
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make consequential, supplementary, incidental and miscellaneous provision in relation to the provisions of Part 1 of the Welfare Reform Act 2012 (c.5) (“the Act”) that relate to the introduction of universal credit (“universal credit provisions”) and the abolition of income-related employment and support allowance and income-based jobseeker’s allowance.

As a result of this abolition, employment and support allowance will no longer consist of separate contributory and income-related allowances, but only of a contributory allowance to be known simply as “employment and support allowance”.

Also, jobseeker’s allowance will no longer consist of separate contribution-based and income-based allowances, but of a contribution-based allowance to be known as “jobseeker’s allowance”.

The universal credit provisions and the provisions abolishing income-related employment and support allowance and income-based jobseeker’s allowance are to be commenced in stages, such that for a period of time, the old forms of employment and support allowance and jobseeker’s allowance (“old style ESA” and “old style JSA”) will apply to some people and the new forms (“new style ESA” and “new style JSA”) to other people.

Part 2 of the Regulations amends provisions of primary legislation. The Part makes amendments to 18 pieces of primary legislation, consequential on the coming into force of Part 1 of the 2012 Act.

The majority of the amendments made by these Regulations add a reference to universal credit to existing primary legislation. A few of the amendments insert a reference to particular elements of Universal Credit, for example the Income Tax (Earnings and Pensions) Act 2003 (c.1) is amended to refer to Universal Credit paid in respect of childcare costs (see section 12 of the Act). The amendments to the State Pension Credit Act 2002 (c.16) and the Employment Act 1989 (c.38) are minor consequential amendments.

Regulation 18 amends sections 73, 74, 96 and 97 of the Housing Act 2004 (c.34) and provides that, in relation to applications to a residential property tribunal for a rent repayment order (RRO) where a person has failed to obtain a licence for a house in multiple occupation or a house in an area of selective licensing, the tribunal may make an order –

- a) in the case of an application by the local housing authority, in the amount of the housing element of an award of universal credit in respect of rent, or the amount of the award if less;
- b) in the case of an application by the occupier, in an amount that takes account of the rent paid and the amount of the award of universal credit the calculation of which that includes the housing element of an award of universal credit in respect of rent.

Part 3 contains amendments to secondary legislation.

Chapter 1 contains amendments relating to social security benefits.

The regulations in this Part insert references to universal credit where there are already references to other income-related benefits. They also provide for definitions of “contributory employment and support allowance” and “contribution-based jobseeker’s allowance” that include both the old style ESA and JSA contributory allowances and the new style contributory-only ESA and JSA allowances.

Regulation 28 amends the [Income Support \(General\) Regulations 1987 \(1987/1967\)](#). In addition to the changes as referred to above it provides that –

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- a) payments of universal credit that do not relate to a period for which income support is payable are disregarded;
- b) the definition of a “disabled person” includes where a person is entitled to an award of universal credit the calculation of which includes an amount in respect of the fact that they have limited capability for work (LCW) or limited capability for work and work-related activity (LCWRA) (or would include such an amount but for regulation 27(4) (couples) or 29(4) (Carer’s allowance) of the Universal Credit Regulations 2013 (S.I. 2013/376);
- c) the exceptions from the rule that provides for a deduction to be made from the housing costs element of income support in respect of a non-dependant of the claimant include the situation where the non-dependant is aged less than 25 and is entitled to universal credit on the basis that the non-dependant does not have any earned income as defined in the Universal Credit Regulations 2013 (S.I. 2013/376).

Regulations 30, 33, 35, 36 and 37 make similar provision in relation to Jobseeker’s Allowance, State Pension Credit, Housing Benefit and Employment and Support Allowance.

Regulations 38 and 39 make miscellaneous amendments to the Universal Credit Regulations 2013 and the Jobseeker’s Allowance Regulations 2013. In particular:

regulation 38(2) provides for an extra category of claimant who may claim universal credit as single person when their partner is not eligible to claim;

regulation 38(9) makes provision for the period of a hardship payment where an award has been reduced for a sanctionable failure;

Chapter 2 contains amendments to secondary legislation relating to child support.

Regulation 42 amends the Child Support (Maintenance Assessments and Special Cases) Regulations 1992 (S.I. 1992/1815) which relates to maintenance assessments under the “old scheme”, under the Child Support Act 1991 as it has effect apart from section 1 of the Child Support, Pensions and Social Security Act 2000. The amendment provides that, where a parent with care or absent parent is awarded universal credit on the basis that they have no earned income, as defined in the Universal Credit Regulations 2013, they will be treated as having “no assessable income” for the purposes of a maintenance assessment.

Regulations 43 and 44 amend the Child Support (Maintenance Calculations and Special Cases) Regulations 2000 (S.I. 2000/155) and Child Support Maintenance Calculation Regulations 2012 (S.I. 2012/2677) which relate to the “current scheme” and the “future scheme” respectively under the Child Support Act 1991 as it has effect as amended by section 1 of the Child Support, Pensions and Social Security Act 2000. The amendments provide that, where a non-resident parent or their partner is awarded universal credit on the basis that the non-resident parent has no “earned income”, then they will be liable to pay the flat rate of maintenance unless the conditions for payment of the nil rate of maintenance apply. They also provide that the latter conditions include a reference to the situation where a non-resident parent or their partner is awarded universal credit on the above basis.

Chapters 3 to 14 contains amendments to secondary legislation relating to other legal regimes. Again, these Chapters insert references to universal credit where there are already references to other income-related benefits and provide for definitions of “contributory employment and support allowance” and “contribution-based jobseeker’s allowance” that include both the old style ESA and JSA contributory allowances and the new style contributory-only ESA and JSA allowances.

Regulation 50 amends the Employment Protection (Recoupment of Jobseeker’s Allowance and Income Support) Regulations 1996 (S.I. 1996/2349) and provides for the recoupment of an award if universal credit where the award was paid for a period in respect of which an employment tribunal has made an order, where the award would not have been paid if the person’s earnings had not been reduced or stopped.

Regulation 57 amends the Housing Renewal Grants Regulations (S.I. 1996/2890) to provide that, in relation to a “relevant person” with respect to whom an application for a housing renewal grant is

made, where the person or their partner (excluding a partner to a polygamous marriage that is not the earliest marriage with respect to partners living in one household) is entitled to universal credit, then they are to be regarded as having no income, and as having an “applicable amount” of £1, with the result that there will be no reduction in grant with respect to that person.

Regulation 58 amends the Rent Repayment Orders (Supplementary Provision) Regulations 2007 (S.I. 2007/572) and (complementing the amendment of sections 72, 73, 96 and 97 of the Housing Act 2004, referred to above) provides for the tribunal to be able to alter the amount of a rent repayment order where an award of universal credit that included the housing element with respect to occupation of part of the house in question has been altered in a material way.

Regulation 70 amends the Social Security (Credits) Regulations 1975 (S.I. 1975/556) and provides that a person entitled to universal credit will be credited with a class 3 national insurance contribution.

An impact assessment has been made of the impact of universal credit. Copies of the impact assessment may be obtained from the Better Regulation Unit of the Department of Work and Pensions, 2D Caxton House, Tothill Street, London, SW1 9NA or from the DWP website at: <http://www.dwp.gov.uk/policy/welfare-reform/legislation-and-key-documents/welfare-reform-act-2012/impact-assessments-and-equality/>.