
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 other incapacity benefits: claimants approaching pensionable age

25.—(1) This paragraph applies where—

- (a) an award of universal credit is made to a claimant who is entitled to incapacity benefit or severe disablement allowance;
- (b) no notice has been issued to the claimant under regulation 4 of the ESA (Transitional Provisions) Regulations 2010 (notice commencing the conversion phase);
- (c) the claimant will reach pensionable age (within the meaning in regulation 2(1) of the ESA (Transitional Provisions) Regulations 2010) within the period of one year; and
- (d) the claimant is also entitled to—
 - (i) personal independence payment, where neither the daily living component nor the mobility component is payable at the enhanced rate⁽¹⁾,
 - (ii) disability living allowance under section 71 of the 1992 Act, where the care component is payable at the middle rate within the meaning of section 72(4) of that Act or the mobility component is payable at the lower rate within the meaning of section 73(11) of that Act (or both components are payable at those rates),
 - (iii) attendance allowance under section 64 of the 1992 Act, where the allowance is payable at the lower rate in accordance with section 65 of that Act,
 - (iv) an increase in the weekly rate of disablement pension under section 104 of the 1992 Act (increase where constant attendance needed), where the increase is of an amount which is equal to or less than the amount specified in paragraph 2(a) of Part V of Schedule 4 to that Act, or
 - (v) any payment based on the need for attendance which is paid as an addition to a war disablement pension (which means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003⁽²⁾) where the amount of that payment is equal to or less than the amount specified in paragraph 2(a) of Part V of Schedule 4 to the 1992 Act.

(2) Where paragraph (1) applies and paragraph (3) does not apply—

(1) See Articles 83-85 of the Order.

(2) 2001 c. 1.

- (a) regulation 28(3) of the Universal Credit Regulations (award to include LCW and LCWRA elements) does not apply;
 - (b) the claimant is to be treated as having limited capability for work for the purposes of regulation 28(1)(a) of those Regulations from the beginning of the first assessment period;
 - (c) regulation 29(1) of the Universal Credit Regulations (period for which LCW or LCWRA element is not to be included) does not apply;
 - (d) the LCW 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; and
 - (e) the claimant is to be treated as having limited capability for work for the purposes of Article 26(1)(a) of the Order.
- (3) This paragraph applies where—
- (a) an award of universal credit is made to a claimant who is entitled to incapacity benefit or severe disablement allowance;
 - (b) no notice has been issued to the claimant under regulation 4 of the ESA (Transitional Provisions) Regulations 2010;
 - (c) the claimant will reach pensionable age (within the meaning in regulation 2(1) of the ESA (Transitional Provisions) Regulations 2010) within the period of one year; and
 - (d) the claimant is also entitled to—
 - (i) personal independence payment, where either the daily living component or the mobility component is (or both components are) payable at the enhanced rate,
 - (ii) disability living allowance under section 71 of the 1992 Act, where the care component is payable at the highest rate within the meaning of section 72(4) of that Act or the mobility component is payable at the higher rate within the meaning of section 73(11) of that Act (or both components are payable at those rates),
 - (iii) attendance allowance under section 64 of the 1992 Act, where the allowance is payable at the higher rate in accordance with section 65 of that Act,
 - (iv) armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(3),
 - (v) an increase in the weekly rate of disablement pension under section 104 of the 1992 Act, where the increase is of an amount which is greater than the amount specified in paragraph 2(a) of Part V of Schedule 4 to that Act, or
 - (vi) any payment based on the need for attendance which is paid as an addition to a war disablement pension (which means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 where the amount of that payment is greater than the amount specified in paragraph 2(a) of Part V of Schedule 4 to the 1992 Act).
- (4) Where paragraph (3) applies (whether or not paragraph (1) also applies)—
- (a) regulation 28(3) of the Universal Credit Regulations does not apply;
 - (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 from the beginning of the first assessment period;
 - (c) regulation 29(1) of the Universal Credit Regulations does not apply;

- (d) 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; and
 - (e) the claimant is to be treated as having limited capability for work and work-related activity for the purposes of Article 26(2)(a) of the Order.
- (5) In this regulation—
- “the 1992 Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992(4).

(4) 1992 c. 7 (N.I.).