

2015 No. 33 (C. 4)

SOCIAL SECURITY

The Welfare Reform Act 2012 (Commencement No. 21 and Transitional and Transitory Provisions) 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), (b)(i) and (c) of the Welfare Reform Act 2012(a):

Citation

1. This Order may be cited as the Welfare Reform Act 2012 (Commencement No. 21 and Transitional and Transitory Provisions) Order 2015.

Interpretation

Art. 2 has been amended by S.I. 2015/634, see arts. 3 & 5 of this S.I. for details of transitional provisions which apply to claims between 18.3.15 and before 10.6.15.

2.—(1) In this Order—

“the Act” means the Welfare Reform Act 2012;

“the 1998 Act” means the Social Security Act 1998(b);

“the amending provisions” means the provisions referred to in article 4(1)(a) to (c) of the No. 9 Order (day appointed for the abolition of income-related employment and support allowance and income-based jobseeker’s allowance)(c);

“claimant”—

(a) in relation to an employment and support allowance, has the same meaning as in Part 1 of the Welfare Reform Act 2007(d), save as mentioned in article 5(1A) of the No. 9 Order as applied by article 4(7) of this Order(e);

(b) in relation to a jobseeker’s allowance, has the same meaning as in the Jobseekers Act 1995(f) (as it applies apart from the amendments made by Part 1 of Schedule 14 to the Act that remove references to an income-based jobseeker’s allowance), save as mentioned in article 5(1A) of the No. 9 Order as applied by article 4(7) of this Order;

(c) in relation to universal credit, has the same meaning as in Part 1 of the Act(g);

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

(a) 2012 c. 5.

(b) 1998 c. 14.

(c) Article 4 was substituted by S.I. 2014/1452 (c. 56) and amended by S.I. 2014/1923 (c. 88). Paragraphs (8) and (9) of article 4 were inserted by S.I. 2015/32 (c. 3).

(d) 2007 c. 5.

(e) Article 5(1A) was inserted by S.I. 2014/3067 (c. 129).

(f) 1995 c. 18.

(g) See section 40.

(h) S.I. 2013/380.

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

“First-tier Tribunal” has the same meaning as in the 1998 Act;

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

“joint claimants”, in relation to universal credit, has the same meaning as in Part 1 of the Act(a);

“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(b);

“the No. 28 relevant district” means the postcode part-district SM5 2;

“single claimant”, in relation to universal credit, has the same meaning as in Part 1 of the Act(c);

▶¹◀

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

¹Defn. of “specified condition” and words in art. 3(2), (2)(a), (b)(i) & (ii) omitted by art. 9(2) & (3)(a)(b) as from 10.6.15. (See art. 3 & 5 for transitional provisions for claims between 18.3.15 and before 10.6.15).

(2) For the purposes of this Order, the Claims and Payments Regulations 2013 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.

Day appointed for the coming into force of the universal credit provisions

Art. 3 amended by S.I. 2015/634, see arts. 3 & 5 to this S.I. for transitional provisions before 10.6.15.

3.—(1) The day appointed for the coming into force of the provisions of the Act listed in Schedule 2 to the No. 9 Order, in so far as they are not already in force, in relation to the case of a claim referred to in paragraph (2), and any award that is made in respect of the claim, is the day appointed in accordance with paragraph (3).

(2) The claims referred to are—

- (a) a claim for universal credit that is made on or after 28th January 2015 in respect of a period that begins on or after 28th January 2015 where, on the date on which the claim is made, the claimant resides in the No. 28 relevant district ▶¹◀;
- (b) a claim for universal credit that is made on or after 28th January 2015 in respect of a period that begins on or after 28th January 2015 where—
 - (i) in the case of a single claimant, the claimant gives incorrect information regarding the claimant residing in the No. 28 relevant district ▶¹◀ and the claimant does not reside in that district ▶¹◀ on the date on which the claim is made;
 - (ii) in the case of joint claimants, either or both of the joint claimants gives or give incorrect information regarding his or her (or their) residing in that district ▶¹◀ and one or both of them does not or do not reside in that district ▶¹◀ on the date on which the claim is made,

and after a decision is made that the single claimant is, or the joint claimants are, entitled to universal credit and one or more payments have been made in respect of the single claimant or the joint claimants, the Secretary of State discovers that incorrect information has been given regarding such residence ▶¹◀.

(a) See section 40.

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

(c) See section 40.

(3) The day appointed in relation to the case of a claim referred to in paragraph (2), and any award that is made in respect of the claim, is the first day of the period in respect of which the claim is made.

