

2020 No. 655

SOCIAL SECURITY

The Universal Credit (Persons who have attained state pension credit qualifying age) (Amendment) Regulations 2020

<i>Made</i>	- - - -	<i>25th June 2020</i>
<i>Laid before Parliament</i>		<i>29th June 2020</i>
<i>Coming into force</i>	- -	<i>25th November 2020</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 123(1)(d), 136(1), (3) and (5)(b), 137(1) and (2)(l) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(a), sections 5(1)(l), 189(1) and (4) and 191 of the Social Security Administration Act 1992(b), sections 10(6), 79(1) and (4) and 84 of the Social Security Act 1998(c), paragraphs 4(6), 20(1) and 23(1) of Schedule 7 to the Child Support, Pensions and Social Security Act 2000(d), sections 5, 15(1)(e), (3) and (6)(b), 17(1) and (2)(a) and 19(1) of the State Pension Credit Act 2002(e) and section 42(1), (2) and (3)(a) of, and paragraphs 1 and 4(1)(a) of Schedule 6 to, the Welfare Reform Act 2012(f).

In accordance with section 173(1)(b) of the Social Security Administration Act 1992, the Social Security Advisory Committee has agreed that the proposals in respect of these Regulations should not be referred to it.

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

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- (a) 1992 c. 4. Section 137(1) is cited for the meaning of “prescribed”. Section 175(1), (3) and (4) is applied to the cited sections of the State Pension Credit Act 2002 (c. 16) by section 19(1) of that Act. Relevant amendments were made to section 175(1) and (4) by paragraph 29(1) and (2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2); paragraph (4) was extended by sections 4(11), 7(4) and 12(3) of the Social Security (Incapacity for Work) Act 1994 (c. 18).
- (b) 1992 c. 5. Section 189(1) was amended by paragraph 109(a) of Schedule 7, and Schedule 8 to the Social Security Act 1998 (c. 14), paragraph 57(1) and (2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999, and Schedule 6 of the Tax Credits Act 2002 (c. 21). Section 191 is cited for the meaning of “prescribed”, which definition was inserted by paragraphs 2 and 10 of Schedule 5 to the Welfare Reform Act 2007 (c. 5).
- (c) 1998 c. 14. Section 79(1) was amended by S.I. 2008/2833 and paragraphs 12 and 13(1) and (2) of the Tax Credits Act 2002. Section 79(4) is applied to the cited sections of the Child Support, Pensions and Social Security Act 2000 (c. 19) by paragraph 20(3) of Schedule 7 to that Act. Section 84 is cited for the meaning of “prescribe”.
- (d) 2000 c. 19. Paragraph 20(1) of Schedule 7 was amended by S.I. 2008/2833. Paragraph 23(1) of that Schedule is cited for the meaning of “prescribed”.
- (e) 2002 c. 16. Section 5 was amended by paragraph 140 of Schedule 24 to the Civil Partnership Act 2004 (c. 33). Section 17(1) is cited for the meaning of “prescribed”.
- (f) 2012 c. 5.
- (g) Section 176(1) was amended by paragraph 23 of Schedule 9 to the Local Government Finance Act 1992 (c. 14). There are other amendments to section 176(1) none of which are relevant to these Regulations.

Citation and commencement

1.—(1) These Regulations may be cited as the Universal Credit (Persons who have attained state pension credit qualifying age) (Amendment) Regulations 2020.

(2) These Regulations come into force on 25th November 2020.

Amendment of the State Pension Credit Regulations 2002

2.—(1) The State Pension Credit Regulations 2002^(a) are amended as follows.

(2) In regulation 5 (persons treated as being or not being members of the same household)^(b)—

(a) in paragraph (2), for “paragraph (1)” substitute “paragraphs (1) and (5)”;

(b) after paragraph (2), insert—

“(3) Paragraph (5) applies where a claimant (“C”), who has attained the qualifying age, would otherwise not be entitled to either state pension credit or universal credit, because—

(a) but for that paragraph, C would be a member of the same household as a partner who has not attained the qualifying age and therefore a member of a mixed-age couple excluded from state pension credit by virtue of section 4(1A), and

(b) C is neither entitled to universal credit jointly with that partner, nor entitled to universal credit as a single person, in one of the cases set out in paragraph (4).

