

STATUTORY INSTRUMENTS

2014 No. 1230

The Universal Credit (Transitional Provisions) Regulations 2014

PART 2

TRANSITION TO UNIVERSAL CREDIT

CHAPTER 1

ENTITLEMENT TO CLAIM UNIVERSAL CREDIT

Secretary of State discretion to determine that claims for universal credit may not be made

^{F1}4.

Textual Amendments

F1 [Reg. 4](#) revoked (25.7.2022) by [The Universal Credit \(Transitional Provisions\) Amendment Regulations 2022 \(S.I. 2022/752\)](#), regs. 1(1), **2**

Restriction on claims for universal credit by persons entitled to a severe disability premium

^{F2}4A.

Textual Amendments

F2 [Reg. 4A](#) revoked (27.1.2021) by [The Universal Credit \(Managed Migration Pilot and Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1152\)](#), regs. 1(5), **7**

CHAPTER 2

ENTITLEMENT TO OTHER BENEFITS

Exclusion of entitlement to certain benefits

5.—(1) Except as provided in paragraph (2), a claimant is not entitled to—

- (a) income support;
- (b) housing benefit;
- (c) a tax credit; or
- (d) state pension credit ^{F3}... ^{M1},

in respect of any period when the claimant is entitled to universal credit ^{M2}.

(2) Entitlement to universal credit does not preclude the claimant from entitlement—

[^{F4}(a) to housing benefit in respect of specified accommodation or temporary accommodation;]

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- [^{F4}(ab) to housing benefit or income support where regulation 8(2A) [^{F5}or 46(1)] applies; ^{F6}...]
- (b) during the first assessment period for universal credit, where the claimant is a new claimant partner, to—
- (i) income support, where an award to which the new claimant partner is entitled terminates, in accordance with regulation 7(4), after the first date of entitlement to universal credit;
 - (ii) housing benefit, where regulation 7(5)(b) [^{F7}or (c)] applies and an award of housing benefit to which the new claimant partner is entitled terminates after the first date of entitlement to universal credit; ^{F8}...
 - (iii) a tax credit, where an award to which the new claimant partner is entitled terminates, in accordance with the 2002 Act, after the first date of entitlement to universal credit [^{F9}; or
 - (iv) state pension credit, where an award to which the new claimant partner is entitled terminates after the first date of entitlement to universal credit; or]
- [^{F9}(c) during the last assessment period for universal credit, where the claimant reaches the qualifying age for state pension credit and paragraph 26 of Schedule 1 to the Decisions and Appeals Regulations applies, to housing benefit or state pension credit from the date the claimant reaches that age]

Textual Amendments

- F3** Words in [reg. 5\(1\)\(d\)](#) omitted (25.11.2020) by virtue of [The Universal Credit \(Persons who have attained state pension credit qualifying age\) \(Amendment\) Regulations 2020 \(S.I. 2020/655\)](#), [regs. 1\(2\)](#), [6\(3\)\(a\)](#)
- F4** [Reg. 5\(2\)\(a\)\(ab\)](#) substituted for [reg. 5\(2\)\(a\)](#) (22.7.2020) by [The Universal Credit \(Managed Migration Pilot and Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1152\)](#), [regs. 1\(3\)](#), [4\(2\)](#)
- F5** Words in [reg. 5\(2\)\(ab\)](#) substituted (25.7.2022) by [The Universal Credit \(Transitional Provisions\) Amendment Regulations 2022 \(S.I. 2022/752\)](#), [reg. 1\(1\)](#), [Sch. para. 1\(3\)](#)
- F6** Word in [reg. 5\(2\)\(a\)](#) omitted (25.11.2020) by virtue of [The Universal Credit \(Persons who have attained state pension credit qualifying age\) \(Amendment\) Regulations 2020 \(S.I. 2020/655\)](#), [regs. 1\(2\)](#), [6\(3\)\(b\)\(i\)](#)
- F7** Words in [reg. 5\(2\)\(b\)\(ii\)](#) inserted (25.11.2020) by [The Universal Credit \(Persons who have attained state pension credit qualifying age\) \(Amendment\) Regulations 2020 \(S.I. 2020/655\)](#), [regs. 1\(2\)](#), [6\(3\)\(b\)\(ii\)](#)
- F8** Word in [reg. 5\(2\)\(b\)\(ii\)](#) omitted (25.11.2020) by virtue of [The Universal Credit \(Persons who have attained state pension credit qualifying age\) \(Amendment\) Regulations 2020 \(S.I. 2020/655\)](#), [regs. 1\(2\)](#), [6\(3\)\(b\)\(ii\)](#)
- F9** [Reg. 5\(2\)\(b\)\(iv\)\(c\)](#) and word inserted (25.11.2020) by [The Universal Credit \(Persons who have attained state pension credit qualifying age\) \(Amendment\) Regulations 2020 \(S.I. 2020/655\)](#), [regs. 1\(2\)](#), [6\(3\)\(b\)\(iii\)](#)

Marginal Citations

- M1** [2002 c.16](#).
- M2** A person who is entitled to universal credit is not entitled to old style JSA or old style ESA (other than in certain circumstances where a person is a member of a couple at the time of entitlement), by virtue of [S.I. 2013/983 \(C.41\)](#), and other orders made under section 150(3) of the Act, which bring into force repeals of the legislation relating to those benefits.

[^{F10}Entitlement to universal credit and housing benefit: universal credit work allowance

5A. Where a claimant has an award of universal credit and, in any assessment period, is also entitled to housing benefit for temporary accommodation and the award of universal credit does not include an amount for housing costs, regulation 22(2) of the Universal Credit Regulations (amount of the work allowance) is to apply in relation to that assessment period as if the award did include an amount for housing costs.]

Textual Amendments

F10 Reg. 5A inserted (11.4.2018) by [The Universal Credit \(Miscellaneous Amendments, Saving and Transitional Provision\) Regulations 2018 \(S.I. 2018/65\)](#), regs. 1(4), **6(5)** (with reg. 8(2)(3))

Exclusion of claims for certain existing benefits

^{F11}6.

Textual Amendments

F11 [Reg. 6](#) revoked (25.7.2022) by [The Universal Credit \(Transitional Provisions\) Amendment Regulations 2022 \(S.I. 2022/752\)](#), regs. 1(1), **3**

[^{F12}Restriction on claims for housing benefit, income support or a tax credit

6A.—(1) Except as provided by paragraphs (2) to (7) a person may not make a claim for housing benefit, income support, or a tax credit.

(2) Paragraph (1) does not apply to a claim for housing benefit in respect of specified accommodation or temporary accommodation.

(3) Paragraph (1) does not apply to a claim for housing benefit that is made during the last assessment period of an award of universal credit, where the claimant reaches the qualifying age for state pension credit and paragraph 26 of Schedule 1 to the Decisions and Appeals Regulations applies, in respect of entitlement arising from the date the claimant reaches that age.

(4) Paragraph (1) does not apply to a claim for housing benefit by a single person who has reached the qualifying age for state pension credit, or a member of a State Pension Credit Act couple where both members have reached that age or a member of a polygamous marriage where all members have reached that age.

(5) Paragraph (1) does not apply to a claim for housing benefit where—

- (a) the claim is made by a member of a State Pension Credit Act couple who has reached the qualifying age for state pension credit and the other member has not reached that age; and
- (b) one of the savings in the sub-paragraphs of article 4(1) of the Welfare Reform Act 2012 (Commencement No. 31 and Savings and Transitional Provisions and Commencement No. 21 and 23 and Transitional and Transitory Provisions (Amendment)) Order 2019 applies and the saving has not ceased to have effect under article 4(2) of that Order.

(6) Paragraph (1) does not apply to a claim for a tax credit where a person makes or persons make a claim for child tax credit or working tax credit and on the date on which he or she (or they) makes or make the claim he or she (or they) has or have an award of working tax credit or child tax credit respectively.

(7) Paragraph (1) does not apply to a claim for a tax credit where a person has or had, or persons have or had, an award of child tax credit or working tax credit in respect of a tax year and that person

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or those persons makes or make (or is or are treated as making) a claim for that tax credit for the next tax year.

(8) For the purposes of this regulation—

- (a) “polygamous marriage” has the same meaning as in regulation 3(5) of the Universal Credit Regulations;
- (b) “State Pension Credit Act couple” means a couple as defined in section 17(1) of the State Pension Credit Act 2002,

and a reference to the date on which a claim for a tax credit is made is a reference to the date on which such claim is made or treated as made as provided for in the Tax Credits (Claims and Notifications) Regulations 2002.]

Textual Amendments

F12 Reg. 6A inserted (25.7.2022) by [The Universal Credit \(Transitional Provisions\) Amendment Regulations 2022 \(S.I. 2022/752\)](#), regs. 1(1), 4

Termination of awards of certain existing benefits: new claimant partners

7.—(1) This regulation applies where—

- (a) a person (“A”) who was previously entitled to universal credit ^{F13}... ceases to be so entitled on becoming a member of a couple;
- (b) the other member of the couple (“the new claimant partner”) was not entitled to universal credit ^{F14}... immediately before formation of the couple; [^{F15}and]
- (c) the couple is treated, in accordance with regulation 9(8) of the Claims and Payments Regulations, as having made a claim for universal credit; ^{F16}...

^{F16}(d)

(2) Subject to paragraphs (4) and (5), where this regulation applies, all awards of income support or housing benefit to which the new claimant partner would (were it not for the effect of these Regulations) have been entitled during the relevant period are to terminate, by virtue of this regulation—

- (a) on the day before the first date on which the joint claimants are entitled to universal credit in connection with the claim; or
- (b) if the joint claimants are not entitled to universal credit, on the day before the first date on which they would have been so entitled, if all of the basic and financial conditions applicable to them had been met; or
- (c) if the new claimant partner became entitled to an award after the date on which it would otherwise terminate under sub-paragraph (a) or (b), at the beginning of the first day of entitlement to that award.

