

2017 No. 146

SOCIAL SECURITY

**The Universal Credit (Miscellaneous Amendments and
Transitional and Savings Provisions) Regulations (Northern
Ireland) 2017**

Made - - - - *6th July 2017*

Laid before Parliament *10th July 2017*

Coming into operation in accordance with regulation 1

The Secretary of State for Work and Pensions makes the following regulations in exercise of the powers conferred by Articles 17(1), 22(4), 23(3), 24(2)(d), 30(a) and 48(2)(a) of the Welfare Reform (Northern Ireland) Order 2015(a) and Article 22(1) of the Welfare Reform and Work (Northern Ireland) Order 2016(b).

Those powers are exercisable by the Secretary of State by virtue of Article 4(1)(a) of the Welfare Reform (Northern Ireland) Order.

Citation and commencement

1.—(1) These regulations may be cited as the Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations (Northern Ireland) 2017.

(2) These regulations, except for the provisions listed in paragraphs (3) and (4), come into operation immediately after the coming into operation of the Universal Credit Regulations (Northern Ireland) 2016(c).

(3) Paragraphs 1 and 3 to 7 of Schedule 1 come into operation immediately after the coming into operation of the Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations (Northern Ireland) 2016(d).

(4) Paragraph 2 of Schedule 1 comes into operation immediately after the coming into operation of the Social Security (Miscellaneous Amendments) Regulations 2017(e).

(a) S.I. 2015/2006 (N.I. 1)
(b) S.I. 2016/999 (N.I. 1)
(c) S.R. 2016 No. 216
(d) S.R. 2016 No. 236
(e) S.R. 2017 No. 116

PART 1

Limited capability for work element

Amendments to the Universal Credit Regulations (Northern Ireland) 2016

2.—(1) The Universal Credit Regulations (Northern Ireland) 2016 are amended in accordance with paragraphs (2) to (6).

(2) In regulation 2 (interpretation) for the definition of ““LCW element” and “LCWRA element”” substitute—

““LCWRA element” has the meaning in regulation 28;”.

(3) In regulation 28 (award to include LCW and LCWRA elements)—

(a) in the heading for “LCW and LCWRA elements” substitute “LCWRA element”;

(b) for paragraph (1) substitute—

“(1) An award of universal credit is to include an amount in respect of the fact that a claimant has limited capability for work and work-related activity (“the LCWRA element”).”;

(c) in paragraph (2) for “amounts of those elements are” substitute “amount of that element is”;

(d) in paragraph (3) omit “work or for”; and

(e) for paragraph (4) substitute—

“(4) In the case of joint claimants, where each of them has limited capability for work and work-related activity, the award is only to include one LCWRA element.”.

(4) In regulation 29 (period for which the LCW or LCWRA element is not to be included)—

(a) in the heading and in paragraphs (1), (2)(a) and (3)(a) omit “LCW or”;

(b) in paragraph (5)(b)(i) omit “or the work-related activity component”; and

(c) omit paragraph (6).

(5) For regulation 30(4) (award to include the carer element) substitute—

“(4) Where an amount would, apart from this paragraph, be included in an award in relation to a claimant by virtue of paragraphs (1) to (3), and the claimant has limited capability for work and work-related activity (and, in the case of joint claimants, the LCWRA element has not been included in respect of the other claimant), only the LCWRA element may be included in respect of the claimant.”.

(6) In regulation 38 (amounts of elements)—

(a) in paragraph (1) for “LCW and LCWRA elements” substitute “LCWRA element”; and

(b) in the table—

(i) for the row “LCW and LCWRA elements” substitute “LCWRA element”;

(ii) omit the row under “LCWRA element” (as amended by paragraph (i)) showing the amount for limited capability for work.

