
STATUTORY INSTRUMENTS

2020 No. 289

SOCIAL SECURITY

**The Employment and Support Allowance and Universal
Credit (Coronavirus Disease) Regulations 2020**

<i>Made</i>	- - - -	<i>at 9.59 a.m. on 12th March 2020</i>
<i>Laid before Parliament</i>		<i>at 4.00 p.m. on 12th March 2020</i>
<i>Coming into force</i>	- -	<i>13th March 2020</i>

The Secretary of State makes the following Regulations in exercise of powers conferred by sections 10(3) and (6), 79(1), (4) and (6) and 84 of the Social Security Act 1998⁽¹⁾, sections 24(1) and 25(2), (3) and (5) of, and paragraphs 1(a) and 2 of Schedule 2 to, the Welfare Reform Act 2007⁽²⁾ and sections 8(3)(a) and (4), 37(6), 40 and 42(1) to (3) of, and paragraph 4(1), (3)(a) and (4) of Schedule 1 to, the Welfare Reform Act 2012⁽³⁾.

In accordance with section 173(1)(a) of the Social Security Administration Act 1992⁽⁴⁾, it appears to the Secretary of State that by reason of the urgency of this matter it is inexpedient to refer the proposals in respect of these Regulations to the Social Security Advisory Committee.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Employment and Support Allowance and Universal Credit (Coronavirus Disease) Regulations 2020 and come into force on 13th March 2020.

(2) In these Regulations—

“the 2007 Act” means the Welfare Reform Act 2007;

“assessment period” has the meaning in regulation 21 of the Universal Credit Regulations 2013⁽⁵⁾;

“Coronavirus disease” means COVID-19;

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

(1) 1998 c. 14. Section 84 is cited for the meaning of “prescribe”.

(2) 2007 c. 5. Section 24(1) is cited for the meaning of “prescribed” and “regulations”.

(3) 2012 c. 5. Section 40 is cited for the meaning of “prescribed”.

(4) 1992 c. 5.

(5) S.I. 2013/376, amended by S.I. 2014/2887, 2015/1362 and 2018/65.

“existing award” means an award of universal credit or employment and support allowance that exists on the date on which these regulations come into force;

“isolation” in relation to a person, means the separation of that person from any other person in such a manner as to prevent infection or contamination with Coronavirus disease;

“qualifying young person” has the meaning in regulation 5 of the Universal Credit Regulations 2013;

“universal credit” means universal credit under Part 1 of the Welfare Reform Act 2012.

Waiting days

2.—(1) Paragraph 2 of Schedule 2 to the 2007 Act does not apply to a person to whom paragraph (2) applies.

(2) This paragraph applies to a person who is—

- (a) infected or contaminated with Coronavirus disease;
- (b) in isolation; or
- (c) caring for a child or qualifying young person who is a member of the person’s household and who falls within sub-paragraph (a) or (b),

where the Secretary of State is satisfied that paragraph 2 of Schedule 2 to the 2007 Act should not apply to the person.

Treating a person as having limited capability for work

3.—(1) This regulation applies to a person who makes a claim for universal credit or employment and support allowance or who has an existing award of universal credit or employment and support allowance.

(2) Where this regulation applies the person is to be treated as having limited capability for work⁽⁶⁾ if the person is—

- (a) infected or contaminated with Coronavirus disease;
- (b) in isolation; or
- (c) caring for a child or qualifying young person who is a member of the person’s household and who falls within sub-paragraph (a) or (b),

where the Secretary of State is satisfied that the person should be treated as having limited capability for work.

(3) Regulations 26 and 35(6) to (9) of the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013⁽⁷⁾ apply to a determination that the person is to be treated as having limited capability for work in accordance with this regulation as if such a determination had been made under regulation 16 of the Employment and Support Allowance Regulations 2013 or Part 5 of the Universal Credit Regulations 2013.

(4) Regulation 6(2)(r) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999⁽⁸⁾ applies to a determination that the person is to be treated as having limited capability for work in accordance with this regulation as if such a determination had been made under regulation 20 of the Employment and Support Allowance Regulations 2008⁽⁹⁾.

⁽⁶⁾ See section 1(4) of the Welfare Reform Act 2007 and section 37(1) of the Welfare Reform Act 2012.

⁽⁷⁾ S.I. 2013/381, amended by S.I. 2014/597 and 2015/339.

⁽⁸⁾ S.I. 1999/991, amended by S.I. 2010/840.

⁽⁹⁾ S.I. 2008/794, amended by S.I. 2011/228 and 2013/2536.

Suspension of the Minimum Income Floor

4. Where a person ceases to be treated as having limited capability for work under regulation 3, the Secretary of State may determine that regulation 62 of the Universal Credit Regulations 2013(10) does not apply to the person for the assessment period in which they cease to be treated as having limited capability for work and the Secretary of State may further extend the period during which regulation 62 does not apply if the Secretary of State considers such an extension to be appropriate.

Expiry

5.—(1) The Secretary of State must keep the operation of these Regulations under review.

(2) These Regulations cease to have effect at the end of the period of eight months beginning on the day on which they come into force.

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

At 9.59 a.m. on 12th March 2020

Mims Davies
Parliamentary Under-Secretary of State
Department for Work and Pensions

Status: This is the original version (as it was originally made).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations respond to the present outbreak of Coronavirus disease in Great Britain.

Under regulation 2, the Secretary of State has discretion to disapply the seven waiting days that would otherwise apply to a person who has made a claim for an employment and support allowance. This applies to both contributory and income-related employment and support allowance. The Secretary of State may exercise that discretion where a person is infected or contaminated with Coronavirus disease, is isolating to prevent the spread of Coronavirus disease, or is caring for a child (or qualifying young person) who falls into either of those categories.

Under regulation 3, the Secretary of State has discretion to decide that a person who makes a claim for, or is entitled to, universal credit or employment and support allowance may be treated as a person having limited capability for work. This again applies to both contributory and income-related employment and support allowance. The Secretary of State may exercise that discretion where a person is infected or contaminated with Coronavirus disease, is isolating to prevent the spread of Coronavirus disease, or is caring for a child (or qualifying young person) who falls into either of those categories.

Under regulation 4, the Secretary of State has discretion to disapply the minimum income floor where it applies to claimants who are self-employed. The Secretary of State may exercise that discretion once a person is no longer being treated as having limited capability for work under regulation 3 for the rest of the assessment period in which they were so treated. The Secretary of State may further exercise that discretion if the Secretary of State considers it appropriate.

Under regulation 5, the Secretary of State must keep the operation of the Regulations under review. These Regulations expire eight months after they come into force.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, public or voluntary sectors is foreseen.