(3) For the purposes of this regulation, “the relevant period” is the period starting with the first day of the assessment period (in relation to A's award of universal credit) during which A and the new claimant partner formed a couple and ending with the date of formation of the couple.

(4) Where the new claimant partner was entitled during the relevant period to income support, he or she was at that time a member of a couple and the award included an amount in respect of the new claimant partner and their partner at that time (“P”), the award of income support terminates, by virtue of this regulation, on the date on which the new claimant partner and P ceased to be a couple for the purposes of the Income Support (General) Regulations 1987, unless it terminates on that date in accordance with other legislative provision, or terminated on an earlier date.

(5) An award of housing benefit to which the new claimant partner is entitled does not terminate by virtue of this regulation where—

- (a) the award is in respect of [^{F17}specified accommodation][^{F18}or temporary accommodation];
^{F19}...
- (b) the new claimant partner leaves the accommodation in respect of which housing benefit was paid, in order to live with A [^{F20}]; or
- (c) the new claimant partner has reached the qualifying age for state pension credit and the award is made in accordance with the 2006 (SPC) Regulations]

(6) Where an award terminates by virtue of this regulation, any legislative provision under which the award terminates on a later date does not apply.

(7) Where the new claimant partner was, immediately before forming a couple with A, treated by regulation 11 as being entitled to a tax credit, the new claimant partner is to be treated, for the purposes of the 2002 Act, as having made a claim for the tax credit in question for the current tax year.

Textual Amendments

- F13** Words in reg. 7(1)(a) omitted 26.11.2014 by The Universal Credit (Digital Service) Amendment Regulations 2014 [S.I. 2014/2887](#), [reg. 1](#), 3(3)
- F14** Words in reg. 7(1)(b) omitted 26.11.2014 by The Universal Credit (Digital Service) Amendment Regulations 2014 [S.I. 2014/2887](#), [reg. 1](#), 3(3)
- F15** Word in [reg. 7\(1\)\(b\)](#) inserted (25.7.2022) by [The Universal Credit \(Transitional Provisions\) Amendment Regulations 2022 \(S.I. 2022/752\)](#), [regs. 1\(1\)](#), [5\(2\)\(a\)](#)
- F16** [Reg. 7\(1\)\(d\)](#) and word omitted (25.7.2022) by virtue of [The Universal Credit \(Transitional Provisions\) Amendment Regulations 2022 \(S.I. 2022/752\)](#), [regs. 1\(1\)](#), [5\(2\)\(b\)](#)
- F17** Words in reg. 7(5)(a) substituted (3.11.2014) by [The Universal Credit \(Transitional Provisions\) \(Amendment\) Regulations 2014 \(S.I. 2014/1626\)](#), [reg. 1\(2\)](#), 3(2)(c)
- F18** Words in reg. 7(5)(a) inserted (11.4.2018) by [The Universal Credit \(Miscellaneous Amendments, Saving and Transitional Provision\) Regulations 2018 \(S.I. 2018/65\)](#), [regs. 1\(4\)](#), [6\(6\)\(b\)](#) (with [reg. 8\(2\)\(3\)](#))
- F19** Word in [reg. 7\(5\)\(a\)](#) omitted (25.11.2020) by virtue of [The Universal Credit \(Persons who have attained state pension credit qualifying age\) \(Amendment\) Regulations 2020 \(S.I. 2020/655\)](#), [regs. 1\(2\)](#), [6\(5\)\(a\)](#)
- F20** [Reg. 7\(5\)\(c\)](#) and word inserted (25.11.2020) by [The Universal Credit \(Persons who have attained state pension credit qualifying age\) \(Amendment\) Regulations 2020 \(S.I. 2020/655\)](#), [regs. 1\(2\)](#), [6\(5\)\(b\)](#)

Termination of awards of certain existing benefits: other claimants

8.—(1) This regulation applies where—

- (a) a claim for universal credit (other than a claim which is treated, in accordance with regulation 9(8) of the Claims and Payments Regulations, as having been made) is made [^{F21}, whether or not subsequently withdrawn]; ^{F22}...

^{F22}(b)

(2) [^{F23}Where] this regulation applies, all awards of ^{F24}...a tax credit to which the claimant (or, in the case of joint claimants, either of them) is entitled on the date on which the claim is made are to terminate, by virtue of this regulation—

- (a) on the day before the first date on which the claimant is entitled to universal credit in connection with the claim; or

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- (b) if the claimant is not entitled to universal credit, on the day before the first date on which he or she would have been so entitled, if all of the basic and financial conditions applicable to the claimant had been met.

[^{F25}(2A) Subject to paragraph (3), where this regulation applies, an award of [^{F26}income support or] housing benefit to which the claimant is entitled on the day mentioned in paragraph (2)(a) or (b) terminates on the last day of the period of two weeks beginning with the day after that day (whether or not the person is also entitled to an award of ^{F27}... a tax credit).]

[^{F28}(2B) This regulation does not apply in the case of a single claimant who has reached the qualifying age for state pension credit or in the case of joint claimants who have both reached the qualifying age for state pension credit.]

(3) An award of housing benefit to which a claimant is entitled in respect of [^{F29}specified accommodation][^{F30}or temporary accommodation] does not terminate by virtue of this regulation.

(4) Where this regulation applies and the claimant (or, in the case of joint claimants, either of them) is treated by regulation 11 as being entitled to a tax credit—

- (a) the claimant (or, as the case may be, the relevant claimant) is to be treated, for the purposes of the 2002 Act and this regulation, as having made a claim for the tax credit in question for the current tax year; and
- (b) if the claimant (or the relevant claimant) is entitled on the date on which the claim for universal credit was made to an award of a tax credit which is made in respect of a claim which is treated as having been made by virtue of sub-paragraph (a), that award is to terminate, by virtue of this regulation—
 - (i) on the day before the first date on which the claimant is entitled to universal credit; or
 - (ii) if the claimant is not entitled to universal credit, on the day before the first date on which he or she would have been so entitled, if all of the basic and financial conditions applicable to the claimant had been met.

(5) Where an award terminates by virtue of this regulation, any legislative provision under which the award terminates on a later date does not apply.

Textual Amendments

- F21** Words in [reg. 8\(1\)\(a\)](#) inserted (25.7.2022) by [The Universal Credit \(Transitional Provisions\) Amendment Regulations 2022 \(S.I. 2022/752\)](#), regs. 1(1), **5(3)(a)**
- F22** [Reg. 8\(1\)\(b\)](#) and word omitted (25.7.2022) by virtue of [The Universal Credit \(Transitional Provisions\) Amendment Regulations 2022 \(S.I. 2022/752\)](#), regs. 1(1), **5(3)(b)**
- F23** Word in [reg. 8\(2\)](#) substituted (11.4.2018) by [The Universal Credit \(Miscellaneous Amendments, Saving and Transitional Provision\) Regulations 2018 \(S.I. 2018/65\)](#), regs. 1(4), **6(7)(a)(i)**
- F24** Words in [reg. 8\(2\)](#) omitted (22.7.2020) by virtue of [The Universal Credit \(Managed Migration Pilot and Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1152\)](#), regs. 1(3), **4(3)(a)**
- F25** [Reg. 8\(2A\)](#) inserted (11.4.2018) by [The Universal Credit \(Miscellaneous Amendments, Saving and Transitional Provision\) Regulations 2018 \(S.I. 2018/65\)](#), regs. 1(4), **6(7)(b)**
- F26** Words in [reg. 8\(2A\)](#) inserted (22.7.2020) by [The Universal Credit \(Managed Migration Pilot and Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1152\)](#), regs. 1(3), **4(3)(b)**
- F27** Words in [reg. 8\(2A\)](#) omitted (22.7.2020) by virtue of [The Universal Credit \(Managed Migration Pilot and Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1152\)](#), regs. 1(3), **4(3)(b)**
- F28** [Reg. 8\(2B\)](#) inserted (25.7.2022) by [The Universal Credit \(Transitional Provisions\) Amendment Regulations 2022 \(S.I. 2022/752\)](#), regs. 1(1), **5(3)(c)**
- F29** Words in [reg. 8\(3\)](#) substituted (3.11.2014) by [The Universal Credit \(Transitional Provisions\) \(Amendment\) Regulations 2014 \(S.I. 2014/1626\)](#), reg. 1(2), 3(2)(d)

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F30 Words in reg. 8(3) inserted (11.4.2018) by [The Universal Credit \(Miscellaneous Amendments, Saving and Transitional Provision\) Regulations 2018 \(S.I. 2018/65\)](#), regs. 1(4), **6(7)(c)** (with reg. 8(2)(3))

[^{F31}Transitional housing payment

- 8A.** Where an award of housing benefit terminates under regulation 8 [^{F32}or 46]—
- (a) the claimant is to be treated for the purposes of the Housing Benefit Regulations 2006 as entitled to universal credit during the period of two weeks mentioned in regulation 8(2A) [^{F33}or 46(1)], even if no decision has been made on the claim; ^{F34}...
 - (b) if a claim for universal credit is made because the claimant moves to new accommodation occupied as the claimant's home, then, notwithstanding anything in the Housing Benefit Regulations 2006, housing benefit is to be paid directly to the claimant during the period of two weeks mentioned in regulation 8(2A) [^{F35}or 46(1)] [^{F36}; and]
 - [if a claim for universal credit is made by a notified person then, notwithstanding anything ^{F36}(c) in the Housing Benefit Regulations 2006, the weekly amount of housing benefit to which the person is entitled for that period of two weeks is the same as the weekly amount they were entitled to on the first day of that period.]]

