
STATUTORY RULES OF NORTHERN IRELAND

2016 No. 226

The Universal Credit (Transitional Provisions)
Regulations (Northern Ireland) 2016

PART 2

CHAPTER 2

EFFECT OF TRANSITION TO UNIVERSAL CREDIT

Transition from old style ESA

- 19.**—(1) This regulation applies where—
- (a) an award of universal credit is made to a claimant who was entitled to old style ESA on the date on which the claim for universal credit was made or treated as made (“the relevant date”); and
 - (b) on or before the relevant date it had been determined that the claimant was entitled to the work-related activity component or to the support component.
- (2) Where, on or before the relevant date, it had been determined that the claimant was entitled to the work-related activity component—
- (a) regulation 28(3) of the Universal Credit Regulations (award to include LCW and LCWRA elements) does not apply; and
 - (b) the claimant is to be treated as having limited capability for work for the purposes of regulation 28(1)(a) of those regulations and Article 26(1)(a) of the Order.
- (3) Unless the assessment phase applied and had not ended at the relevant date⁽¹⁾, in relation to a claimant who is treated as having limited capability for work under paragraph (2)—
- (a) regulation 29 of the Universal Credit Regulations (period for which the LCW or LCWRA element is not to be included) does not apply; and
 - (b) the LCW element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award with effect from the beginning of the first assessment period.
- (4) Where, on or before the relevant date, it had been determined that the claimant was entitled to the support component—
- (a) regulation 28(3) of the Universal Credit Regulations does not apply; and
 - (b) the claimant is to be treated as having limited capability for work and work-related activity for the purposes of regulation 28(1)(b) of those Regulations and Article 24(2)(a) of the Order.

⁽¹⁾ In which case *see* regulation 20.

(5) Unless the assessment phase applied and had not ended at the relevant date, in relation to a claimant who is treated as having limited capability for work and work-related activity under paragraph(4)(b)—

- (a) regulation 29 of the Universal Credit Regulations does not apply; and
- (b) the LCWRA element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period.

(6) For the purposes of this regulation, a determination that the claimant was entitled to the work-related activity component or, as the case may be, the support component, is to be taken into account even if the award of old style ESA subsequently terminated (in so far as it was an award of income-related employment and support allowance) before the date on which that determination was made, by virtue of an order made under Article 2(2) of the Order.

(7) Where a claimant is treated, by virtue of this regulation, as having limited capability for work or, as the case may be, limited capability for work and work-related activity, the Department may at any time make a fresh determination as to these matters, in accordance with the Universal Credit Regulations.

(8) In this regulation and in regulations 20 to 28—

- “assessment phase”, “support component” and “work-related activity component” have the same meanings as in sections 2, 4 and 24(2) of the 2007 Act,
- “incapacity benefit” and “severe disablement allowance” have the same meanings as in Schedule 4 to the 2007 Act;
- “LCW element” and “LCWRA element” have the same meanings as in regulation 28 of the Universal Credit Regulations.

(9) For the purposes of this regulation and regulation 20, references to cases in which the assessment phase applied are references to cases in which sections 2(2)(a), 2(3)(a), 4(4)(a) and 4(5)(a) of the 2007 Act applied and references to cases in which the assessment phase did not apply are references to cases in which those sections did not apply(2).

(2) For cases where those sections do not apply, see Regulation 7 of the 2008 Regulations as amended.