c) 1995 c. 36. Section 17(6) was amended by para. 9(4) of Sch. 2 to the Adoption and Children (Scotland) Act 2007 (asp. 4) and by para. 2(4) of Sch. 5 to the Children's Hearings (Scotland) Act 2011 (asp. 1) and by S.S.I. 2013/211.

(d) Regulation 4A was inserted by S.I. 2013/1508.

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

Amendment of paragraphs 4 and 7 of Schedule 5 to the No. 9 Order

5. Where this article applies, Schedule 5 to the No. 9 Order is amended as follows—
- (a) in paragraph 4(a) (income and capital)—
 - (i) in sub-paragraph (1) and (2)(a) for “£330” substitute “£338”; and
 - (ii) in sub-paragraph (2)(b) for “£525” substitute “£541”; and
 - (b) for paragraph (7)(e) (other requirements) substitute—
 - “(e) must have an account with a bank, a building society, the Post Office, or a Credit Union (within the meaning of the Credit Unions Act 1979(b)).”.

References to provisions of the No. 9 Order amended by articles 4 and 5

6.—(1) Where this paragraph applies, any reference in the No. 11 Order, the No. 13 Order, the No. 14 Order, the No. 16 Order, the No. 17 Order and the No. 19 Order to paragraphs (5) to (7) of article 5 of the No. 9 Order is a reference to paragraphs (5) to (7) of article 5 as substituted by article 4(4).

(2) Where this paragraph applies, except where paragraph (4) applies, any reference in the No. 11 Order(c), the No. 13 Order, the No. 14 Order or the No. 16 Order to Schedule 5 to the No. 9 Order is a reference to that Schedule as amended by article 4(5).

(3) Where this paragraph applies, except where paragraph (4) applies, any reference in the No. 17 Order(d) or the No. 19 Order to Schedule 5 to the No. 9 Order is a reference to that Schedule as amended by article 4(5).

(4) Where this paragraph applies, any reference in the No. 11 Order, the No. 13 Order, the No. 14 Order, the No. 16 Order, the No. 17 Order or the No. 19 Order to Schedule 5 to the No. 9 Order is a reference to that Schedule as amended by articles 4(5) and 5.

Amendment of the No. 11 Order – gateway conditions

7. Where this paragraph applies, article 2(e) (interpretation) of the No. 11 Order is amended as follows—
- (a) in paragraph (1)—
 - (i) for the definition of “gateway conditions” substitute—
 - ““gateway conditions” means the conditions specified in Schedule 5 to the No. 9 Order;”;
 - (ii) omit the definition of “specified districts”; and
 - (b) omit paragraph (3).

Amendment of the No. 17 Order – gateway conditions

8.—(1) Where this paragraph applies, article 2(f) (interpretation) of the No. 17 Order is amended as follows—

(a) Para. 4 was substituted by S.I. 2014/1923 (c. 88).
(b) 1979 c. 34.
(c) There is a reference to “Sch. 5 to the No. 9 Order” in the definition of “gateway conditions” as amended by article 7 of this Order.
(d) There is a reference to “Sch. 5 to the No. 9 Order” in the definition of “gateway conditions” as amended by article 8(2) of this Order.
(e) Article 2 was amended by S.I. 2014/1452 (c. 56), S.I. 2014/1661 (c. 69) and S.I. 2014/3067 (c. 129); there are other amendments not relevant to this Order.
(f) Article 2(1) was amended by S.I. 2014/3067 (c. 129); there are other amendments not relevant to this Order.