Amendments to the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016

3.—(1) The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016(a) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 19 (transition from old style ESA)—

(a) for paragraph (1)(b) substitute—

(a) S.R. 2016 No. 226

- “(b) on or before the relevant date it had been determined that the claimant had limited capability for work or limited capability for work-related activity (within the meaning of Part 1 of the 2007 Act).”;
- (b) in paragraph (2)—
- (i) for “was entitled to the work-related activity component” substitute “had limited capability for work (within the meaning of Part 1 of the 2007 Act)”;
 - (ii) omit sub-paragraph (a); and
 - (iii) in sub-paragraph (b) omit “regulation 28(1)(a) of those regulations and”;
- (c) omit paragraph (3);
- (d) in paragraph (4) for “was entitled to the support component” substitute “had limited capability for work-related activity (within the meaning of Part 1 of the 2007 Act) or was treated as having limited capability for work-related activity”;
- (e) in paragraph (6) for “was entitled to the work-related activity component or, as the case may be, the support component” substitute “had limited capability for work or, as the case may be, limited capability for work-related activity (within the meaning of Part 1 of the 2007 Act)”;
- (f) in paragraph (8)—
- (i) for the definition of ““assessment phase”, “support component” and “work-related activity component”” substitute—
“assessment phase” has the same meaning as in the 2007 Act;”, and
 - (ii) for the definition of ““LCW element” and “LCWRA element”” substitute—
“LCWRA element” has the same meaning as in the Universal Credit Regulations.””;
- (g) in paragraph (9) for “, 2(3)(a), 4(4)(a) and 4(5)(a)” substitute “and 4(4)(a)”;
- (h) after paragraph (9) add—
“(10) For the purposes of this regulation, references to a determination that the claimant had limited capability for work do not include a determination made under regulation 30 of the ESA Regulations 2008 (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made).”.
- (3) In regulation 20 (transition from old style ESA before the end of the assessment phase)—
- (a) in paragraph (2)(a) omit “LCW or”; and
 - (b) omit paragraph (3)(b).
- (4) In regulation 21(2)(a) (transition from jobseeker’s allowance following an extended period of sickness), omit “LCW or”.
- (5) In regulation 22 (other claimants with limited capability for work: credits only cases)—
- (a) in paragraph (2)—
 - (i) omit sub-paragraph (a); and
 - (ii) in sub-paragraph (b) omit “regulation 28(1)(a) of those Regulations and”;
 - (b) omit paragraph (3);
 - (c) omit paragraph (7)(b); and
 - (d) in paragraph (9)(d) and (e) for “, 2(3)(a), 4(4)(a) and 4(5)(a)” substitute “and 4(4)(a)”.

PART 2

Work-related requirements

Amendment of the Universal Credit Regulations (Northern Ireland) 2016

4. In regulation 87(2) of the Universal Credit Regulations (Northern Ireland) 2016 (expected hours)—

- (a) in sub-paragraph (a)(i) after “responsible carer” insert “(subject to the following sub-paragraphs)”;
- (b) after sub-paragraph (a) insert—
 - “(aa) where the claimant is a responsible carer of a child who has not yet reached compulsory school age, the number of hours that the Department considers is compatible with those caring responsibilities;”;
- (c) in sub-paragraph (b) after “a child” insert “who has reached compulsory school age but who is”.

Consequential, transitional and savings provisions

5.—(1) Schedule 1 contains amendments to secondary legislation as a consequence of the amendments made by these Regulations.

(2) Schedule 2 contains transitional and savings provisions.

Signed by authority of the Secretary of State for Work and Pensions

6th July 2017

Damien Hinds
Minister of State
Department for Work and Pensions

SCHEDULE 1

Regulation 5(1)

Amendments to secondary legislation consequential on removal of limited capability for work element

Amendment to the Income Support (General) Regulations (Northern Ireland) 1987

1. In paragraph 1(3)(e) of Schedule 3 (housing costs) to the Income Support (General) Regulations (Northern Ireland) 1987(a), for the words from “the calculation of which” to the end substitute “and has limited capability for work or limited capability for work and work-related activity as construed in accordance with regulations 40 and 41 of the Universal Credit Regulations (Northern Ireland) 2016”.