(4) Article 3(6) of the No. 9 Order applies for the purposes of paragraph (3) as it applies for the purposes of article 3(4)(a) of the No. 9 Order.

(5) Article 3A of the No. 9 Order^(a) applies in connection with a claim for universal credit where a single claimant, or, as the case may be, either or both of joint claimants, gives or give incorrect information regarding his or her (or their) residing in the No. 28 relevant district ►¹◄, as it applies in connection with the giving of incorrect information regarding a claimant residing in one of the relevant districts (as defined in the No. 9 Order) ►¹◄.

¹Words in arts. 3(5), 4(2), (2)(a), (b)(i), (b)(ii) & (c) omitted by art. 9(3)(c), (4)(a) & (b) of S.I. 2015/634 as from 10.6.15 (See art. 3 & 5 of this S.I. for transitional provisions for claims between 18.3.15 and before 10.6.15).

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

Art .4 has been amended by S.I. 2015/634. See arts. 3 & 5 to this S.I. for transitional provisions before 10.6.15.

4.—(1) The day appointed for the coming into force of the amending provisions, in relation to the case of a claim referred to in paragraph (2), and any award that is made in respect of the claim, is the day appointed in accordance with paragraph (3).

(2) The claims referred to are—

- (a) a claim for universal credit that is made on or after 28th January 2015 in respect of a period that begins on or after 28th January 2015 where, on the date on which the claim is made, the claimant resides in the No. 28 relevant district ►¹◄;
- (b) a claim for universal credit that is made on or after 28th January 2015 in respect of a period that begins on or after 28th January 2015 where—
 - (i) in the case of a single claimant, the claimant gives incorrect information regarding the claimant residing in the No. 28 relevant district ►¹◄ and the claimant does not reside in that district ►¹◄ on the date on which the claim is made;
 - (ii) in the case of joint claimants, either or both of the joint claimants gives or give incorrect information regarding his or her (or their) residing in that district ►¹◄ and one or both of them does not or do not reside in that district ►¹◄ on the date on which the claim is made,

and after a decision is made that the single claimant is, or the joint claimants are, entitled to universal credit and one or more payments have been made in respect of the single claimant or the joint claimants, the Secretary of State discovers that incorrect information has been given regarding such residence ►¹◄;

- (c) a claim for an employment and support allowance or a jobseeker's allowance that is made or treated as made on or after 28th January 2015 where, on the date on which the claim is made or treated as made, the claimant resides in the No. 28 relevant district ►¹◄;
- (d) a claim for an employment and support allowance or a jobseeker's allowance other than one referred to in sub-paragraph (c) that is made or treated as made during the relevant period by a single claimant of universal credit or by either of two joint claimants of universal credit who has or have made a claim for universal credit within sub-paragraph (a) or (b).

(a) Article 3A was substituted by S.I. 2014/1923 (c. 88).

(3) The day appointed in relation to the case of a claim referred to in paragraph (2), and any award that is made in respect of the claim, is the first day of the period in respect of which the claim is made.

(4) For the purposes of paragraph (2)(d), “relevant period” means, in relation to a claim for universal credit within paragraph (2)(a) or (b), any UC claim period, and any period subsequent to any UC claim period in respect of which the claimant is entitled to an award of universal credit in respect of the claim.

(5) For the purposes of paragraph (4), a “UC claim period” is a period when—

- (a) a claim for universal credit within sub-paragraph (a) of paragraph (2), or within sub-paragraph (b)(i) or (ii) of that paragraph, has been made but a decision has not yet been made on the claim; or
- (b) a decision has been made that the claimant is not entitled to universal credit and—
 - (i) the Secretary of State is considering whether to revise that decision under section 9 of the 1998 Act, whether on an application made for that purpose, or on the Secretary of State’s own initiative; or
 - (ii) the claimant 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.

¹Words in art. 4(6) substituted by art. 7(b) of S.I. 2015/101 as from 11.2.15.

(6) ¹Paragraphs (6), (7), (9) and (10) of article 4 of the No. 9 Order (a) apply in relation to a claim for universal credit referred to in paragraph (2) (and any award that is made in respect of the claim) as they apply in relation to a claim for universal credit referred to in sub-paragraphs (a) and (b) of article 4(2) of the No. 9 Order (and any award that is made in respect of the claim).

(7) Paragraphs (1A) and (1B) of article 5 of the No. 9 Order (b) apply for the purposes of paragraph (2)(c) as they apply for the purposes of article 4(2)(a) of the No. 9 Order (but as if the references in paragraph (1A) to Schedule 5 to the No. 9 Order were omitted).

