
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make further provision for transition to universal credit in connection with the revocation of regulation 4A (restriction on claims for universal credit by persons entitled to a severe disability premium) of the Universal Credit (Transitional Provisions) Regulations 2014 (“the Transitional Provisions Regulations”) on the 27th January 2021. Regulation 4A is commonly referred to as “the SDP gateway”.

Regulation 2 substitutes a new Schedule 2 in the Transitional Provisions Regulations.

The original Schedule 2 made provision for transitional payments to those claimants who had been entitled to a benefit that included a severe disability premium and moved to universal credit before the SDP gateway came into force (or, in some exceptional cases, while the SDP gateway was in force). Where such a case came to the attention of the Secretary of State a flat rate payment was to be calculated and paid as a lump sum in respect of each month since the move to universal credit. The same amount was to continue as a separate monthly payment until the Secretary of State was satisfied that it could be included in the calculation of the award, in the same way as if the claimant has moved to universal credit under the provisions of Part 4 (managed migration to universal credit) of the Transitional Provisions Regulations.

When the SDP gateway is revoked claimants who are entitled to a benefit that includes a severe disability premium will no longer be prevented from claiming UC and the new Schedule 2 will take effect. When claimants are awarded universal credit they will be entitled to the flat rate payment as part of the calculation from the outset.

Paragraphs 1 to 3 set out the conditions for the application of new Schedule 2. The first condition is that the award must not have been made as consequence of claimant forming a couple with an existing universal credit claimant. The second condition is that the claimant must have been entitled, or the partner of a person entitled, to an award of income support, income-based jobseeker’s allowance or income-related employment and support allowance that included a severe disability premium within the month before the start of the award of universal credit. They must also have continued to meet the conditions for eligibility for a severe disability premium up to and including the first day of that award.

Paragraphs 4 to 6 provide for the award to include a transitional SDP element. This is to be the amount specified in paragraph 5 in the first assessment period and, in subsequent assessment periods, is to be treated as in the same way as if it were a transitional element awarded to a claimant who had moved to universal credit by managed migration. This means that after the first assessment period the amount may decrease if other elements increase or may cease if there is a change of circumstances.

Paragraph 7 prevents duplication by excluding a claimant from receiving a transitional SDP element if they are awarded a transitional element as a consequence of being moved to universal credit by managed migration.

Regulation 3 is a saving provision that ensures the original Schedule 2 will continue to apply in relation to a claimant who has moved to universal credit before the revocation of the SDP gateway.

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