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- (a) except where paragraph (2) applies, for the definition of “gateway conditions” in paragraph (1) substitute—

““gateway conditions” means the conditions specified in Schedule 5 to the No. 9 Order as amended by article 4(5) of the Welfare Reform Act 2012 (Commencement No. 9, 11, 13, 14, 16, 17 and 19 and Transitional and Transitory Provisions (Amendment)) Order 2015 save that where, for the purposes of articles 3(2)(c), (d), (k) or (l) or 4(2)(c), (d), (k) or (l)(a), the claimant resides in one of the No. 13 relevant districts (apart from postcode part-district CH62 9), or in one of the specified districts, on the date on which the claim is made, it means those conditions as if the No. 9 Order had not been amended by article 4(5);”;

- (b) after the definition of “the No. 13 relevant districts” in paragraph (1) insert—
““specified districts” means the following postcode districts and part-districts—

BL1 to BL4;

BL5 1;

BL5 3;

BL6 4;

BL6 9;

M26 3.”; and

- (c) omit paragraph (3).

- (2) where this paragraph applies, article 2 of the No. 17 Order is amended as follows—

- (a) for the definition of “gateway conditions” in paragraph (1) substitute

““gateway conditions” means the conditions specified in Schedule 5 to the No. 9 Order;”;

- (b) omit the definition of “specified districts”.

Amendment of the No. 11 Order, No. 13 Order, No. 14 Order, No. 16 Order, No. 17 Order and No. 19 Order – consequential amendment

9. Where this paragraph applies, in article 4(6) of the No. 11 Order, the No. 13 Order, the No. 14 Order, the No. 16 Order**(b)**, the No. 17 Order and the No. 19 Order (day appointed for the abolition of income-related employment and support allowance and income-based jobseeker’s allowance) for “(6) and (7)” substitute “(6) to (9)”.

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

19th January 2015

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

(a) Articles 3 and 4 were amended by S.I. 2014/1923 (c. 88).

(b) Article 4(6) in the No. 11 Order, No. 13 Order, the No. 14 Order and the No. 16 Order was substituted by S.I. 2014/1452 (c. 56).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends—

The Welfare Reform Act 2012 (Commencement No. 9 and Transitional and Transitory Provisions and Commencement No. 8 and Savings and Transitional Provisions (Amendment)) Order 2013 (S.I. 2013/983 C. 41) (“the No. 9 Order”);

The Welfare Reform Act 2012 (Commencement No. 11 and Transitional and Transitory Provisions and Commencement No. 9 and Transitional and Transitory Provisions (Amendment)) Order 2013 (S.I. 2013/1511 C. 60) (“the No. 11 Order”);

The Welfare Reform Act 2012 (Commencement No. 13 and Transitional and Transitory Provisions) Order 2013 (S.I. 2013/2567 C. 107) (“the No. 13 Order”);

The Welfare Reform Act 2012 (Commencement No. 14 and Transitional and Transitory Provisions) Order 2013 (S.I. 2013/2846 C. 114) (“the No. 14 Order”);

The Welfare Reform Act 2012 (Commencement No. 16 and Transitional and Transitory Provisions) Order 2014 (S.I. 2014/209 C. 7) (“the No. 16 Order”);

The Welfare Reform Act 2012 (Commencement No. 17 and Transitional and Transitory Provisions) Order 2014 (S.I. 2014/1583 C. 61) (“the No. 17 Order”); and

The Welfare Reform Act 2012 (Commencement No. 19 and Transitional and Transitory Provisions and Commencement No. 9 and Transitional and Transitory Provisions (Amendment)) Order 2014 (S.I. 2014/2321 C. 99) (“the No. 19 Order”).

The above Orders (“the relevant Orders”) each make provision for the coming into force of the universal credit provisions in Part 1 of the Welfare Reform Act 2012 (c. 5) and the provisions in that Part that abolish income-related employment and support allowance and income-based jobseeker’s allowance.