(8) Paragraphs (5) to (7) of article 5 of the No. 9 Order (c) apply for the purposes of sub-paragraphs (c) and (d) of paragraph (2) as they apply for the purposes of sub-paragraphs (a) and (g) of article 4(2) of the No. 9 Order.

(9) Article 5(8) of the No. 9 Order applies for the purposes of paragraph (3) as it applies for the purposes of article 4(3)(a) of the No. 9 Order.

Application of the No. 9 Order

5. Articles 9 to 22 of the No. 9 Order (d) apply in connection with the coming into force of the amending provisions in relation to the case of a claim referred to in article 4(2), and any award made in respect of the claim, as they apply in connection with the coming into force of the amending provisions in relation to the case of a claim referred to in sub-paragraph (a), (b) or (g) of article 4(2) of the No. 9 Order and any award made in respect of the claim.

(a) Paragraphs (8) and (9) of article 4 were inserted by S.I. 2015/32 (c. 3).

(b) Article 5 was substituted by S.I. 2014/1452 (c. 56) and amended by S.I. 2014/1923 (c. 88); paragraphs (1) to (1B) of article 5 were inserted by S.I. 2014/3067 (c. 129).

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

(d) Articles 10 to 13 of, and Schedule 4 to, the No. 9 Order (Schedule 4 takes effect under article 9) were amended by S.I. 2013/1511 (c.60); article 11 of the No. 9 Order was amended by S.I. 2013/2657 (c. 107); articles 9, 11, 13, 15, 18 and 22 of the No. 9 Order were amended by S.I. 2014/1452 (c. 56); articles 10, 11, 12 and 13 were amended by S.I. 2014/3067 (c. 129).

Transitional provision: claims for housing benefit, income support or a tax credit

Art. 6 has been amended by S.I. 2015/634, See arts. 3 & 5 of this S.I. for transitional provisions which apply to claims from 18.3.15 and before 10.6.15.

6.—(1) Except as provided by paragraphs ►¹(2) to (5) and (11)◄, a person may not make a claim for housing benefit, income support or a tax credit (in the latter case, whether or not as part of a Tax Credits Act couple) on any date where, if that person made a claim for universal credit on that date (in the capacity, whether as a single person or as part of a couple, in which he or she is permitted to claim universal credit under the Universal Credit Regulations 2013(a)), the provisions of the Act listed in Schedule 2 to the No. 9 Order would come into force under article 3(1) and (2)(a) of this Order in relation to that claim for universal credit.

¹Words in art. 6(1) substituted by art. 9(5)(a) of S.I. 2015/634 as from 18.3.15. (See art. 3 & 5 of this S.I. for transitional provisions for claims between 18.3.15 and before 10.6.15 .

(2) Paragraph (1) does not apply to a claim for housing benefit in respect of specified accommodation.

(3) Paragraph (1) does not apply to a claim for housing benefit or a tax credit where—

- (a) in the case of a claim for housing benefit, the claim is made by a person who has reached the qualifying age for state pension credit, or by a person who is a member of a State Pension Credit Act couple the other member of which has reached that age;
- (b) in the case of a claim for a tax credit, the claim is made by—
 - (i) a person who has reached the qualifying age for state pension credit;
 - (ii) a Tax Credits Act couple both members of which have reached, or either member of which has reached, that age; or
 - (iii) in a case not covered by paragraph (i), a person who is a member of a State Pension Credit Act couple where the other member of the couple has reached that age.

(4) Paragraph (1) does not apply to a claim for a tax credit where a person or persons makes or make a claim for child tax credit or working tax credit and on the date on which he or she (or they) makes or make the claim he or she (or they) is or are entitled to working tax credit or child tax credit respectively.

(5) Paragraph (1) does not apply to a claim for a tax credit where a person is or was, or persons are or were, entitled to child tax credit or working tax credit in respect of a tax year and that person or those persons makes or make (or is or are treated as making) a claim for that tax credit for the next tax year.

(6) In paragraph (4), the reference to a person being entitled to a tax credit includes where a person is treated as being entitled to a tax credit in the circumstances referred to in regulation 11 of the Universal Credit (Transitional Provisions) Regulations 2014(b) but as if regulation 11 were amended as follows—

- (a) in paragraph (1), for “For the purposes of regulations 7(7) and 8(4)” substitute “For the purposes of article 6(4) of the Welfare Reform Act 2012 (Commencement No. 21 and Transitional and Transitory Provisions) Order 2015”; and
- (b) for paragraph (2)(d)(iii), substitute—
 - “(iii) the person’s claim for child tax credit or working tax credit is made during the period of 30 days starting with the date on the notice referred to in paragraph (ii).”.