(4) The cases are where C is not entitled to universal credit because C has attained the qualifying age and—

(a) any of the following paragraphs of regulation 3 of the Universal Credit Regulations 2013 (couples) applies, and in the case of paragraph (ii) below, one of the following circumstances applies—

(i) paragraph (3) (treatment of certain couples – universal credit may only be claimed as a single person);

(ii) paragraph (4) (treatment of polygamous marriages), so that C is not entitled to universal credit because C may only claim universal credit either as one of two parties to a polygamous marriage to be treated as a couple where the other party has also attained the qualifying age, or as a remaining party to such a marriage to be treated as single;

(iii) paragraph (6) (absence from the household – universal credit may only be claimed as a single person); or

(b) C lost joint entitlement to universal credit as part of a mixed-age couple due to one of the following changes of circumstances taking effect from a date (namely the first day of the universal credit assessment period in which the change occurred) that is earlier than when, but for paragraph (5), the same change would take effect for the purposes of state pension credit, those changes being where—

(i) C and their partner are no longer a couple; or

(ii) C is party to a marriage that is no longer polygamous and C’s remaining spouse has attained the qualifying age.

(5) Where this paragraph applies—

(a) C and their partner, who are to be treated as a non-polygamous couple in accordance with sub-paragraph (a)(ii) of paragraph (4), or who are no longer parties to a polygamous marriage in accordance with sub-paragraph (b)(ii), are to be treated as members of the same household as each other but not of that of any party (or parties) with whom they are not part of a couple in accordance with those provisions; or

^(a) S.I. 2002/1792.

^(b) Paragraph (3) of regulation 5 was omitted by S.I. 2008/2424 and the regulation is modified by S.I. 2020/409. There are other amendments to the regulation none of which is relevant.

- (b) C, who is to be treated as single in accordance with sub-paragraph (a)(i) to (iii) of paragraph (4), or is single in accordance with sub-paragraph (b)(i), is to be treated as though C is not a member of the same household as any party (or parties) with whom C is not part of a couple in accordance with those provisions,

where paragraph (4)(a) applies, with effect from the date on which the relevant paragraph of regulation 3 of the Universal Credit Regulations 2013 first applies to C, or, where paragraph (4)(b) applies, with effect from the date referred to in paragraph (4)(b) on which C lost entitlement to universal credit.

(6) In this regulation—

- (a) in relation to universal credit entitlement, “assessment period” has the meaning prescribed by regulation 21 of the Universal Credit Regulations 2013;
- (b) “mixed-age”, in respect of a couple or a marriage, means where one member has attained the qualifying age and the other has not;
- (c) the definition in sub-paragraph (b) includes a polygamous marriage where at least one party to the marriage has attained the qualifying age and at least one has not; and
- (d) “polygamous marriage” means a marriage during which a party to it is married to more than one person and which took place under the laws of a country that permits polygamy.”.

(3) In regulation 15 (income for the purposes of the State Pension Credit Act 2002)(a), before sub-paragraph (a) of paragraph (1) insert—

“(za) universal credit;”.

Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

3.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(b) are amended as follows.

(2) In regulation 29 (meaning of income)(c), before paragraph (i) of sub-paragraph (j) of paragraph (1) insert—

“(zi) universal credit;”.

Amendment of the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013

4.—(1) The Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013(d) are amended as follows.

(a) Paragraph (1) was amended by S.I. 2002/3019, 2012/757, 2013/388, 458 and 591, 2014/3255, 2017/422, 2018/872 and 1138, 2019/1060 and 2020/354.
(b) S.I. 2006/214.
(c) Paragraph (1)(j) was amended by S.I. 2012/757, 2013/388, 458 and 591, 2014/3255, 2017/422, 2018/872 and 1138, 2019/1060 and 2020/354.
(d) S.I. 2013/380.