Amendment to the Social Fund (Cold Weather Payments) (General) Regulations (Northern Ireland) 1988

2. For regulation 1A(3)(f)(ii) (prescribed descriptions of persons) of the Social Funds (Cold Weather Payments) (General) Regulations 1987(b), substitute—

(a) S.R.1987 No. 459; paragraph 1(3)(e) of Sch. 3 was inserted by regulation 26(8)(a)(iii) of S.R. 2016 No. 236
(b) S.R. 1998 No 368; regulation 1A was substituted by regulation 2(3) of S.R. 2010 No. 344 and amended by regulation 3 of S.R. 2017 No. 116

“(ii) P has limited capability for work or limited capability for work and work-related activity as construed in accordance with regulations 40 and 41 of the Universal Credit Regulations (Northern Ireland) 2016.”.

Amendment to the Jobseeker’s Allowance Regulations (Northern Ireland) 1996

3. In paragraph 1(3)(f) of Schedule 2 (housing costs) to the Jobseeker’s Allowance Regulations (Northern Ireland) 1996(a), for the words from “the calculation of which” to the end substitute “and has limited capability for work or limited capability for work and work-related activity as construed in accordance with regulations 40 and 41 of the Universal Credit Regulations (Northern Ireland) 2016”.

Amendment to the Education (Student Loans) Regulations (Northern Ireland) 1998

4. In paragraph 1 of Schedule 2 (terms of loans) to the Education (Student Loans) Regulations (Northern Ireland) 1998(b), in sub-paragraph (e) of the definition of “disability related benefits” omit “limited capability for work or”.

Amendment to the State Pension Credit Regulations (Northern Ireland) 2003

5. In paragraph 1(2)(b)(v) of Schedule 2 (housing costs) to the State Pension Credit Regulations (Northern Ireland) 2003(c), for the words from “the calculation of which” to the end substitute “and has limited capability for work or limited capability for work and work-related activity as construed in accordance with regulations 40 and 41 of the Universal Credit Regulations (Northern Ireland) 2016”.

Amendment to the Employment and Support Allowance Regulations (Northern Ireland) 2008

6. For paragraph 1(3)(e) of Schedule 6 (housing costs) to the Employment and Support Allowance Regulations (Northern Ireland) 2008(d), for the words from “the calculation of which” to the end substitute “and has limited capability for work or limited capability for work and work-related activity as construed in accordance with regulations 40 and 41 of the Universal Credit Regulations (Northern Ireland) 2016”.

Amendment to the Education (Student Support) (No. 2) Regulations (Northern Ireland) 2009

7. In regulation 43(2)(h)(i) (interpretation) of the Education (Student Support) (No. 2) Regulations (Northern Ireland) 2009(e), for “LCW and LCWRA elements” substitute “LCWRA element” and omit “limited capability for work or”.

SCHEDULE 2

Regulation 5(2)

Transitional and savings provisions

Transitional and savings provisions: General

1.—(1) The amendments made by regulations 2 and 3 and paragraphs 4 and 7 of Schedule 1 do not apply —

(a) S.R. 1996 No. 198; paragraph 1(3)(f) of Sch. 2 was inserted by regulation 28(8)(a)(iii) of S.R. 2016 No. 236
(b) S.R. 1998 No. 58; The definition of disability related benefits was substituted by regulation 44 of S.R. 2016 No. 236
(c) S.R. 2003 No. 28; paragraph 1(2)(b)(v) of Sch. 2 was inserted by regulation 31(8)(a) of S.R. 2016 No. 236
(d) S.R. 2008 No. 280; paragraph 1(3)(e) of Sch. 6 was inserted by regulation 36(8)(a)(iii) of S.R. 2016 No. 236
(e) S.R. 2009 No. 373; regulation 43(2)(h)(i) was inserted by regulation 45(3)(c) of S.R. 2016 No. 236