Textual Amendments

- F31** Reg. 8A inserted (11.4.2018) by [The Universal Credit \(Miscellaneous Amendments, Saving and Transitional Provision\) Regulations 2018 \(S.I. 2018/65\)](#), regs. 1(4), **6(8)**
- F32** Words in [reg. 8A](#) substituted (25.7.2022) by [The Universal Credit \(Transitional Provisions\) Amendment Regulations 2022 \(S.I. 2022/752\)](#), reg. 1(1), **Sch. para. 1(4)**
- F33** Words in [reg. 8A\(a\)](#) substituted (25.7.2022) by [The Universal Credit \(Transitional Provisions\) Amendment Regulations 2022 \(S.I. 2022/752\)](#), reg. 1(1), **Sch. para. 1(4)**
- F34** Word in [reg. 8A\(a\)](#) omitted (24.7.2019) by virtue of [The Universal Credit \(Managed Migration Pilot and Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1152\)](#), regs. 1(2), **3(5)(c)**
- F35** Words in [reg. 8A\(b\)](#) substituted (25.7.2022) by [The Universal Credit \(Transitional Provisions\) Amendment Regulations 2022 \(S.I. 2022/752\)](#), reg. 1(1), **Sch. para. 1(4)**
- F36** Reg. 8A(c) and word inserted (24.7.2019) by [The Universal Credit \(Managed Migration Pilot and Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1152\)](#), regs. 1(2), **3(5)(c)**

[^{F37}Effect on universal credit award of two week run-on of income support, income-based jobseeker's allowance and income-related employment and support allowance

8B. In a case where an award of income support, income-based jobseeker's allowance or income-related employment and support allowance is to continue for two weeks after the commencement of an award of universal credit by virtue of regulation 8(2A) [^{F38}or 46(1)] or by virtue of regulation 5 (two week run-on of income-based jobseeker's allowance and income-related employment and support allowance: day appointed for abolition) of the Universal Credit (Managed Migration Pilot and Miscellaneous Amendments) Regulations 2019—

- (a) regulation 79 of the Universal Credit Regulations applies as if the benefit in question was not included in the list of welfare benefits in section 96(10) of the Act (benefit cap); and
- (b) in a case where the claimant has become entitled to an award of new style JSA or new style ESA on the termination of an award of income-based jobseeker's allowance or income-related employment and support allowance, the claimant is to be treated, for the purposes of regulation 73 of the Universal Credit Regulations (unearned income calculated

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monthly), as if they had been entitled to that award of new style JSA or new style ESA from the first day of the award of universal credit.]

Textual Amendments

- F37** Reg. 8B inserted (22.7.2020) by [The Universal Credit \(Managed Migration Pilot and Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1152\)](#), regs. 1(3), **4(4)**
- F38** Words in reg. 8B substituted (25.7.2022) by [The Universal Credit \(Transitional Provisions\) Amendment Regulations 2022 \(S.I. 2022/752\)](#), reg. 1(1), **Sch. para. 1(5)**

Treatment of ongoing entitlement to certain benefits: benefit cap

9.—(1) This regulation applies where a claimant who is a new claimant partner, or who has (in accordance with regulation 26 of [^{F39}the Claims and Payments Regulations]) been awarded universal credit in respect of a period preceding the date on which the claim for universal credit was made or treated as made—

- (a) is entitled, in respect of the whole or part of the first assessment period for universal credit, to a welfare benefit (other than universal credit) mentioned in [^{F40}section 96(10) of the Act (benefit cap)]; and
- (b) is entitled to housing benefit at any time during the first assessment period for universal credit, or would be so entitled were it not for the effect of these Regulations.

(2) Where this regulation applies, regulation 79 of the Universal Credit Regulations applies, in relation to the claimant, as if the benefit in question was not included in the list of welfare benefits in [^{F41}section 96(10) of the Act].

Textual Amendments

- F39** Words in reg. 9(1) substituted (29.6.2023) by [The Social Security and Universal Credit \(Miscellaneous Amendments\) Regulations 2023 \(S.I. 2023/543\)](#), regs. 1(1), **6(2)**
- F40** Words in reg. 9(1)(a) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Benefit Cap \(Housing Benefit and Universal Credit\) \(Amendment\) Regulations 2016 \(S.I. 2016/909\)](#), regs. 1(1), **5(a)**
- F41** Words in reg. 9(2) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Benefit Cap \(Housing Benefit and Universal Credit\) \(Amendment\) Regulations 2016 \(S.I. 2016/909\)](#), regs. 1(1), **5(b)**

Treatment of overpayments

10.—(1) This regulation applies where—

- (a) an award of universal credit is made to a claimant who was previously entitled to an existing benefit other than a tax credit or a joint-claim jobseeker's allowance; and
- (b) a payment of the existing benefit is made which includes payment (“the overpayment”) in respect of a period—
 - (i) during which the claimant is not entitled to that benefit (including non-entitlement which arises from termination of an award by virtue of an order made under section 150(3) of the Act or regulation 7, 8, or 14); and
 - (ii) which falls within an assessment period for universal credit.

(2) Where this regulation applies, for the purposes of calculating the amount of an award of universal credit in respect of an assessment period—

- (a) regulation 66 of the Universal Credit Regulations (what is included in unearned income?) applies as if the overpayment which was made in respect of that assessment period were added to the descriptions of unearned income in paragraph (1)(b) of that regulation; and
- (b) regulation 73 of the Universal Credit Regulations (unearned income calculated monthly) does not apply to the overpayment.

(3) In so far as any overpayment is taken into account in calculating the amount of an award of universal credit in accordance with this regulation, that payment may not be recovered as an overpayment under—

- (a) the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988^{M3};
- (b) the Housing Benefit Regulations 2006^{M4}; or
- (c) [F42the 2006 (SPC) Regulations].

Textual Amendments

F42 Words in [reg. 10\(3\)\(c\)](#) substituted (25.11.2020) by [The Universal Credit \(Persons who have attained state pension credit qualifying age\) \(Amendment\) Regulations 2020 \(S.I. 2020/655\)](#), regs. 1(2), **6(6)**

Marginal Citations

M3 [S.I. 1988/664](#).

M4 See regulations 99 to 107, as amended.

[F43Arrears of benefit disregarded as capital

10A.—(1) This regulation applies in relation to the calculation of an award of universal credit (the “current award”) where the claimant has received a payment of arrears of benefit [F44or armed forces independence payment], or a payment made to compensate for arrears due to the non-payment of benefit [F44or armed forces independence payment], of £5,000 or more, and the following conditions are met—

- (a) the payment—
 - (i) is received during the current award; or
 - (ii) was received during an award of an existing benefit or state pension credit (the “earlier award”) and the claimant became entitled to the current award within one month of the date of termination of the earlier award;
- (b) in the case of a payment falling within sub-paragraph (a)(i), it would be disregarded from the calculation of the claimant’s capital if the claimant were entitled to an existing benefit or state pension credit;
- (c) in the case of a payment falling within sub-paragraph (a)(ii), it was disregarded from the calculation of the claimant’s capital for the purposes of the earlier award; and
- (d) the period of entitlement to benefit [F45or armed forces independence payment] to which the payment relates commences before the first date on which, by virtue of section 33 of the Act (abolition of benefits), no claimant is entitled to an existing benefit.

(2) Where this regulation applies, notwithstanding anything in the Universal Credit Regulations, the payment is to be disregarded from the calculation of the claimant’s capital for 12 months from the date of receipt of the payment, or until the termination of the current award (if later).]

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[^{F46}(3) “Armed forces independence payment” means armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011.]

Textual Amendments

- F43** Reg. 10A inserted (11.9.2018) by [The Social Security \(Treatment of Arrears of Benefit\) Regulations 2018 \(S.I. 2018/932\)](#), regs. 1, **8**
- F44** Words in reg. 10A(1) inserted (31.10.2019) by [The Social Security \(Capital Disregards\) \(Amendment\) Regulations 2019 \(S.I. 2019/1314\)](#), regs. 1, **9(2)(a)(i)**
- F45** Words in reg. 10A(1)(d) inserted (31.10.2019) by [The Social Security \(Capital Disregards\) \(Amendment\) Regulations 2019 \(S.I. 2019/1314\)](#), regs. 1, **9(2)(a)(ii)**
- F46** Reg. 10A(3) inserted (31.10.2019) by [The Social Security \(Capital Disregards\) \(Amendment\) Regulations 2019 \(S.I. 2019/1314\)](#), regs. 1, **9(2)(b)**

[^{F47}Arrears of maternity allowance disregarded as capital

10B.—(1) This regulation applies in relation to the calculation of an award of universal credit where—

- (a) the conditions set out in regulation 10A(1)(a) to (d) are met; and
- (b) the claimant has received a payment of arrears of maternity allowance, or a payment made to compensate for arrears due to the non-payment of maternity allowance, of under £5,000.

(2) Where this regulation applies, notwithstanding anything in the Universal Credit Regulations, the payment is to be disregarded from the calculation of the claimant’s capital for 12 months from the date of receipt of the payment.

(3) “Maternity allowance” means a maternity allowance under section 35 of the Social Security Contributions and Benefits Act 1992 (state maternity allowance for employed or self-employed earner).]

Textual Amendments

- F47** Reg. 10B inserted (31.10.2019) by [The Social Security \(Capital Disregards\) \(Amendment\) Regulations 2019 \(S.I. 2019/1314\)](#), regs. 1, **9(3)**

[^{F48}Compensatory payment disregarded as capital

10C.—(1) This regulation applies in relation to the calculation of an award of universal credit where—

- (a) the claimant has received a payment made to rectify, or to compensate for, an error made by an officer of the Department for Work and Pensions which was not caused or materially contributed to by any person outside the Department and which prevented or delayed an assessment of the claimant’s entitlement to contributory employment and support allowance; and
- (b) the payment is received before the first date on which, by virtue of section 33 of the Act (abolition of benefits), no claimant is entitled to an existing benefit.

(2) Where this regulation applies and the amount of the payment is less than £5,000, the payment is to be disregarded from the calculation of the claimant’s capital for 12 months from the date of receipt of the payment.

(3) Where—

- (a) this regulation applies;
- (b) the amount of the payment is £5,000 or more; and
- (c) the conditions set out in regulation 10A(1)(a) and (c) are met,

the payment is to be disregarded from the calculation of the claimant's capital for 12 months from the date of receipt of the payment, or until the termination of the current award (if later).]