(2) In regulation 47 (payment of universal credit), omit paragraph (7).

Amendment of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013

5.—(1) The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013(a) are amended as follows.

(2) In Schedule 1 (effective dates for superseding decisions made on the ground of a change of circumstances), for paragraph 26 substitute—

“**26.** Where, in any assessment period, a claimant reaches the qualifying age for state pension credit under the State Pension Credit Act 2002, where claiming as a single person or as a member of a couple to whom regulation 3(2)(a) of the Universal Credit Regulations applies, a superseding decision made in consequence of the person reaching that age takes effect on the first day of the assessment period following that in which the change of circumstances occurs or is expected to occur.”

Amendment of the Universal Credit (Transitional Provisions) Regulations 2014

6.—(1) The Universal Credit (Transitional Provisions) Regulations 2014(b) are amended as follows.

(2) In regulation 2 (interpretation), in paragraph (1) at the appropriate places insert—

““the 2006 (SPC) Regulations” means the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006;”;

““the Decisions and Appeals Regulations” means the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013;”;

““qualifying age for state pension credit” has the meaning given by section 1(6) of the State Pension Credit Act 2002;”;

““state pension credit” means state pension credit under the State Pension Credit Act 2002;”.

(3) In regulation 5 (exclusion of entitlement to certain benefits)(c)—

(a) in sub-paragraph (d) of paragraph (1) omit “under the State Pension Credit Act 2002”;

(b) in paragraph (2)—

(i) in sub-paragraph (a), at the end omit “or”;

(ii) in paragraph (ii) of sub-paragraph (b), after “regulation 7(5)(b)” insert “or (c)” and at the end omit “or”;

(iii) at the end of paragraph (iii) of sub-paragraph (b) insert—

“; or

(iv) state pension credit, where an award to which the new claimant partner is entitled terminates after the first date of entitlement to universal credit; or

(c) during the last assessment period for universal credit, where the claimant reaches the qualifying age for state pension credit and paragraph 26 of Schedule 1 to the Decisions and Appeals Regulations applies, to housing benefit or state pension credit from the date the claimant reaches that age”.

(4) In regulation 6 (exclusion of claims for certain benefits)(d)—

(a) S.I. 2013/381.

(b) S.I. 2014/1230.

(c) Regulation 5 was amended by S.I. 2014/1626, 2018/65 and 2019/1152.

(d) Regulation 6 was amended by S.I. 2014/1626, 2015/1780 and 2018/65.

(a) in sub-paragraph (b) of paragraph (4), for “the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (“the 2006 (SPC) Regulations”)” substitute “the 2006 (SPC) Regulations”;

(b) after paragraph (8) insert—

“(8A) A universal credit claimant is not precluded from making a claim for housing benefit under the 2006 (SPC) Regulations during the last assessment period for universal credit, where the claimant reaches the qualifying age for state pension credit and paragraph 26 of Schedule 1 to the Decisions and Appeals Regulations applies, in respect of entitlement arising from the date the claimant reaches that age.”.

(5) In regulation 7 (termination of awards of certain existing benefits: new claimant partners)(a), in paragraph (5)—

(a) at the end of sub-paragraph (a) omit “or”;

(b) at the end of sub-paragraph (b) insert—

“; or

(c) the new claimant partner has reached the qualifying age for state pension credit and the award is made in accordance with the 2006 (SPC) Regulations”.

(6) In regulation 10, in sub-paragraph (c) of paragraph (3) for “the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006” substitute “the 2006 (SPC) Regulations”.

Amendment of the Welfare Reform Act 2012 (Commencement No. 31 and Savings and Transitional Provisions and Commencement No. 21 and 23 and Transitional and Transitory Provisions (Amendment)) Order 2019

7.—(1) The Welfare Reform Act 2012 (Commencement No. 31 and Savings and Transitional Provisions and Commencement No. 21 and 23 and Transitional and Transitory Provisions (Amendment)) Order 2019(b) is amended as follows.