(7) Subject to paragraph (8), for the purposes of this article—

- (a) a claim for housing benefit, income support or a tax credit is made by a person on the date on which he or she takes any action which results in a decision on a claim being required under the relevant Regulations; and

(a) S.I. 2013/376.

(b) S.I. 2014/1230.

- (b) it is irrelevant that the effect of any provision of the relevant Regulations is that, for the purpose of those Regulations, the claim is made or treated as made on a date that is earlier than the date on which that action is taken.

(8) Where under the provisions referred to in paragraph (9), a claim for housing benefit or income support is treated as made at a date that is earlier than the date on which the action referred to in paragraph (7)(a) is taken, the claim is treated as made on that earlier date.

(9) The provisions referred to are–

- (a) in the case of a claim for housing benefit, regulation 83(4E), (4F), (5)(d) or (8) of the Housing Benefit Regulations 2006 (“the 2006 Regulations”)(a) or, as the case may be, regulation 64(5F), (5G), (6)(d) or (9) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (“the 2006 (SPC) Regulations”)(b); or
- (b) in the case of a claim for income support, ¹regulation 6(1A)(b) and 6A² of the Social Security (Claims and Payments) Regulations 1987(c).

(10) For the purposes of this article–

- (a) “couple” (apart from in the expressions “State Pension Credit Act couple” and “Tax Credit Act couple”), has the meaning given in section 39 of the Act;
- (b) “housing benefit” means housing benefit under section 130 of the Social Security Contributions and Benefits Act 1992(d);
- (c) “income support” means income support under section 124 of the Social Security Contributions and Benefits Act 1992;
- (d) “qualifying age for state pension credit” means the qualifying age referred to in section 1(6) of the State Pension Credit Act 2002(e);
- (e) the “relevant Regulations” means–
- (i) in the case of a claim for housing benefit, the 2006 Regulations or, as the case may be, the 2006 (SPC) Regulations;
- (ii) in the case of a claim for income support, the Social Security (Claims and Payments) Regulations 1987;
- (iii) in the case of a claim for a tax credit, the Tax Credits (Claims and Notifications) Regulations 2002(f);
- (f) “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 2013(g) applies;
- (g) “state pension credit” means state pension credit under the State Pension Credit Act 2002(h);
- (h) “State Pension Credit Act couple” means a couple as defined in section 17 of the State Pension Credit Act 2002(i);

¹Words in art. 6(9)(b) substituted by art. 9(5)(b) of S.I. 2015/634 as from 18.3.15 (See arts. 3 & 5 of this S.I. for transitional provisions which applies for claims between 18.3.15 and before 10.6.15).

(a) S.I. 2006/213. In regulation 83, paragraph (4E) was inserted by S.I. 2006/2967 and amended by S.I. 2008/2299, paragraph (4F) was inserted by S.I. 2008/2299, paragraph (5) was amended by S.I. 2007/2911, 2008/1082, 2299 and 2013/2070; paragraph (8) was substituted by S.I. 2008/2987.

(b) S.I. 2006/214. In regulation 64, paragraph (5F) was inserted by S.I. 2006/2967 and amended by S.I. 2008/2299, paragraph (5G) was inserted by S.I. 2008/2299, paragraph (6) was amended by S.I. 2007/2911 and 2008/2299; paragraph (9) was substituted by S.I. 2008/2987.

(c) S.I. 1987/1968. Regulation 6(1A) was inserted by S.I. 1997/793.

(d) 1992 c. 4.

(e) 2002 c. 16.

(f) S.I. 2002/2014.

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

(h) 2002 c. 16.

(i) The definition of “couple” in section 17 was substituted by S.I. 2014/560.

- (i) “tax credit” (including “child tax credit” and “working tax credit”) and “tax year” have the same meanings as in the Tax Credits Act 2002(a);
- (j) “Tax Credits Act couple” means a couple as defined in section 3(5A) of the Tax Credits Act 2002(b).
- ▶¹(ll) Paragraph (1) does not apply to a claim for housing benefit, income support or a tax credit where, by virtue of a determination made under regulation 4 of the Universal Credit (Transitional Provisions) Regulations 2014, the person in question would be prevented from making a claim for universal credit as referred to in that paragraph.◀

¹Art. 6(11) inserted by art. 9(5)(c) of S.I. 2015/634 as from 18.3.15 (See arts. 3 & 5 of this S.I. for transitional provisions which applies for claims between 18.3.15 and before 10.6.15).