Textual Amendments

F48 Reg. 10C inserted (15.7.2020) by [The Social Security \(Income and Capital\) \(Miscellaneous Amendments\) Regulations 2020 \(S.I. 2020/618\)](#), regs. 1, 9

Ongoing awards of tax credits

11.—(1) For the purposes of [^{F49}these Regulations]—

- (a) a person is to be treated as being entitled to working tax credit with effect from the start of the current tax year even though a decision has not been made under section 14 of the 2002 Act in respect of a claim for that tax credit for that tax year, if the person was entitled to working tax credit for the previous tax year and any of the cases specified in paragraph (2) applies; and
- (b) a person is to be treated as being entitled to child tax credit with effect from the start of the current tax year even though a decision has not been made under section 14 of the 2002 Act in respect of a claim for that tax credit for that tax year, if the person was entitled to child tax credit for the previous tax year and any of the cases specified in paragraph (2) applies.

[^{F50}and references to an award of a tax credit are to be read accordingly]

(2) The cases are—

- (a) a final notice has not been given to the person under section 17 of the 2002 Act in respect of the previous tax year;
- (b) a final notice has been given, which includes provision by virtue of subsection (2) or (4) of section 17, or a combination of those subsections and subsection (6) and—
 - (i) the date specified in the notice for the purposes of section 17(2) and (4) or, where different dates are specified, the later of them, has not yet passed and no claim for a tax credit for the current tax year has been made, or treated as made; or
 - (ii) a claim for a tax credit has been made, or treated as made, on or before the date mentioned in paragraph (i), but no decision has been made in relation to that claim under section 14(1) of the 2002 Act;
- (c) a final notice has been given, no claim for a tax credit for the current year has been made, or treated as made, and no decision has been made under section 18(1) of the 2002 Act in respect of entitlement to a tax credit for the previous tax year; ^{F51}...

[^{F52}(ca) a final notice has been given and the person made a declaration in response to a requirement included in that notice by virtue of section 17(2)(a), (4)(a) or (6)(a), or any combination of those provisions—

- (i) by the date specified on the final notice;
- (ii) if not in accordance with paragraph (i), within 30 days following the date on the notice to the person that payments of tax credit under section 24(4) of the 2002 Act have ceased due to the person's failure to make the declaration by the date specified in the final notice; or

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- (iii) if not in accordance with paragraph (i) or (ii), before 31 January in the tax year following the period to which the final notice relates and, in the opinion of Her Majesty's Revenue and Customs, the person had good reason for not making the declaration in accordance with paragraph (i) or (ii); or]
- (d) a final notice has been given and—
 - (i) the person did not make a declaration in response to provision included in that notice by virtue of section 17(2)(a), (4)(a) or (6)(a), or any combination of those provisions, by the date specified in the notice;
 - (ii) the person was given due notice that payments of tax credit under section 24(4) of the 2002 Act had ceased due to his or her failure to make the declaration; and
 - (iii) the person's claim for universal credit is made during the period of 30 days starting with the date on the notice referred to in paragraph (ii) or, where the person is a new claimant partner, notification of formation of a couple with a person entitled to universal credit is given to the Secretary of State during that period.

Textual Amendments

- F49** Words in reg. 11(1) substituted (24.7.2019) by [The Universal Credit \(Managed Migration Pilot and Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1152\)](#), regs. 1(2), **3(6)**
- F50** Words in reg. 11(1) inserted (24.7.2019) by [The Universal Credit \(Managed Migration Pilot and Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1152\)](#), regs. 1(2), **3(6)**
- F51** Word in reg. 11(2)(c) omitted (14.2.2018) by virtue of [The Universal Credit \(Miscellaneous Amendments, Saving and Transitional Provision\) Regulations 2018 \(S.I. 2018/65\)](#), regs. 1(2), **6(9)(a)**
- F52** Reg. 11(2)(ca) inserted (14.2.2018) by [The Universal Credit \(Miscellaneous Amendments, Saving and Transitional Provision\) Regulations 2018 \(S.I. 2018/65\)](#), regs. 1(2), **6(9)(b)**

Modification of tax credits legislation: overpayments and penalties

12.—(1) This regulation applies where—

- (a) a claim for universal credit is made, or is treated as having been made; [^{F53}and]
- (b) the claimant is, or was at any time during the tax year in which the claim is made or treated as made, entitled to a tax credit; ^{F54}...

^{F54}(c)

(2) Where this regulation applies, the 2002 Act applies in relation to the claimant with the following modifications.

(3) In section 28—

(a) in subsection (1)—

(i) after “tax year” in both places where it occurs, insert “ or part tax year ”;

[^{F55}(ii) in paragraph (b), for the words from “as if it were” to the end substitute “as an overpayment of universal credit”];]

^{F56}(b)

(c) omit subsection (5);

(d) in subsection (6) omit “(apart from subsection (5))”.

^{F57}(4)

(5) In section 48 after the definition of “overpayment” insert—

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““part tax year” means a period of less than a year beginning with 6th April and ending with the date on which the award of a tax credit terminated,”.

(6) In Schedule 2, in paragraph 6(1)(a) and (c) and (2)(a), after “for the tax year” insert “ or part tax year ”.

Textual Amendments

- F53** Word in [reg. 12\(1\)\(a\)](#) inserted (25.7.2022) by [The Universal Credit \(Transitional Provisions\) Amendment Regulations 2022 \(S.I. 2022/752\)](#), regs. 1(1), **5(4)(a)**
- F54** [Reg. 12\(1\)\(c\)](#) and word omitted (25.7.2022) by virtue of [The Universal Credit \(Transitional Provisions\) Amendment Regulations 2022 \(S.I. 2022/752\)](#), regs. 1(1), **5(4)(b)**
- F55** [Reg. 12\(3\)\(a\)\(ii\)](#) substituted (25.9.2017) by [The Tax Credits \(Exercise of Functions in relation to Northern Ireland and Notices for Recovery of Tax Credit Overpayments\) Order 2017 \(S.I. 2017/781\)](#), arts. 1, **7(2)(a)**
- F56** [Reg. 12\(3\)\(b\)](#) omitted (25.9.2017) by virtue of [The Tax Credits \(Exercise of Functions in relation to Northern Ireland and Notices for Recovery of Tax Credit Overpayments\) Order 2017 \(S.I. 2017/781\)](#), arts. 1, **7(2)(b)**
- F57** [Reg. 12\(4\)](#) omitted (25.9.2017) by virtue of [The Tax Credits \(Exercise of Functions in relation to Northern Ireland and Notices for Recovery of Tax Credit Overpayments\) Order 2017 \(S.I. 2017/781\)](#), arts. 1, **7(3)**

[^{F58}Modification of tax credits legislation: finalisation of tax credits

12A.—(1) This regulation applies where—

- (a) a claim for universal credit is made, or is treated as having been made; [^{F59}and]
- (b) the claimant is, or was at any time during the tax year in which the claim is made or treated as made, entitled to a tax credit; ^{F60}...

^{F60}(c)

(2) Subject to paragraph (3), where this regulation applies, the amount of the tax credit to which the person is entitled is to be calculated in accordance with the 2002 Act and regulations made under that Act, as modified by the Schedule to these Regulations (“the modified legislation”).

(3) Where, in the opinion of the Commissioners for Her Majesty’s Revenue and Customs, it is not reasonably practicable to apply the modified legislation in relation to any case or category of cases, the 2002 Act and regulations made under that Act are to apply without modification in that case or category of cases.]

Textual Amendments

- F58** [Reg. 12A](#) inserted (13.10.2014) by [The Universal Credit \(Transitional Provisions\) \(Amendment\) Regulations 2014 \(S.I. 2014/1626\)](#), reg. 1(2), 4(1)
- F59** Word in [reg. 12A\(1\)\(a\)](#) inserted (25.7.2022) by [The Universal Credit \(Transitional Provisions\) Amendment Regulations 2022 \(S.I. 2022/752\)](#), regs. 1(1), **5(5)(a)**
- F60** [Reg. 12A\(1\)\(c\)](#) and word omitted (25.7.2022) by virtue of [The Universal Credit \(Transitional Provisions\) Amendment Regulations 2022 \(S.I. 2022/752\)](#), regs. 1(1), **5(5)(b)**

Appeals etc relating to certain existing benefits

13.—(1) This regulation applies where, after an award of universal credit has been made to a claimant—

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- (a) an appeal against a decision relating to the entitlement of the claimant to income support, housing benefit or a tax credit (a “relevant benefit”) is finally determined;
- (b) a decision relating to the claimant's entitlement to income support is revised under section 9 of the Social Security Act 1998 (“the 1998 Act”) or superseded under section 10 of that Act;
- (c) a decision relating to the claimant's entitlement to housing benefit is revised or superseded under Schedule 7 to the Child Support, Pensions and Social Security Act 2000 ^{M5}; or
- (d) a decision relating to the claimant's entitlement to a tax credit is revised under section 19 or 20 of the 2002 Act, or regulations made under section 21 of that Act, or is varied or cancelled under section 21A of that Act ^{M6}.

(2) Where the claimant is a new claimant partner and, as a result of determination of the appeal or, as the case may be, revision or supersession of the decision the claimant would (were it not for the effect of these Regulations) be entitled to income support or housing benefit during the relevant period mentioned in regulation 7(3), awards of those benefits are to terminate in accordance with regulation 7.

(3) Where the claimant is not a new claimant partner and, as a result of determination of the appeal or, as the case may be, revision, supersession, variation or cancellation of the decision, the claimant would (were it not for the effect of these Regulations) be entitled to a relevant benefit on the date on which the claim for universal credit was made, awards of relevant benefits are to terminate in accordance with regulation 8 [^{F61}or 46].

(4) The Secretary of State is to consider whether it is appropriate to revise under section 9 of the 1998 Act the decision in relation to entitlement to universal credit or, if that decision has been superseded under section 10 of that Act, the decision as so superseded (in either case, “the UC decision”).