(2) In article 2 (interpretation)—

(a) in paragraph (1), at the appropriate place insert—

““assessment period”, in relation to universal credit entitlement, has the same meaning as in regulation 21 of the Universal Credit Regulations 2013;”;

and

(b) for sub-paragraph (b) of paragraph (1A) substitute—

“(b) in article 7(3), in relation to references to persons being treated as a couple in accordance with article 7(2)(a)(ii), where it has the meaning referred to in article 7(2)(a)(ii)”.

(3) In article 7 (transitional provision: application of the rules in universal credit for treatment of couples and polygamous marriages)—

(a) in the heading, after “application” insert “to housing benefit”;

(b) for paragraphs (1) to (3) substitute—

“(1) Paragraph (3) applies where a person (“P”), who has attained the qualifying age, would otherwise not be entitled to either state pension credit or universal credit, because—

(a) but for that paragraph, P would be a member of the same household as a partner who has not attained the qualifying age and therefore a member of a mixed-age couple, who—

(i) is prevented from claiming housing benefit under article 6 of the No. 21 Order or article 7 of the No. 23 Order; or

(ii) has an award of housing benefit terminated under article 6; and

(a) Regulation 7 was amended by S.I. 2014/1626 and 2887, and 2018/65.

(b) S.I. 2019/37 (C. 1). Articles 2 and 7 were amended by S.I. 2019/935 (C. 25).

- (b) P is neither entitled to universal credit jointly with that partner, nor entitled to universal credit as a single person, in one of the cases set out in paragraph (2).

(2) The cases are where P is not entitled to universal credit because P has attained the qualifying age and—

- (a) any of the following paragraphs of regulation 3 of the Universal Credit Regulations 2013 (couples) applies, and in the case of paragraph (ii) below, one of the following circumstances applies—
 - (i) paragraph (3) (treatment of certain couples – universal credit may only be claimed as a single person);
 - (ii) paragraph (4) (treatment of polygamous marriages), so that P is not entitled to universal credit because P may only claim universal credit either as one of two parties to a polygamous marriage to be treated as a couple and the other party has also attained the qualifying age, or as a remaining party to such a marriage to be treated as single;
 - (iii) paragraph (6) (absence from the household – universal credit may only be claimed as a single person); or
- (b) P lost joint entitlement to universal credit as part of a mixed-age couple due to one of the following changes of circumstances taking effect from a date (namely the first day of the universal credit assessment period in which the change occurred) that is earlier than when, but for paragraph (3), the same change would take effect for the purposes of housing benefit, those changes being where—
 - (i) P and their partner are no longer a couple;
 - (ii) P is party to a marriage that is no longer polygamous and P’s remaining spouse has attained the qualifying age.

(3) Where this paragraph applies—

- (a) P and their partner who are to be treated as a non-polygamous couple in accordance with paragraph (2)(a)(ii), or who are no longer parties to a polygamous marriage in accordance with paragraph (2)(b)(ii), are to be treated as members of the same household as each other but not of that of any party (or parties) with whom they are not part of a couple in accordance with those provisions and one of them may claim or remain entitled to housing benefit as part of that couple; or
- (b) P who is to be treated as single in accordance with paragraph (2)(a)(i) to (iii), or is single in accordance with paragraph (2)(b)(i), is to be treated as though P is not a member of the same household as any party (or parties) with whom P is not part of a couple in accordance with those provisions and may claim or remain entitled to housing benefit as a single person,

where paragraph (2)(a) applies, with effect from the date on which the relevant paragraph of regulation 3 of the Universal Credit Regulations 2013 first applies to C, or, where paragraph (2)(b) applies, with effect from the date referred to in paragraph (2)(b) on which C lost universal credit entitlement.”.

