EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the managed migration of the first 10,000 claimants from existing benefits to universal credit. They set out the process for moving those claimants, the circumstances in which transitional protection is given and the manner in which it is calculated. They also include provision in relation to certain claimants who have been in receipt of a severe disability premium, claimants who are self-employed and claimants who may be in hardship.

Regulation 1 provides for citation and commencement.

Regulation 2 provides for an initial pilot phase where managed migration is to be restricted to 10,000 cases. After that number of awards of universal credit have been made to persons who have been issued with a migration notice, no further notices may be issued.

Regulation 3 contains amendments to the Universal Credit (Transitional Provisions) Regulations 2014 (S.I. 2014/1230, as amended) ("the 2014 Regulations"):

paragraph (2) inserts new definitions into regulation 2;

paragraph (3) excludes notified persons from the restriction on claims by persons entitled to a severe disability premium;

paragraphs (4) and (6) are consequential amendments;

paragraph (5) amends regulation 8A (two week continuation of housing benefit on migration to universal credit) by providing for the amount of housing benefit to be frozen during the two week period in a case where the claimant is moved to universal credit;

paragraph (7) inserts a new Part 4 (Managed Migration to Universal Credit) in the 2014 Regulations.

New regulation 44 provides for the issue of a migration notice which informs a person that their existing benefits are to terminate and gives a deadline for claiming universal credit. A person who receives a migration notice is a "notified person".

New regulation 45 provides for the circumstances in which the deadline can be extended.

New regulation 46 provides for termination of all awards of any existing benefits where a notified person does not claim universal credit by the deadline day. In the case of an income-based jobseeker's allowance or income-related employment and support allowance "terminate" means treating the award in the same way as if section 33(1)(a) or (b) (abolition of those benefits) and associated provisions had come into force. This means that any contribution-based or contributory allowance to which a claimant is entitled becomes an award of new style JSA or new style ESA (as defined in regulation 2 of the 2014 Regulations). Where the person claims universal credit by the final deadline (which is the last day of the first assessment period of an award commencing on the deadline day) the award is backdated to the deadline day.

New regulation 47 provides for cases where notified persons have been treated as a couple or members of a polygamous marriage in relation to an existing benefit, but claim universal credit as different benefit units, for example as single persons, or a different couple. If there is more than one possible date on which the existing benefits could terminate, they are to terminate on the earliest of those dates and a claim by the other notified person or persons is backdated to that date.

New regulations 48 to 57 deal with transitional protection. The Secretary of State is required to determine whether transitional protection applies where the person makes a "qualifying claim" (new regulations 48 and 49). The two types of protection are a "transitional capital disregard" (regulation 51) and a "transitional element" (regulations 52 to 55). The transitional capital disregard enables claimants entitled to a tax credit and with capital over £16,000 to be entitled to universal credit for up to 12 months. The transitional element is an additional amount of universal credit based on the difference between the total amount of existing benefits and the amount of universal credit entitlement. This is added to the award before income is deducted and erodes as other elements increase.

New regulation 56 provides for the circumstances in which transitional protection ceases. These are where there is a drop in earnings over a three month period or where an award ends (including where a couple separate or form). Transitional protection can be carried over to a subsequent award in certain circumstances under new regulation 57.

New regulations 58 to 63 deal with miscellaneous matters.

New regulation 58 enables the Secretary State to set a date for commencement of the award of universal credit up to a month after the date of a qualifying claim (provided it is not a case where the claim is to be backdated).

New regulation 59 provides for all notified persons who would otherwise be subject to the minimum income floor (under which certain self-employed claimants are to have an assumed level of earnings) to have the 12 month "start-up" period without the requirement to have started their business within the past 12 months.

New regulation 60 provides for notified persons who are students, and entitled to existing benefits, to be exempt from the exclusion of full-time students from universal credit until they complete their course.

New regulation 61 allows rounding to be applied to calculations under new Part 4.

New regulation 62 ensures that the requirement to apply the information held at the migration day when calculating transitional protection does not prevent the subsequent revision of the universal credit award in cases of misrepresentation or error or in order to give effect to an outstanding revision or appeal.

New regulation 63 prevents an appeal from decisions in relation to the issue or cancellation of a migration notice or the extension of the deadline day.

New regulation 64 introduces the new Schedule 2 (claimants entitled to a severe disability premium: restriction on claims for UC and transitional payments).

New regulation 65 makes provision for discretionary payments where notified persons are in hardship as result of the termination of an existing benefit or otherwise as a result of the migration process.

Regulation 3(8) inserts a new Schedule 2 in the 2014 Regulations. The Schedule provides for transitional payments in respect of claimants who were previously entitled to a severe disability premium and have claimed universal credit before the coming into force of the restriction on claims for persons entitled to that premium in regulation 4A of the 2014 Regulations. The payments are based on a flat rate for each assessment period since the move to universal credit. The flat rate is converted into a transitional element after a date determined by the Secretary of State.

Regulation 4 amends the 2014 Regulations to provide for an award of income support, income-based jobseeker's allowance and income-related employment and support allowance to continue for two weeks beyond the date on which it would otherwise have terminated as result of a claim for universal credit or, in a managed migration case, a failure to make a claim by the deadline day. This regulation comes into force on 22nd July 2020.

Regulation 5 provides for the relevant commencement orders bringing into force the abolition of income-based JSA and income-related ESA on a claim for universal credit to be read with appropriate modifications to give effect to the two week run on.

Regulation 6 amends regulation 63 of the Universal Credit Regulations (S.I. 2013/376 as amended) which provides for a 12 month start-up period during which the minimum income floor does not apply. The amendment extends the start-up period to all claimants for universal credit who are in gainful self-employment and have not previously been subject to the minimum income floor (even if they have not started their business within the past 12 months). All other conditions will apply, for example a claimant may only have one start-up period every 5 years and may not have more than one start-up period in relation to the same business. This regulation comes into force on 23rd September 2020 and revokes new regulation 59 (above).

An impact assessment has not been produced for this instrument as it has no impact on business and civil society organisations. This instrument has no impact on the public sector.