(5) Where it appears to the Secretary of State to be appropriate to revise the UC decision, it is to be revised in such manner as appears to the Secretary of State to be necessary to take account of—

- (a) the decision of the First-tier Tribunal, Upper Tribunal or court, or, as the case may be, the decision relating to entitlement to a relevant benefit, as revised, superseded, varied or cancelled; and
- (b) any finding of fact by the First-tier Tribunal, Upper Tribunal or court.

Textual Amendments

F61 Words in [reg. 13\(3\)](#) substituted (25.7.2022) by [The Universal Credit \(Transitional Provisions\) Amendment Regulations 2022 \(S.I. 2022/752\)](#), [reg. 1\(1\)](#), [Sch. para. 1\(6\)](#)

Marginal Citations

M5 [2000 c.19](#).

M6 Section 21A was inserted by [S.I. 2014/886](#).

Appeals etc relating to universal credit

14.—(1) This regulation applies where—

- (a) a decision is made that a claimant is not entitled to universal credit (“the UC decision”);
- (b) the claimant becomes entitled to income support, housing benefit or a tax credit (a “relevant benefit”);
- (c) an appeal against the UC decision is finally determined, or the decision is revised under section 9 of the Social Security Act 1998;

- (d) an award of universal credit is made to the claimant in consequence of entitlement arising from the appeal, or from the decision as revised; and
 - (e) the claimant would (were it not for the effect of regulation 5 and this regulation) be entitled to both universal credit and a relevant benefit in respect of the same period.
- (2) Subject to paragraph (3), where this regulation applies—
- (a) all awards of a relevant benefit to which the claimant would (were it not for the effect of these Regulations) be entitled are to terminate, by virtue of this regulation, at the beginning of the first day of entitlement to that award; and
 - (b) any legislative provision [^{F62}except regulation 8(2A)] under which an award would otherwise terminate on a later date does not apply.
- (3) An award of housing benefit to which a claimant is entitled in respect of [^{F63}specified accommodation][^{F64}or temporary accommodation] does not terminate by virtue of this regulation.

Textual Amendments

- F62** Words in reg. 14(2)(b) inserted (11.4.2018) by [The Universal Credit \(Miscellaneous Amendments, Saving and Transitional Provision\) Regulations 2018 \(S.I. 2018/65\)](#), regs. 1(4), **6(10)(a)**
- F63** Words in reg. 14(3) substituted (3.11.2014) by [The Universal Credit \(Transitional Provisions\) \(Amendment\) Regulations 2014 \(S.I. 2014/1626\)](#), reg. 1(2), 3(2)(e)
- F64** Words in reg. 14(3) inserted (11.4.2018) by [The Universal Credit \(Miscellaneous Amendments, Saving and Transitional Provision\) Regulations 2018 \(S.I. 2018/65\)](#), regs. 1(4), **6(10)(b)** (with reg. 8(2)(3))

CHAPTER 3

EFFECT OF TRANSITION TO UNIVERSAL CREDIT

Modification of Claims and Payments Regulations in relation to universal credit claimants

15.—(1) Where a claim for universal credit is made by a person who was previously entitled to an existing benefit, regulation 26 of the Claims and Payments Regulations (time within which a claim for universal credit is to be made) applies in relation to that claim with the modification specified in paragraph (2).

(2) In paragraph (3) of regulation 26, after sub-paragraph (a) insert—

- “(aa) the claimant was previously in receipt of an existing benefit (as defined in the Universal Credit (Transitional Provisions) Regulations 2014) and notification of expiry of entitlement to that benefit was not sent to the claimant before the date that the claimant's entitlement expired;”.

Persons unable to act

16.—(1) Paragraph (2) applies where—

- (a) a person (“P2”) has been appointed, or treated as appointed, under regulation 33(1) of the Social Security (Claims and Payments) Regulations 1987 ^{M7} (“the 1987 Regulations”) (persons unable to act) to exercise rights and to receive and deal with sums payable on behalf of a person who is unable to act (“P1”); or
- (b) a person (“P2”) has been appointed under regulation 18(3) of the Tax Credits (Claims and Notifications) Regulations 2002 (“the 2002 Regulations”) (circumstances where one person may act for another in making a claim – other appointed persons) to act for a person who is unable to act (“P1”) in making a claim for a tax credit.

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(2) Where this paragraph applies and P1 is, or may be, entitled to universal credit, the Secretary of State may, if P2 agrees, treat the appointment of P2 as if it were made under regulation 57(1) of the Claims and Payments Regulations (persons unable to act) and P2 may carry out the functions set out in regulation 57(4) of those Regulations in relation to P1.

(3) Paragraph (4) applies where a person (“P2”) was appointed, or treated as appointed, under regulation 57(1) of the Claims and Payments Regulations to carry out functions in relation to a person who is unable to act (“P1”) and who was, or might have been, entitled to universal credit, but who has ceased to be so entitled, or was not in fact so entitled.

(4) Where this paragraph applies—

- (a) the Secretary of State may, if P2 agrees, treat the appointment of P2 as if it were made under regulation 33(1) of the 1987 Regulations and P2 may exercise rights and receive and deal with sums payable in respect of existing benefits on behalf of P1; and
- (b) the Board (within the meaning of the 2002 Regulations) may, if P2 agrees, treat the appointment of P2 as if it were made under regulation 18(3) of the 2002 Regulations and P2 may act for P1 in making a claim for a tax credit.

Marginal Citations

M7 Regulation 33(1) has been amended by [S.I. 1999/2572](#), 2005/337 and 2007/2470.

Waiting days

^{F65}**16A.**

Textual Amendments

F65 Reg. 16A omitted (14.2.2018) by virtue of [The Universal Credit \(Miscellaneous Amendments, Saving and Transitional Provision\) Regulations 2018 \(S.I. 2018/65\)](#), regs. 1(2), **6(11)**

Advance payments of universal credit

17.—(1) This regulation applies where—

- (a) the Secretary of State is deciding a claim for universal credit, other than a claim which is treated as having been made, in accordance with regulation 9(8) of the Claims and Payments Regulations;
- (b) the claimant is, or was previously, entitled to an existing benefit (“the earlier award”); and
- (c) if the earlier award terminated before the date on which the claim for universal credit was made, the claim for universal credit was made during the period of one month starting with the date of termination.

(2) Where this regulation applies—

- (a) a single claimant may request an advance payment of universal credit;
- (b) joint claimants may jointly request such a payment,

at any time during the first assessment period for universal credit.

(3) Where a request has been made in accordance with this regulation, the Secretary of State may make an advance payment to the claimant, or joint claimants, of such amount in respect of universal credit as the Secretary of State considers appropriate.

(4) After an advance payment has been made under this regulation, payments of any award of universal credit to the claimant or, in the case of joint claimants, to either or both of them, may be reduced until the amount of the advance payment is repaid.

Deductions from benefits

18.—(1) This regulation applies where—

- (a) an award of universal credit is made to a claimant who—
 - (i) was entitled to income-based jobseeker's allowance, income-related employment and support allowance or income support (a “relevant award”) on the date on which the claim for universal credit was made or treated as made;
 - (ii) is a new claimant partner who was, immediately before forming a couple with a person entitled to universal credit, the partner of a person (“P”) who was at that time entitled to a relevant award; or
 - (iii) is not a new claimant partner and was, immediately before making a claim for universal credit, the partner of a person (“P”) who was at that time entitled to a relevant award, where the award of universal credit is not a joint award to the claimant and P; and
- (b) on the relevant date, deductions in respect of fuel costs or water charges were being made under regulation 35 of the Social Security (Claims and Payments) Regulations 1987, in accordance with Schedule 9 to those Regulations ^{M8}.

(2) In this regulation, the “relevant date” means—

- (a) where paragraph (1)(a)(i) applies and the claimant is not a new claimant partner, the date on which the claim for universal credit was made;
- (b) where paragraph (1)(a)(i) applies and the claimant is a new claimant partner, the date on which the claim for universal credit was treated as made;
- (c) where paragraph (1)(a)(ii) or (iii) applies, the date on which the claimant ceased to be the partner of P.

(3) Where this regulation applies, deductions in respect of fuel costs or, as the case may be, water charges, may be made from the award of universal credit in accordance with Schedule 6 to the Claims and Payments Regulations, without the need for any consent which would otherwise be required under paragraph 3(3) of that Schedule.

(4) For the purposes of this regulation, a deduction is to be taken into account even if the relevant award subsequently terminated by virtue of an order made under section 150(3) of the Act, regulation 7 or, as the case may be, regulation 8, before the date on which the deduction was first applied.

Marginal Citations

M8 Regulation 35 was substituted by [S.I. 1988/522](#) and amended by [S.I. 2001/18](#) and 2002/2441.

Transition from old style ESA

19.—(1) This regulation applies where—

- (a) an award of universal credit is made to a claimant who was entitled to old style ESA on the date on which the claim for universal credit was made or treated as made (“the relevant date”); and

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[^{F66}(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).]

(2) Where, on or before the relevant date, it had been determined that the claimant [^{F67}had limited capability for work (within the meaning of Part 1 of the 2007 Act)]—

^{F68}(a)

(b) the claimant is to be treated as having limited capability for work for the purposes of ^{F69}... section 21(1)(a) of [^{F70}the Act; and

(c) the claimant is to be treated as if the determination that they have limited capability for work, for the purposes of regulation 14(1)(b) of the Universal Credit Regulations, was made before the date on which the claimant started receiving education (see regulations 12(2) and 13 of the Universal Credit Regulations).]

^{F71}(3)

(4) Where, on or before the relevant date, it had been determined that the claimant [^{F72}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]—

(a) regulation 27(3) of the Universal Credit Regulations does not apply; ^{F73}...