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) 2002 c. 21. See sections 1(1) and (2), 48(1) and 67.

(b) 2002 c. 21. Subsection (5A) was inserted by section 254(1) of, and paragraph 144(1) and (3) of Schedule 24 to, the Civil Partnership Act 2004 (c. 33).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force provisions of the Welfare Reform Act 2012 (c. 5) (“the Act”) that relate to universal credit (“UC”) and the abolition of income-related employment and support allowance and income-based jobseeker’s allowance, in relation to the cases set out in articles 3 and 4.

Article 3 brings into force provisions relating to UC in Part 1 of the Act (“the UC provisions”), as set out in Schedule 2 to 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”), in relation to a number of different cases as set out below.

Under article 3(1) and (2)(a), the UC provisions come into force in relation to a claim for UC, and any award that is made in respect of the claim, where the claim is made on or after 28th January 2015 with respect to a period that begins on or after 28th January 2015 and, on the date on which the claim is made, the claimant resides in the “No. 28 relevant district” and complies with the “specified condition” (see article 2(1) for definitions of these terms).

Under article 3(1) and (2)(b), the UC provisions come into force in relation to a claim for UC, and any award that is made in respect of the claim, where the claimant claims UC on or after 28th January 2015 in respect of a period that begins on or after 28th January 2015 and provides incorrect information regarding the claimant residing in the No. 28 relevant district or meeting the specified condition, but this is only discovered once payments of UC have been made.

Under article 3(3), the day appointed for the coming into force of the UC provisions in the above cases is the first day of the period in respect of which the claim is made.

Paragraphs (4) and (5) of article 3 apply the provisions of article 3(6) (period for which a claim for universal credit is made) and article 3A (incorrect information regarding entitlement to claim universal credit) of the No. 9 Order respectively to the cases in article 3(2) of this Order.

Article 4 brings into force provisions of the Act relating to the abolition of income-related employment and support allowance and income-based jobseeker’s allowance (“the amending provisions”), in relation to a number of different cases as referred to below.

Under article 4(1) and (2)(a), the amending provisions come into force in relation to a claim for UC, and any award that is made in respect of the claim, where the claim is made on or after 28th January 2015 with respect to a period that begins on or after 28th January 2015 and, on the date on which the claim is made, the claimant resides in the No. 28 relevant district and meets the specified condition.

Under article 4(1) and (2)(b), the amending provisions come into force in relation to a claim for UC, and any award that is made in respect of the claim, where a claimant claims UC on or after 28th January 2015 in respect of a period that begins on or after 28th January 2015 and provides incorrect information regarding the claimant residing in the No. 28 relevant district or meeting the specified condition, but this is only discovered once payments of UC have been made.

Under article 4(1) and (2)(c), the amending provisions come into force in relation to a claim for an employment and support allowance (“ESA”) or a jobseeker’s allowance (“JSA”), and any award that is made in respect of the claim, where the claim is made on or after 28th January 2015 and, on the date on which the claim is made, the claimant resides in the No. 28 relevant district and meets the specified condition.

Under article 4(1) and (2)(d), the amending provisions come into force in relation to the case of a claim for ESA or JSA where the claim is not a claim for ESA or JSA as referred to in article 4(2)(c) and where the claim is made during the “relevant period” (mainly the period when a claim for UC is being considered or an award of UC is extant).

Under article 4(3), the day appointed for the coming into force of the amending provisions in the above cases is the first day of the period in respect of which the claim is made.

Paragraphs (6) to (9) of article 4 apply the provisions of article 4(6) to (9) (matters included in the reference to the case of a claim for universal credit) and article 5(1A), (1B) (claim for ESA or JSA by a member of a couple) and (5) to (8) (when a claim for ESA or JSA is made for the purposes of the No. 9 Order and the period for which a claim for ESA, JSA or UC is made) of the No. 9 Order to the cases in article 4(2).

Article 5 provides that articles 9 to 22 of the No. 9 Order apply in connection with the coming into force of the amending provisions in relation to the case of a claim referred to in article 4(2), and any award made in respect of the claim, as they apply in connection with the coming into force of the amending provisions in relation to the case of a claim referred to in article 4(2)(a), (b) or (g) of the No. 9 Order, and any award made in respect of the claim.

Article 6 contains transitional provisions that provide that, save in specified cases, a person may not make a claim for housing support, income support or a tax credit on any date where, if that person made a claim for universal credit on that date, the UC provisions would come into force in relation to the claim by virtue of article 3(1) and (2)(a) of this Order.