- (a) where a claimant has an award of universal credit in any of the circumstances in the following paragraphs; and
 - (b) for so long as the claimant continues without any break to be entitled to universal credit and to have limited capability for work.
- (2) For the purposes of sub-paragraph (1)(b), the reference to continuous entitlement to universal credit includes where an award has terminated and a further award is made and—
- (a) immediately before the further award commences, the previous award has terminated because the claimant ceased to be a member of a couple or became a member of a couple; or
 - (b) within the six months beginning with the date that the further award commences, the previous award has terminated because the financial condition in Article 10(1)(b) or, if it was a joint claim, Article 10(2)(b), of the Welfare Reform (Northern Ireland) Order 2015 was not met.
- (3) In this Schedule—
- “employment and support allowance” means an employment and support allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007(a);
- “LCW element” and “LCWRA element” have the meanings in regulation 28 of the Universal Credit Regulations (Northern Ireland) 2016 as it has effect apart from the amendments made by regulation 4(4) (which removes references to the LCW element);
- “limited capability for work” has the meaning given in Article 43(1) of the Welfare Reform (Northern Ireland) Order 2015(b).
- (4) The Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016(c) apply for the purpose of deciding the date on which a claim is made or is to be treated as made.

Claimants who appeal or seek revision of a decision relating to employment and support allowance

2. The first circumstance is where—
- (a) the claimant appeals or seeks revision under Article 10 of the Social Security (Northern Ireland) Order 1998(d) of a decision relating to the entitlement of the claimant to an employment and support allowance, where the claim for employment and support allowance was made or treated as made before 3rd April 2017; and
 - (b) on or after 3rd April 2017 the Department under Article 10 of the Social Security (Northern Ireland) Order 1998 revises an award of universal credit so as to include the LCW element.

Claimants entitled to employment and support allowance before 3rd April 2017

3. The second circumstance is where immediately before 3rd April 2017 the claimant was entitled to employment and support allowance and remains so entitled throughout the period beginning with 3rd April 2017 and ending with the date on which the claim for universal credit is made or treated as made.

(a) 2007 c. 2 (N.I.)
 (b) 2015/2006 (N.I. 1)
 (c) S.R. 2016 No. 220
 (d) S.I. 1998/1506 (N.I. 10)

Claimants entitled to be credited with earnings under the Social Security (Credits) Regulations (Northern Ireland) 1975 before 3rd April 2017

4. The third circumstance is where—

- (a) immediately before 3rd April 2017—
 - (i) the claimant entitled to the award was entitled to be credited with earnings equal to the lower earnings limit then in force in respect of a week to which regulation 8B(2)(a)(iv), (iva) or (v) of the Social Security (Credits) Regulations (Northern Ireland) 1975(a) applies; and
 - (ii) paragraph 3 does not apply to that claimant; and
- (b) the claimant is so entitled in respect of each week that falls in the period beginning with 3rd April 2017 and ending with the date on which the claim for universal credit is made or treated as made.

Claimants entitled to income support or other incapacity benefits before 3rd April 2017

5. The fourth circumstance is where regulation 23, 24, 25, 27 or 28 of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016(b) applies to the claimant throughout the period beginning immediately before 3rd April 2017 and ending with the date on which the claim for universal credit is made or treated as made.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to secondary legislation consequential on Articles 11 and 12 of the Welfare Reform and Work (Northern Ireland) Order 2016. (S.I. 2016/999 (N.I. 1)) (“the 2016 Order”).

Article 11 of the 2016 Order amends Article 17 of the Welfare Reform (Northern Ireland) Order 2015, (S.I. 2015/2006 (N.I. 1)) (“the 2015 Order”), which provides for an award of universal credit to include an amount in respect of such particular needs or circumstances as may be prescribed in regulations. It removes the provision in Article 17(2)(a) of the 2015 Order which provides that the fact that a claimant has limited capability for work is a need or circumstance that may be prescribed.

Article 12 of the 2016 Order makes amendments to Chapter 2 of Part 2 of the 2015 Order (claimant responsibilities) so that—

- (a) responsible carers with a child aged 3 or 4 are subject to all work-related requirements; and
- (b) responsible carers with a child aged 2 may be required to undertake work-focused interview requirements and work preparation requirements.