(b) the claimant is to be treated as having limited capability for work and work-related activity for the purposes of regulation 27(1)(b) of those Regulations and section 19(2)(a) of [^{F74}the Act; and

(c) the claimant is to be treated as if the determination that they have limited capability for work and work-related activity, for the purposes of regulation 14(1)(b) of those Regulations, was made before the date on which the claimant started receiving education.]

(5) Unless the assessment phase applied and had not ended at the relevant date, in relation to a claimant who is treated as having limited capability for work and work-related activity under paragraph (4)(4)(b)—

(a) regulation 28 of the Universal Credit Regulations does not apply; and

(b) 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.

(6) For the purposes of this regulation, a determination that the claimant [^{F75}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)], is to be taken into account even if the award of old style ESA subsequently terminated (in so far as it was an award of income-related employment and support allowance) before the date on which that determination was made, by virtue of an order made under section 150(3) of the Act.

(7) Where a claimant is treated, by virtue of this regulation, as having limited capability for work or, as the case may be, limited capability for work and work-related activity, the Secretary of State may at any time make a fresh determination as to these matters, in accordance with the Universal Credit Regulations.

(8) In this regulation and in regulations 20 to 27—

[^{F76}“assessment phase” has the same meaning as in the 2007 Act ^{M9};

“incapacity benefit” and “severe disablement allowance” have the same meanings as in Schedule 4 to that Act;

[^{F77}“LCWRA element” has the same meaning as in the Universal Credit Regulations ^{M10}.]

(9) For the purposes of this regulation and regulation 20, references to cases in which the assessment phase applied are references to cases in which sections 2(2)(a) [^{F78}and 4(4)(a)] of the 2007 Act applied and references to cases in which the assessment phase did not apply are references to cases in which those sections did not apply ^{M11}.

[^{F79}(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 Employment and Support Allowance Regulations 2008 (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made).]

Textual Amendments

- F66** Reg. 19(1)(b) substituted (3.4.2017) by The Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017 (S.I. 2017/204), regs. 1, **5(2)(a)** (with Sch. 2 paras. 8-15)
- F67** Words in reg. 19(2) substituted (3.4.2017) by The Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017 (S.I. 2017/204), regs. 1, **5(2)(b)(i)** (with Sch. 2 paras. 8-15)
- F68** Reg. 19(2)(a) omitted (3.4.2017) by virtue of The Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017 (S.I. 2017/204), regs. 1, **5(2)(b)(ii)** (with Sch. 2 paras. 8-15)
- F69** Words in reg. 19(2)(b) omitted (3.4.2017) by virtue of The Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017 (S.I. 2017/204), regs. 1, **5(2)(b)(iii)** (with Sch. 2 paras. 8-15)
- F70** Words in reg. 19(2)(b) and reg. 19(2)(c) substituted for words in reg. 19(2)(b) (15.12.2021) by The Universal Credit (Exceptions to the Requirement not to be receiving Education) (Amendment) Regulations 2021 (S.I. 2021/1224), regs. 1(1), **3(a)** (with reg. 1(2))
- F71** Reg. 19(3) omitted (3.4.2017) by virtue of The Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017 (S.I. 2017/204), regs. 1, **5(2)(c)** (with Sch. 2 paras. 8-15)
- F72** Words in reg. 19(4) substituted (3.4.2017) by The Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017 (S.I. 2017/204), regs. 1, **5(2)(d)** (with Sch. 2 paras. 8-15)
- F73** Word in reg. 19(4)(a) omitted (15.12.2021) by virtue of The Universal Credit (Exceptions to the Requirement not to be receiving Education) (Amendment) Regulations 2021 (S.I. 2021/1224), regs. 1(1), **3(b)(i)** (with reg. 1(2))
- F74** Words in reg. 19(4)(b) and reg. 19(4)(c) substituted for words in reg. 19(4)(b) (15.12.2021) by The Universal Credit (Exceptions to the Requirement not to be receiving Education) (Amendment) Regulations 2021 (S.I. 2021/1224), regs. 1(1), **3(b)(ii)** (with reg. 1(2))
- F75** Words in reg. 19(6) substituted (3.4.2017) by The Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017 (S.I. 2017/204), regs. 1, **5(2)(e)** (with Sch. 2 paras. 8-15)
- F76** Words in reg. 19(8) substituted (3.4.2017) by The Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017 (S.I. 2017/204), regs. 1, **5(2)(f)(i)** (with Sch. 2 paras. 8-15)
- F77** Words in reg. 19(8) substituted (3.4.2017) by The Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017 (S.I. 2017/204), regs. 1, **5(2)(f)(ii)** (with Sch. 2 paras. 8-15)
- F78** Words in reg. 19(9) substituted (3.4.2017) by The Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017 (S.I. 2017/204), regs. 1, **5(2)(g)** (with Sch. 2 paras. 8-15)

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- F79** Reg. 19(10) inserted (3.4.2017) by [The Employment and Support Allowance and Universal Credit \(Miscellaneous Amendments and Transitional and Savings Provisions\) Regulations 2017 \(S.I. 2017/204\)](#), regs. 1, **5(2)(h)** (with Sch. 2 paras. 8-15)

Marginal Citations

- M9** See sections 2, 4 and 24(2).
M10 See regulation 27.
M11 For cases where those sections do not apply, see [S.I. 2008/794](#), **regulation 7**, amended by [S.I. 2008/3051](#), 2010/840 and 2012/874, 913 and 919.

Transition from old style ESA before the end of the assessment phase

20.—(1) This regulation applies where—

- (a) an award of universal credit is made to a claimant who was entitled to old style ESA on the date on which the claim for universal credit was made or treated as made (“the relevant date”); and
- (b) on the relevant date, the assessment phase in relation to the claimant applied ^{M12} and had lasted for less than 13 weeks.

(2) Where this regulation applies—

- (a) regulation 28(2) of the Universal Credit Regulations (period for which the ^{F80}... LCWRA element is not to be included) does not apply; and
- (b) for the purposes of regulation 28 of those Regulations, the relevant period is—
 - (i) the period of 13 weeks starting with the first day of the assessment phase; or
 - (ii) where regulation 5 of the Employment and Support Allowance Regulations 2008 (the assessment phase—previous claimants) applied to the claimant, the period which ends when the sum of the periods for which the claimant was previously entitled to old style ESA and the period for which the claimant is entitled to universal credit is 13 weeks.

(3) Where, on the relevant date, the assessment phase in relation to the claimant applied and had not ended and had lasted for more than 13 weeks—

- (a) regulation 28 of the Universal Credit Regulations does not apply;
- ^{F81}(b)
- (c) if it is subsequently determined in accordance with Part 5 of the Universal Credit Regulations that the claimant has limited capability for work and work-related activity the LCWRA element is (subject to the provisions of Part 4 of those Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period.

(4) For the purposes of this regulation, the fact that an assessment phase applied in relation to a claimant on the relevant date is to be taken into account even if the award of old style ESA subsequently terminated (in so far as it was an award of income-related employment and support allowance) before that date by virtue of an order made under section 150(3) of the Act.

Textual Amendments

- F80** Words in reg. 20(2)(a) omitted (3.4.2017) by virtue of [The Employment and Support Allowance and Universal Credit \(Miscellaneous Amendments and Transitional and Savings Provisions\) Regulations 2017 \(S.I. 2017/204\)](#), regs. 1, **5(3)(a)** (with Sch. 2 paras. 8-15)

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F81 Reg. 20(3)(b) omitted (3.4.2017) by virtue of [The Employment and Support Allowance and Universal Credit \(Miscellaneous Amendments and Transitional and Savings Provisions\) Regulations 2017 \(S.I. 2017/204\)](#), regs. 1, **5(3)(b)** (with Sch. 2 paras. 8-15)

Marginal Citations

M12 See regulation 19(8).

[^{F82}Transition from jobseeker's allowance following an extended period of sickness

20A.—(1) This regulation applies where—

- (a) the claimant's first day of entitlement to universal credit ("the relevant date"), immediately follows the claimant's last day of entitlement to a jobseeker's allowance; and
- (b) immediately before the relevant date, the claimant was treated as capable of work or as not having limited capability for work under regulation 55ZA of the Jobseeker's Allowance Regulations 1996 or regulation 46A of the Jobseeker's Allowance Regulations 2013 (extended period of sickness).

(2) Where this regulation applies—

- (a) regulation 28(2) of the Universal Credit Regulations (period for which ^{F83}... LCWRA element is not to be included) does not apply; and
- (b) for the purposes of regulation 28 of those Regulations, the relevant period is the period starting with the first day of the period for which the claimant was treated as capable of work or as not having limited capability for work as specified in paragraph (1)(b).]

Textual Amendments

F82 Reg. 20A inserted (30.3.2015) by [The Jobseeker's Allowance \(Extended Period of Sickness\) Amendment Regulations 2015 \(S.I. 2015/339\)](#), regs. 1, **6**

F83 Words in reg. 20A(2)(a) omitted (3.4.2017) by virtue of [The Employment and Support Allowance and Universal Credit \(Miscellaneous Amendments and Transitional and Savings Provisions\) Regulations 2017 \(S.I. 2017/204\)](#), regs. 1, **5(4)** (with Sch. 2 paras. 8-15)

Other claimants with limited capability for work: credits only cases

21.—(1) This regulation applies where—

- (a) an award of universal credit is made to a claimant who was entitled to be credited with earnings equal to the lower earnings limit then in force under regulation 8B(2)(iv), (iva) or (v) of the Social Security (Credits) Regulations 1975 ^{M13} ("the 1975 Regulations") on the date on which the claim for universal credit was made or treated as made (the "relevant date"); and
- (b) neither regulation 19 nor regulation 20 applies to that claimant (whether or not, in the case of joint claimants, either of those regulations apply to the other claimant).

(2) Where, on or before the relevant date, it had been determined that the claimant would have limited capability for work (within the meaning of Part 1 of the 2007 Act) if he or she was entitled to old style ESA—

^{F84}(a)

- (b) the claimant is to be treated as having limited capability for work for the purposes of ^{F85}... section 21(1)(a) of the Act.

