

EXPLANATORY MEMORANDUM TO

THE UNIVERSAL CREDIT (EXCEPTIONS TO THE REQUIREMENT NOT TO BE RECEIVING EDUCATION) (AMENDMENT) REGULATIONS 2020

2020 No. 827

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 The purpose of this instrument is to make it clear that the exception from the requirement to not be receiving education under regulation 14(b) of the Universal Credit Regulations 2013¹ (“the UC Regulations”) requires that the person is entitled to attendance allowance, disability living allowance or personal independence payment and must already have been determined to have limited capability for work (LCW). This determination could be made during an award of universal credit (UC), or during an award of employment and support allowance (ESA).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 These regulations invoke the urgency provisions in the Social Security Administration Act 1992, and will be made without first submitting the instrument to the Social Security Advisory Committee.
- 3.2 This instrument will breach the 21-day rule as it will come into force the day after it is laid. This is because of the need to ensure the continuity of existing policy so as to maintain the effective administration of UC at a time when the Department has considerable capacity constraints because of the need to respond to the COVID-19 pandemic. The existing provisions are now considered to not provide the legal clarity needed as to the current policy that disabled people already on UC or ESA with LCW can be encouraged to enter full time education to improve their prospects of work.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.3 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is Great Britain.
- 4.2 The territorial application of this instrument is Great Britain.

¹ <http://www.legislation.gov.uk/ukxi/2013/376/contents>

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 This instrument amends regulations 14(b) of the Universal Credit Regulations 2013 so as to clarify that a person entitled to attendance allowance, disability living allowance or personal independence payment will only be entitled to UC if they have a determination of LCW on the date of claim, where the claimant has already started undertaking a course of education, student or training before making a claim for UC, or on the date that the person starts undertaking the course in any other case.

7. Policy background

What is being done and why?

- 7.1 The amendment restores the policy intent which was arguably not supported under the existing framing of regulation 14(b) of the UC Regulations. It makes clear that it is a requirement of this regulation that a person must already have been determined to have LCW.
- 7.2 The policy enables disabled people already assessed as LCW to enter or remain in education and better their prospects of obtaining work.
- 7.3 The purpose is not to enable a person to be referred for a WCA in order to determine whether they have LCW, so as to then satisfy the exception. In addition to a disability benefit, such as personal independence payment, a person can receive financial help from the student support system which, in addition to a maintenance loan, provides support that recognises a person's disability – for example the Disabled Students Allowance or discretionary grants.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 Informal consolidated text or instruments is available to the public free of charge via the 'National Archive' website: www.legislation.gov.uk.

10. Consultation outcome

- 10.1 Given that the amendment restores the original policy intent, no consultation has been undertaken.

11. Guidance

- 11.1 Existing guidance will continue to be used as the amended legislation supports the policy.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because this change restores the policy intent. No, or no significant, impact on business, or the private, voluntary or public sector, is foreseen.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The Department is firmly committed to evaluating and monitoring the impact of its policies.
- 14.2 The regulation does not include a statutory review.

15. Contact

- 15.1 Mark Vidic at the Department for Work and Pensions: 0113 3668072, email mark.vidic1@dwp.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 John Ward, Deputy Director, Government Legal Department at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Justin Tomlinson, Minister of State for Disabled People, Health and Work at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.