Regulation 2 amends provisions in the Universal Credit Regulations (Northern Ireland) 2016 (S.R. 2016 No. 216) that provide for an award of universal credit to include an amount for the fact that a claimant has limited capability for work (“the LCW element”). References to the LCW element are omitted and other amendments consequential on the removal of that element are made. The table in regulation 38, which sets out the amounts of elements payable, is amended so as to omit the amount for the LCW element. Similar amendments have already been made to the Employment and Support Allowance Regulations (Northern Ireland) 2008 (S.R. 2008 No. 280) so that an amount referred to as the work-related activity component which was paid when the claimant was found to have limited capability for work is now omitted (see the Employment and Support Allowance (Consequential Amendments and Transitional and Savings Provisions) Regulations (Northern Ireland) 2017 (S.R. 2017 No. 51).

(a) S.R.1975 No. 113; relevant amending instruments are S.R. 2010 No. 109 and S.R. 2016 No. 175.

(b) S.R. 2016 No. 226

Regulation 3 makes amendments to the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016 No. 226) which are consequential on the removal of the LCW element from Universal Credit and the work-related activity component from Employment and Support Allowance.

Regulation 4 amends regulation 87 of the Universal Credit Regulations (Northern Ireland) 2016, which makes provision for the number of hours that a claimant is expected to comply with a work search requirement in any week. New sub-paragraph (aa) is inserted into regulation 87(2) which applies to responsible carers of a child under compulsory school age and makes provision for their expected number of hours to be the number of hours that the Department considers is compatible with their caring responsibilities. Responsible carers of a child under compulsory school age will no longer have to show that they have reasonable prospects of finding work within the expected number of hours set.

Regulation 5 introduces Schedule 1, which makes consequential amendments to other secondary legislation, and Schedule 2, which makes transitional and savings provisions.

Paragraphs 1 to 7 of Schedule 1 make amendments to secondary legislation to omit or substitute references to the LCW element.

Paragraphs 1 to 5 of Schedule 2 make savings and transitional provisions so that the amendments to the Universal Credit Regulations (Northern Ireland) 2016 in regulation 2, the amendments to the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 in regulation 3 and the amendments to other secondary legislation in paragraphs 4 and 7 of Schedule 1, do not apply in the following circumstances for so long as the claimant is entitled to universal credit and has limited capability for work.

The circumstances are –

- (a) where the award of universal credit is revised under Article 10 of the Social Security (Northern Ireland) Order 1998 to include the LCW element following an appeal or revision of a decision not to award employment and support allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (where the claim was made before 3rd April 2017);
- (b) where the claimant was entitled to employment and support allowance immediately before 3rd April 2017 (provided the claimant was continuously entitled to employment and support allowance from 3rd April 2017 to the date on which the claim for universal credit is made);
- (c) where the claimant entitled to the award was entitled to be credited with earnings equal to the lower earnings limit then in force in respect of a week to which regulation 8B(2)(a)(iv), (iva) or (v) of the Social Security (Credits) Regulations (Northern Ireland) 1975 (S.R. 1975 No. 113) applies, and the claimant was not entitled to employment and support allowance, immediately before 3rd April 2017 (provided the claimant is entitled to be so credited in respect of each week that falls in the period beginning with 3rd April 2017 to the date on which the claim for universal credit is made or treated as made);
- (d) where regulation 23, 24, 25, 27 or 28 of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 applies to the claimant throughout the period beginning immediately before the 3rd April 2017 and ending with the date on which the claim for universal credit is made or treated as made.

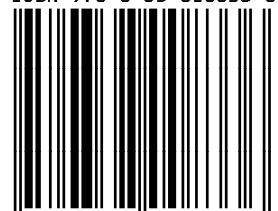
An impact assessment has not been produced for this instrument as it has no impact on business or civil society organisations.

£6.00

NI201707074 07/2017 19585

<http://www.legislation.gov.uk/id/nisr/2017/146>

ISBN 978-0-33-800833-6



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