^{F86}(3)

(4) Where, on or before the relevant date, it had been determined that the claimant would have limited capability for work-related activity (within the meaning of Part 1 of the 2007 Act) if he or she was entitled to old style ESA—

- (a) regulation 27(3) of the Universal Credit Regulations does not apply; and
- (b) the claimant is to be treated as having limited capability for work and work-related activity for the purposes of [^{F87}regulation 27(1)] of those Regulations and section 19(2)(a) of the Act.

(5) Unless the notional assessment phase applied and had lasted for less than 13 weeks at the relevant date, in relation to a claimant who is treated as having limited capability for work and work-related activity under paragraph (4)—

- (a) regulation 28 of the Universal Credit Regulations does not apply; and
- (b) 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.

(6) Where, on the relevant date, the notional assessment phase in relation to the claimant to whom the award was made applied and had lasted for less than 13 weeks—

- (a) regulation 28(2) of the Universal Credit Regulations does not apply; and
- (b) for the purposes of regulation 28 of those Regulations, the relevant period is the period of 13 weeks starting with the first day of the notional assessment phase.

(7) Where, on the relevant date, the notional assessment phase in relation to the claimant applied and had not ended and had lasted for more than 13 weeks—

- (a) regulation 28 of the Universal Credit Regulations does not apply;

^{F88}(b)

- (c) if it is subsequently determined in accordance with Part 5 of those Regulations that the claimant has limited capability for work and work-related activity, the LCWRA element is (subject to the provisions of Part 4 of those Regulations) to be included in the award of universal credit with effect from the beginning of the first assessment period.

(8) Where a claimant is treated, by virtue of this regulation, as having limited capability for work or, as the case may be, limited capability for work and work-related activity, the Secretary of State may at any time make a fresh determination as to these matters, in accordance with the Universal Credit Regulations.

(9) For the purposes of this regulation—

- (a) a determination that the claimant would have limited capability for work or, as the case may be, limited capability for work-related activity, if the claimant was entitled to old style ESA is to be taken into account even if the claimant subsequently ceased to be entitled as mentioned in paragraph (1)(a) before the date on which that determination was made because he or she became entitled to universal credit;
- (b) the fact that a notional assessment phase applied in relation to a claimant on the relevant date is to be taken into account even if the claimant subsequently ceased to be entitled as mentioned in paragraph (1)(a) before that date because the claimant became entitled to universal credit.
- (c) references to a determination that the claimant would have limited capability for work if the claimant was entitled to old style ESA do not include a determination made under regulation 30 of the Employment and Support Allowance Regulations 2008^{M14} (conditions

for treating a claimant as having limited capability for work until a determination about limited capability for work has been made);

- (d) references to cases in which the notional assessment phase applied are references to cases in which sections 2(2)(a) [^{F89} and 4(4)(a)] of the 2007 Act would have applied to the claimant if he or she had been entitled to old style ESA in addition to the entitlement mentioned in paragraph (1)(a), but do not include cases in which the claimant is entitled as mentioned in paragraph (1)(a) under regulation 8B(2)(iva) of the 1975 Regulations;
- (e) subject to sub-paragraph (f), the “notional assessment phase” is the period of 13 weeks starting on the day on which the assessment phase would have started in relation to the claimant, if he or she had been entitled to old style ESA and sections 2(2)(a) [^{F90} and 4(4)(a)] of the 2007 Act had applied;
- (f) the notional assessment phase has not ended if, at the end of the 13 week period referred to in sub-paragraph (e), no determination has been made as to whether a claimant would have limited capability for work (within the meaning of Part 1 of the 2007 Act) if the claimant was entitled to old style ESA.

Textual Amendments

- F84** Reg. 21(2)(a) omitted (3.4.2017) by virtue of [The Employment and Support Allowance and Universal Credit \(Miscellaneous Amendments and Transitional and Savings Provisions\) Regulations 2017 \(S.I. 2017/204\)](#), regs. 1, [5\(5\)\(a\)\(i\)](#) (with Sch. 2 paras. 8-15)
- F85** Words in reg. 21(2)(b) omitted (3.4.2017) by virtue of [The Employment and Support Allowance and Universal Credit \(Miscellaneous Amendments and Transitional and Savings Provisions\) Regulations 2017 \(S.I. 2017/204\)](#), regs. 1, [5\(5\)\(a\)\(ii\)](#) (with Sch. 2 paras. 8-15)
- F86** Reg. 21(3) omitted (3.4.2017) by virtue of [The Employment and Support Allowance and Universal Credit \(Miscellaneous Amendments and Transitional and Savings Provisions\) Regulations 2017 \(S.I. 2017/204\)](#), regs. 1, [5\(5\)\(b\)](#) (with Sch. 2 paras. 8-15)
- F87** Words in reg. 21(4)(b) substituted (29.6.2023) by [The Social Security and Universal Credit \(Miscellaneous Amendments\) Regulations 2023 \(S.I. 2023/543\)](#), regs. 1(1), [6\(3\)](#)
- F88** Reg. 21(7)(b) omitted (3.4.2017) by virtue of [The Employment and Support Allowance and Universal Credit \(Miscellaneous Amendments and Transitional and Savings Provisions\) Regulations 2017 \(S.I. 2017/204\)](#), regs. 1, [5\(5\)\(c\)](#) (with Sch. 2 paras. 8-15)
- F89** Words in reg. 21(9)(d) substituted (3.4.2017) by [The Employment and Support Allowance and Universal Credit \(Miscellaneous Amendments and Transitional and Savings Provisions\) Regulations 2017 \(S.I. 2017/204\)](#), regs. 1, [5\(5\)\(d\)](#) (with Sch. 2 paras. 8-15)
- F90** Words in reg. 21(9)(e) substituted (3.4.2017) by [The Employment and Support Allowance and Universal Credit \(Miscellaneous Amendments and Transitional and Savings Provisions\) Regulations 2017 \(S.I. 2017/204\)](#), regs. 1, [5\(5\)\(d\)](#) (with Sch. 2 paras. 8-15)

Marginal Citations

- M13** [S.I. 1975/556](#). Regulation 8B was inserted by [S.I. 1996/2367](#) and amended by [S.I. 2000/3120](#), [2003/521](#), [2008/1554](#), [2010/385](#), [2012/913](#) and [2013/630](#). Sub-paragraph (a)(iva) was inserted by [S.I. 2012/913](#).
- M14** Regulation 30 has been amended by [S.I. 2010/840](#) and [S.I. 2011/674](#).

Transition from income support payable on the grounds of incapacity for work or disability [^{F91} and other incapacity benefits]

22.—(1) This regulation applies where an award of universal credit is made to a claimant [^{F92} (other than a claimant to whom regulation 23 or 24 applies)] who was entitled to income support

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on the grounds of incapacity for work or disability on the date on which the claim for universal credit was made or treated as made [^{F93}or is entitled to incapacity benefit or severe disablement allowance].

(2) Where this regulation applies—

- (a) if it is determined in accordance with Part 5 of the Universal Credit Regulations that the claimant has limited capability for work—
 - (i) the claimant is to be treated as having had limited capability for work for the purposes of regulation 27(1)(a) of the Universal Credit Regulations (award to include LCW and LCWRA elements) from the beginning of the first assessment period;
 - (ii) regulation 28 of those Regulations (period for which the LCW or LCWRA element is not to be included) does not apply; and
 - (iii) the LCW element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award with effect from the beginning of the first assessment period;
- (b) if it is determined in accordance with Part 5 of the Universal Credit Regulations that the claimant has limited capability for work and work-related activity—
 - (i) the claimant is to be treated as having had limited capability for work and work-related activity for the purposes of regulation 27(1)(b) of the Universal Credit Regulations from the beginning of the first assessment period;
 - (ii) regulation 28 of those Regulations does not apply; and
 - (iii) 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.

(3) In this regulation—

“income support on the grounds of incapacity for work or disability” means an award of income support which is an “existing award” within the meaning of Schedule 4 to the 2007 Act.

Textual Amendments

- F91** Words in reg. 22 heading inserted (13.10.2014) by [The Universal Credit \(Transitional Provisions\) \(Amendment\) Regulations 2014 \(S.I. 2014/1626\)](#), [reg. 1\(2\)](#), 5(1)(a)
- F92** Words in reg. 22(1) inserted (13.10.2014) by [The Universal Credit \(Transitional Provisions\) \(Amendment\) Regulations 2014 \(S.I. 2014/1626\)](#), [reg. 1\(2\)](#), 5(1)(b)(i)
- F93** Words in reg. 22(1) inserted (13.10.2014) by [The Universal Credit \(Transitional Provisions\) \(Amendment\) Regulations 2014 \(S.I. 2014/1626\)](#), [reg. 1\(2\)](#), 5(1)(b)(ii)

Transition from other incapacity benefits^{F94}: assessment under the 2010 Regulations]

23.—(1) This regulation applies where—

- (a) an award of universal credit is made to a claimant who is entitled to incapacity benefit or severe disablement allowance^{M15}[^{F95}(“the relevant award”)]^{M15}; and
- [^{F96}(b) on or before the date on which the claim for universal credit is made or treated as made, a notice has been issued to the claimant under regulation 4 of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No.2) Regulations 2010 (“the 2010 Regulations”)^{M16} (notice commencing the conversion phase).]

[^{F97}(1A) Where this regulation applies, regulations 27(3) (award to include LCW and LCWRA elements) and 38 (determination of limited capability for work and work-related activity) of the

Universal Credit Regulations do not apply and the question whether a claimant has limited capability for work, or for work and work-related activity, is to be determined, for the purposes of the Act and the Universal Credit Regulations, in accordance with this regulation.]

(2) [^{F98}Where it is determined in accordance with the 2010 Regulations that the relevant award qualifies for conversion into an award in accordance with regulation 7 of those Regulations (qualifying for conversion) and that award includes the work-related activity component]—

- ^{F99}(a)
- (b) the claimant is to be treated as having had limited capability for work for the purposes of regulation 27(1)(a) of the Universal Credit Regulations from the beginning of the first assessment period;
 - (c) regulation 28(1) of those 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 section 21(1)(a) of the Act.

