

EXPLANATORY MEMORANDUM TO

THE UNIVERSAL CREDIT (CHILDCARE) (AMENDMENT) REGULATIONS 2023

2023 No. 593

1. Introduction

- 1.1 This explanatory memorandum has been prepared by The Department for Work and Pensions (DWP) and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

- 2.1 The purpose of this instrument is to allow certain payments made by the Secretary of State, that would otherwise be excluded due to being “other relevant support”, to be taken into account in determining the charges for relevant childcare costs paid by the claimant when a claimant is taking up, or is due to take up, paid work or is increasing their hours of paid work.
- 2.2 This instrument also increases the maximum amount which can be paid in each assessment period in respect of childcare costs in Universal Credit.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The extent of this instrument is England and Wales and Scotland.
- 4.2 The territorial application of this instrument is England and Wales and Scotland.

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 makes changes to the Universal Credit Regulations 2013¹ (S.I. 2013/376). Under those regulations, a claimant can have an amount included in their Universal Credit award in respect of childcare costs if they meet the relevant entitlement conditions for that additional amount.
- 6.2 Regulation 2 of The Universal Credit (Childcare) (Amendment) Regulations 2023 (this instrument) amends regulation 34 of the Universal Credit Regulations 2013. That regulation sets out how the amount in respect of childcare costs is calculated for the purposes of the Universal Credit award. The amendment provides for certain payments made by the Secretary of State (which have previously been left out of account) to be taken into account in determining the charges for childcare costs paid by the claimant.

¹ <https://www.legislation.gov.uk/uksi/2013/376/contents>

- 6.3 Regulation 2(3) of this instrument amends regulation 36 of the Universal Credit Regulations 2013 and increases the maximum amount which can be paid in respect of childcare costs in Universal Credit in each assessment period.

7. Policy background

What is being done and why?

Addressing the issue of upfront childcare costs

- 7.1 The Universal Credit Regulations 2013, specifically the current provision in regulation 34, does not allow Universal Credit claimants to receive payment of the Universal Credit childcare element for any amount that is being met or reimbursed by an employer or some other person or is covered by “other relevant support”.
- 7.2 “Other relevant support” means payments out of funds provided by the Secretary of State or by Scottish or Welsh Ministers in connection with the claimant's participation in work-related activity or training.
- 7.3 The Secretary of State can make provision to assist claimants with upfront childcare costs and currently this is done via the Flexible Support Fund, a non-recoverable discretionary fund that jobcentre staff can use to remove barriers claimants face when moving into work or progressing in work. Regulation 34, however, means that, when claimants receive funds for upfront childcare costs from the Secretary of State (or Scottish or Welsh Ministers), means that, despite the funding from the Secretary of State (or Scottish or Welsh Ministers) being helpful in meeting the upfront costs, some Universal Credit claimants will still find it very difficult to find the funds to pay their next set of childcare costs.
- 7.4 This instrument introduces a change that addresses this issue by allowing Universal Credit claimants, who are responsible for a child, to claim back up to 85% of a payment to the childcare provider, even when the claimant has received funding from the Secretary of State for upfront childcare costs, where the claimant is taking up paid work or increasing their working hours. The funds received as part of the Universal Credit award can then be set aside and used to help pay the next set of childcare costs making it easier for the claimant to get into the Universal Credit childcare costs payment cycle.

Increasing the childcare cost caps

- 7.5 Currently the Universal Credit Regulations 2013 provides for the amount of Universal Credit in respect of childcare costs to be capped at £646.35 for one child or £1108.04 for two or more children, per assessment period. These amounts have not changed, as a standalone measure, since 2006.
- 7.6 This instrument introduces a change which will increase the childcare cost caps to £950.92 for one child and £1630.15 for two or more children, per assessment period.

8. European Union Withdrawal and Future Relationship

- 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 of instruments is available to the public free of charge via The National Archives website: www.legislation.gov.uk.

10. Consultation outcome

10.1 The Department presented the draft regulations to the Social Security Advisory Committee (SSAC) on 26th April 2023. The Committee agreed that it will not take the regulations on formal reference.

11. Guidance

11.1 A range of digital and offline channels will be used to help ensure that relevant operational staff, stakeholders and claimants are aware of, and understand, the changes. This will include:

- informing and upskilling DWP operational staff to ensure that the measures are delivering to claimants who need it;
- updating internal guidance;
- www.gov.uk/universal-credit and www.understandinguniversalcredit.gov.uk will be updated by the coming into force date;
- working with partner organisations and other stakeholders to encourage them to amplify the message to their networks and customers, and to ensure they are able to communicate accurate information; and
- continuing to work with other relevant government departments to ensure that their processes and procedures reflect the changes as appropriate.

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 A full impact assessment has not been prepared for this instrument as no, or no significant, impact on the private, public or voluntary sectors 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 changes set out in this instrument aim to increase the take up of Universal Credit childcare costs and help Universal Credit claimants take up paid work by increasing the generosity of the offer and helping to address a known barrier.

14.2 The success of this instrument will be measured by using existing quality assurance processes to monitor and review the impact of these changes to ensure the policy is delivered as intended. Take-up of the Universal Credit childcare offer will continue to be monitored.

14.3 The instrument does not include a statutory review clause.

15. Contact

- 15.1 Niamh Parker at the Department for Work and Pensions, email: Niamh.Parker@dwp.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Graeme Connor, Deputy Director for Universal Credit Policy Division, at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Mims Davies, Minister for Social Mobility, Youth and Progression at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.