Article 3 deals with cases to which the amendments of the No. 9 Order and other Orders apply, including the dates from which the amendments apply. Article 3(1) provides that the changes to Schedule 5 to the No. 9 Order made by article 4(5), to permit claims by those with responsibility for children, come into effect on 26th January 2015 where a claimant resides in any of the areas covered by the No. 9 Order. In addition, these changes also come into effect on 26th January where a claimant resides in the areas covered by the No. 11 Order, the No. 13 Order, the No. 14 Order, the No. 16 Order and the No. 17 Order (save for postcode districts and part-districts BL1 to BL4, BL5 1, BL5 3, BL6 4, BL6 9 and M26 3 in the No. 9 relevant districts and the No. 13 relevant districts (other than postcode part-district CH62 9)).

Article 3(1) provides that some other technical changes to the No. 9 Order made by article 4(3) and (4) come into effect on 26th January 2015. These changes also apply to all areas covered by the other relevant Orders.

Article 3(2) provides that the changes to Schedule 5 to the No. 9 Order made by article 4(5), to permit claims by those with responsibility for children, come into effect on 2nd March 2015 where a claimant resides in postcode districts and part-districts BL1 to BL4, BL5 1, BL5 3, BL6 4, BL6 9 and M26 3 in the No. 9 relevant districts or in one of the No. 13 relevant districts, covered by the No. 17 Order, or in the areas covered by the No. 19 Order.

Article 3(3) provides that the changes to Schedule 5 to the No. 9 Order made by article 5, which increase the maximum earnings threshold and enable a claimant to have any type of account with a Credit Union, come into effect on 6th April 2015. These changes also apply to all areas covered by the other relevant Orders.

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Article 4 amends Schedule 5 to the No. 9 Order so that there is no longer a general condition that a claimant must not have responsibility for children or young persons. In its place is a condition that a claimant must not have responsibility for certain children and young persons (for example most children or young persons who are looked after by a local authority and children or young persons who are entitled to a disability living allowance or personal independence payment). Article 4 also makes some technical changes to article 4 of the No. 9 Order and substitutes article 5(5) to (7) of the No. 9 Order so as to make it clear that, subject to certain exceptions, a claim for a Jobseeker's Allowance or an Employment and Support Allowance is made when it is completed.

Article 5(a) amends paragraph 4 of Schedule 5 to the No. 9 Order which sets out the maximum income and capital that a claimant may have in order to claim universal credit. The amendments require an individual claimant to declare that his or her earned income is not expected to exceed £338 (previously £330) during the period of one month starting with the date on which the claim for universal credit is made and require a couple to declare that each member of the couple's income is not expected to exceed £338 (previously £330) and the couple's total earned income is not expected to exceed £541 (previously £525) during that period.

Article 5(b) amends paragraph 7(e) of Schedule 5 to the No. 9 Order which requires a claimant to have an account in order to claim universal credit. The amendments permit a claimant with any form of Credit Union account (within the meaning of the Credit Unions Act 1979 (c. 34)) to claim universal credit.

Article 6 provides that any reference in the other relevant Orders to article 5(5) to (7) of the No. 9 Order is a reference to article 5(5) to (7) as substituted by article 4(4). Provision is also made so that any reference in the No. 11 Order, the No. 13 Order, the No. 14 Order, the No. 16 Order, the No. 17 Order or the No. 19 Order to Schedule 5 of the No. 9 Order is a reference to that Schedule as amended by articles 4(5) and 5 as the case may be.

Article 7, in conjunction with article 6(2) and (4), amends the definition of "gateway conditions" in article 2(1) of the No. 11 Order to reflect the amendments to Schedule 5 to the No. 9 Order made by articles 4 and 5.

Article 8, in conjunction with article 6(3) and (4), amends the definition of "gateway conditions" in article 2(1) of the No. 17 Order to reflect the amendments to Schedule 5 to the No. 9 Order made by articles 4 and 5.

Article 9 amends article 4(6) of the No. 11 Order, the No. 13 Order, the No. 14 Order, the No. 16 Order, the No. 17 Order and the No. 19 Order so as to amend the cross-reference to article 4 of the No. 9 Order to include reference to new paragraphs (8) and (9) which are inserted by article 4(3) of this Order.