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

Will Quince
Parliamentary Under Secretary of State
Department for Work and Pensions

25th June 2020

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend various instruments that govern the entitlement of a claimant (“C”), who has reached state pension credit qualifying age (“the qualifying age”), to universal credit (“UC”), state pension credit (“SPC”) and housing benefit for pensioners (“HB”), so as to provide

for a smooth transition between those benefits where a person reaches that age, becomes part of a mixed-age couple, or certain other changes of circumstance occur. *See* section 1(6) of the State Pension Credit Act 2002 (c. 16) for the definition of “the qualifying age”. “Mixed-age”, in relation to a couple or a marriage, means where one member has attained the qualifying age and the other has not (see regulation 2(2)(b) which amends regulation 5 of the State Pension Credit Regulations 2002 (S.I. 2002/1792) (“the 2002 Regulations”) to insert that definition).

Where C has been entitled to UC and reaches the qualifying age, these Regulations provide that entitlement to UC will continue until the start of the UC assessment period (“AP”) after the one in which C reaches that age, so allowing for overlapping entitlement to UC and SPC and/or HB for a period. The relevant parts of these Regulations are:

- regulations 2(3) and 3, which amend the 2002 Regulations and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/214), to provide that, in the above case, UC will not be taken into account as income for SPC or HB purposes;
- regulations 4 and 5, which respectively amend the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013 (S.I. 2013/380) and the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013 (S.I. 2013/381), to provide for C to be entitled to UC for the whole of the AP in which C reaches the qualifying age and for the UC award to end at the beginning of the following AP;
- regulation 6(3)(b)(iii) and (4)(b), which amends the Universal Credit (Transitional Provisions) Regulations 2014 (S.I. 2014/1230) (“the Transitional Regulations”), to allow for overlapping entitlement to UC and SPC and/or HB in the assessment period in which C reaches the qualifying age.

Where C has reached the qualifying age and is a member of a mixed-age couple, but the couple is not treated as a couple for the purposes of UC (see regulation 3 of the Universal Credit Regulations 2013 (S.I. 2013/376) (“the UC Regulations”)), these Regulations amend rules that would prevent C, as a member of a mixed-age couple, from being entitled to SPC or HB, so as to enable C to be entitled to those benefits. They provide that C is entitled to those benefits from the point at which the couple would begin to be treated as single people for UC purposes, so preventing C from being entitled to UC. These Regulations also provide that, where C and C’s partner cease to be a couple, C may be entitled to SPC and/or HB from the beginning of the AP in which they cease to be a couple, which is when C loses UC entitlement. The relevant parts of these Regulations are:

- regulation 2(2), which inserts new provisions into the SPC Regulations to provide that C is not treated as part of the same household as C’s partner, and so may be entitled to SPC, with effect from the point at which the couple would begin to be treated as single people for UC purposes, or from the beginning of the AP in which they separate (there is special provision for polygamous marriages). As C is not part of the same household as their partner, C is no longer part of a mixed-age couple with that partner and so is not subject to the bar on entitlement to SPC in section 4(1A) of the State Pension Credit Act 2002;
- regulation 7, which amends the Welfare Reform Act 2012 (Commencement No. 31 and Savings and Transitional Provisions and Commencement No. 21 and 23 and Transitional and Transitory Provisions (Amendment)) Order 2019 (S.I. 2019/37 (C. 1)) to provide that C is not treated as part of the same household as C’s partner and may claim or remain entitled to HB from the point at which the couple would begin to be treated as single people for UC purposes or from the start of the AP in which they separate (there is special provision for polygamous marriages).

Where C has reached the qualifying age and becomes a member of a couple with a person under that age, such that C becomes entitled to UC as part of the couple (from the beginning of the AP in which the couple forms), these Regulations provide for C’s entitlement to SPC and HB to continue until the time the couple forms, so allowing for overlapping entitlement to UC and SPC and/or HB for a period. The relevant parts of these Regulations are:

- regulation 6(3)(b)(ii) and (iii) and (5)(b), which amends the Transitional Regulations to allow the qualifying age benefits to terminate (in the normal way) after the couple's entitlement to universal credit has begun, thereby allowing for overlapping entitlement to benefits on the part of C, who is moving to universal credit.

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.

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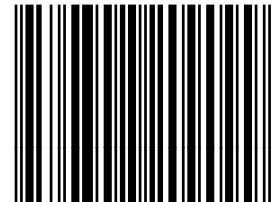
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