

2021 No. 2

SOCIAL SECURITY

**The Universal Credit (Transitional Provisions) (Claimants
previously entitled to a severe disability premium)
(Amendment) Regulations (Northern Ireland) 2021**

Made - - - - - *6th January 2021*

Coming into operation - - - - - *27th January 2021*

The Department for Communities(a) makes the following Regulations in exercise of the powers conferred by Articles 9(2) and 48(1) and (2) and paragraphs 1(1) and 4(1) and (2)(d) of Schedule 6 to the Welfare Reform (Northern Ireland) Order 2015(b) and now vested in it(c).

Citation and commencement

1. These Regulations may be cited as the Universal Credit (Transitional Provisions) (Claimants previously entitled to a severe disability premium) (Amendment) Regulations (Northern Ireland) 2021 and come into operation on 27th January 2021.

Amendment to the Universal Credit (Transitional Provisions) Regulations (Northern Ireland)

2. For Schedule 2 to the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (claimants previously entitled to a severe disability premium: transitional payments)(d) substitute—

“SCHEDULE 2

Regulation 64

Claimants previously entitled to a severe disability premium

1. This Schedule applies to an award of universal credit where the following conditions are met in respect of the claimant, or each of joint claimants.

2. The first condition is that the award was not made as a consequence of the claimant becoming a member of a couple where the other member was already entitled to an award of universal credit.

3. The second condition is that the claimant—

(a) The Department for Social Development was renamed the Department for Communities in accordance with section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.))
(b) S.I. 2015/2006 (N.I. 1)
(c) See Article 8(b) of S.R. 1999 No. 481. The Department for Social Development was renamed the Department for Communities in accordance with section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.))
(d) S.R. 2016 No.226; Schedule 2 was inserted by Regulation 2(10) of S.R. 2019 No.152

- (a) was entitled (or was a member of a couple the other member of which was 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 immediately preceding the first day of the award of universal credit; and
- (b) continued to satisfy the conditions for eligibility for a severe disability premium up to and including the first day of that award.

4. Where this Schedule applies (subject to paragraphs 6 and 7), a transitional SDP element is to be included in the calculation of the award and the amount of that element is to be treated, for the purposes of Article 13 of the Order, as if it were an additional amount to be included in the maximum amount under Article 13(2) before the deduction of income under Article 13(3).

5. The amount of the transitional SDP element in the first assessment period is—

- (a) in the case of a single claimant—
 - (i) £120, if the LCWRA element is included in the award, or
 - (ii) £285, if the LCWRA element is not included in the award;
- (b) in the case of joint claimants—
 - (i) £405, if the higher SDP rate was payable,
 - (ii) £120, if paragraph (i) does not apply and the LCWRA element is included in the award in respect of either of them, or
 - (iii) £285, if paragraph (i) does not apply and the LCWRA element is not included in the award in respect of either of them.

6. In respect of the second and each subsequent assessment period, regulation 56(2) (adjustment where other elements increase), regulation 57 (circumstances in which transitional protection ceases) and regulation 58 (application of transitional protection to a subsequent award) are to apply in relation to the transitional SDP element as if it were a transitional element in respect of which the amount calculated in accordance with paragraph 5 was the initial amount.

7. The award is not to include a transitional SDP element where the claim was a qualifying claim and the award is to include a transitional element.

8. In this Schedule—

“LCWRA element” has the meaning in the Universal Credit Regulations;

“the higher SDP rate” is the rate specified in paragraph 11(2)(b)(ii) of Schedule 4 to the Employment and Support Allowance Regulations (Northern Ireland) 2008(a) or, as the case may be, the corresponding rate of a severe disability premium in relation to income support or income-based jobseeker's allowance.”.

Saving

3. In a case where the first day of an award of universal credit falls before these Regulations come into operation, Schedule 2 to the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 is to continue to apply as if it had not been substituted by regulation 2.

Sealed with the Official Seal of the Department for Communities on 6th January 2021
(L.S.)

Anne McCleary

(a) S.R. 2008 No. 280. Paragraph 11 was amended by paragraph 1 of Schedule 11 to the Social Security Benefits Up-Rating Order (Northern Ireland) 2020 (S.R. 2020 No. 40)

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 2B (restriction on claims for universal credit by persons entitled to a severe disability premium) of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (“the Transitional Provisions Regulations”) on the 27th January 2021. Regulation 2B 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 operation (or, in some exceptional cases, while the SDP gateway was in operation). Where such a case came to the attention of the Department 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 Department 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 universal credit 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.

These Regulations make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain and accordingly, by virtue of Section 149(3) of, and paragraph 10 of schedule 5 to, the Social Security Administration (Northern Ireland) 1998 (c.8), are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

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