(3) [^{F100}Where it is determined in accordance with the 2010 Regulations that the relevant award qualifies for conversion into an award in accordance with regulation 7 of those Regulations and that award includes the support component]—

- ^{F101}(a)
- (b) the claimant is to be treated as having had limited capability for work and work-related activity for the purposes of regulation 27(1)(b) of the Universal Credit Regulations from the beginning of the first assessment period;
 - (c) regulation 28(1) of those 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 section 19(2)(a) of the Act.

Textual Amendments

- F94** Words in reg. 23 heading inserted (13.10.2014) by [The Universal Credit \(Transitional Provisions\) \(Amendment\) Regulations 2014 \(S.I. 2014/1626\)](#), [reg. 1\(2\)](#), 5(2)(a)
- F95** Words in reg. 23(1)(a) inserted (13.10.2014) by [The Universal Credit \(Transitional Provisions\) \(Amendment\) Regulations 2014 \(S.I. 2014/1626\)](#), [reg. 1\(2\)](#), 5(2)(b)(i)
- F96** Reg. 23(1)(b) substituted (13.10.2014) by [The Universal Credit \(Transitional Provisions\) \(Amendment\) Regulations 2014 \(S.I. 2014/1626\)](#), [reg. 1\(2\)](#), 5(2)(b)(ii)
- F97** Reg. 23(1A) inserted (13.10.2014) by [The Universal Credit \(Transitional Provisions\) \(Amendment\) Regulations 2014 \(S.I. 2014/1626\)](#), [reg. 1\(2\)](#), 5(2)(c)
- F98** Words in reg. 23(2) substituted (13.10.2014) by [The Universal Credit \(Transitional Provisions\) \(Amendment\) Regulations 2014 \(S.I. 2014/1626\)](#), [reg. 1\(2\)](#), 5(2)(d)(i)
- F99** Reg. 23(2)(a) omitted (13.10.2014) by [The Universal Credit \(Transitional Provisions\) \(Amendment\) Regulations 2014 \(S.I. 2014/1626\)](#), [reg. 1\(2\)](#), 5(2)(d)(ii)
- F100** Words in reg. 23(3) substituted (13.10.2014) by [The Universal Credit \(Transitional Provisions\) \(Amendment\) Regulations 2014 \(S.I. 2014/1626\)](#), [reg. 1\(2\)](#), 5(2)(e)(i)

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F101 Reg. 23(3)(a) omitted (13.10.2014) by [The Universal Credit \(Transitional Provisions\) \(Amendment\) Regulations 2014 \(S.I. 2014/1626\)](#), [reg. 1\(2\)](#), 5(2)(e)(ii)

Marginal Citations

M15 See regulation 19(8).

M16 [S.I. 2010/1907](#). Regulation 7 was amended by [S.I. 2010/2430](#) and 2012/913.

Transition from other incapacity benefits: claimants approaching pensionable age

24.—(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 (notice commencing the conversion phase) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No.2) Regulations 2010 (“the 2010 Regulations”);
- (c) the claimant will reach pensionable age (within the meaning of the 2010 Regulations ^{M17}) 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 ^{M18};
 - (ii) disability living allowance under section 71 of the Social Security Contributions and Benefits Act 1992 (“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 ^{M19}), 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—

- (a) regulation 27(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 27(1)(a) of those Regulations from the beginning of the first assessment period;
- (c) regulation 28(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 section 21(1)(a) of the Act.
- (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 2010 Regulations;
 - (c) the claimant will reach pensionable age (within the meaning of the 2010 Regulations) 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;
 - (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 27(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 27(1)(b) of those Regulations from the beginning of the first assessment period;
 - (c) regulation 28(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 section 19(2)(a) of the Act.

Marginal Citations

M17 See regulation 2(1).

M18 See the Act, sections 78-80.

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M19 2003 c.1.

Transition from other incapacity benefits: supplementary

25.—(1) Where an award of universal credit is made to a claimant who is entitled to incapacity benefit or severe disablement allowance, regulation 66 of the Universal Credit Regulations (what is included in unearned income?) applies to the claimant as if incapacity benefit or, as the case may be, severe disablement allowance were added to the descriptions of unearned income in paragraph (1) (b) of that regulation.

(2) For the purposes of regulations [^{F102}22,] 23 and 24 and this regulation only, incapacity benefit and severe disablement allowance are prescribed benefits under paragraph 1(2)(b) of Schedule 6 to the Act.

Textual Amendments

F102 Words in reg. 25(2) inserted (13.10.2014) by [The Universal Credit \(Transitional Provisions\) \(Amendment\) Regulations 2014 \(S.I. 2014/1626\)](#), **reg. 1(2)**, 5(3)

Other claimants with incapacity for work: credits only cases where claimant is approaching pensionable age

26.—(1) This regulation applies where—

- (a) an award of universal credit is made to a claimant who was entitled to be credited with earnings equal to the lower earnings limit then in force under regulation 8B(2)(a)(i), (ii) or (iii) of the Social Security (Credits) Regulations 1975 on the date on which the claim for universal credit was made or treated as made;
- (b) the claimant will reach pensionable age within the meaning of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No.2) Regulations 2010 within the period of one year; and
- (c) [^{F103}none of regulations 22, 23 or 24 apply] to that claimant (whether or not, in the case of joint claimants, [^{F104}any] of those regulations apply to the other claimant).

(2) Where the claimant is entitled to a payment, allowance or increased rate of pension specified in regulation 24(1)(d) and is not entitled to a payment, allowance or increased rate of pension specified in regulation 24(3)(d)—

- (a) regulation 27(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 27(1)(a) of those Regulations from the beginning of the first assessment period;
- (c) regulation 28(1) of the Universal Credit Regulations (period for which the 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 section 21(1)(a) of the Act.

(3) Where the claimant is entitled to a payment, allowance or increased rate of pension specified in regulation 24(3)(d) (whether or not the claimant is also entitled to a payment, allowance or increased rate of pension specified in regulation 24(1)(d))—

- (a) regulation 27(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 27(1)(b) of those Regulations from the beginning of the first assessment period;
- (c) regulation 28(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 section 19(2)(a) of the Act.

[^{F105}(4) Where the claimant is not entitled to a payment, allowance or increased rate of pension specified in either regulation 24(1)(d) or regulation 24(3)(d)—

- (a) if it is determined in accordance with Part 5 of the Universal Credit Regulations that the claimant has limited capability for work—
 - (i) the claimant is to be treated as having had limited capability for work for the purposes of regulation 27(1)(a) of the Universal Credit Regulations from the beginning of the first assessment period;
 - (ii) regulation 28 of the Universal Credit Regulations does not apply; and
 - (iii) the LCW element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award with effect from the beginning of the first assessment period; and
- (b) if it is determined in accordance with Part 5 of the Universal Credit Regulations that the claimant has limited capability for work and work-related activity—
 - (i) the claimant is to be treated as having had limited capability for work and work-related activity for the purposes of regulation 27(1)(b) of the Universal Credit Regulations from the beginning of the first assessment period;
 - (ii) regulation 28 of the Universal Credit Regulations does not apply; and
 - (iii) 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.]

Textual Amendments

- F103** Words in reg. 26(1)(c) substituted (13.10.2014) by [The Universal Credit \(Transitional Provisions\) \(Amendment\) Regulations 2014 \(S.I. 2014/1626\)](#), [reg. 1\(2\)](#), 5(4)(a)(i)
- F104** Words in reg. 26(1)(c) substituted (13.10.2014) by [The Universal Credit \(Transitional Provisions\) \(Amendment\) Regulations 2014 \(S.I. 2014/1626\)](#), [reg. 1\(2\)](#), 5(4)(a)(ii)
- F105** Reg. 26(4) inserted (13.10.2014) by [The Universal Credit \(Transitional Provisions\) \(Amendment\) Regulations 2014 \(S.I. 2014/1626\)](#), [reg. 1\(2\)](#), 5(4)(b)

Other claimants with incapacity for work: credits only cases

27.—(1) This regulation applies where—

- (a) an award of universal credit is made to a claimant who was entitled to be credited with earnings equal to the lower earnings limit then in force under regulation 8B(2)(a)(i), (ii) or (iii) of the Social Security (Credits) Regulations 1975 on the date on which the claim for universal credit was made or treated as made; and

- (b) none of regulations 22, 23, 24 or 26 apply to that claimant (whether or not, in the case of joint claimants, any of those regulations apply to the other claimant).
- (2) Where this regulation applies—
 - (a) if it is determined in accordance with Part 5 of the Universal Credit Regulations that the claimant has limited capability for work—
 - (i) the claimant is to be treated as having had limited capability for work for the purposes of regulation 27(1)(a) of the Universal Credit Regulations (award to include LCW and LCWRA elements) from the beginning of the first assessment period;
 - (ii) regulation 28 of the Universal Credit Regulations (period for which the LCW or LCWRA element is not to be included) does not apply; and
 - (iii) the LCW element is (subject to the provisions of Part 4 of the Universal Credit Regulations) to be included in the award with effect from the beginning of the first assessment period;
 - (b) if it is determined in accordance with Part 5 of the Universal Credit Regulations that the claimant has limited capability for work and work-related activity—
 - (i) the claimant is to be treated as having had limited capability for work and work-related activity for the purposes of regulation 27(1)(b) of the Universal Credit Regulations from the beginning of the first assessment period;
 - (ii) regulation 28 of the Universal Credit Regulations does not apply; and
 - (iii) 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.

Meaning of “qualifying young person”

28. Where a person who would (apart from the provision made by this regulation) be a “qualifying young person” within the meaning of regulation 5 of the Universal Credit Regulations is entitled to an existing benefit—

- (a) that person is not a qualifying young person for the purposes of the Universal Credit Regulations; and
- (b) regulation 5(5) of those Regulations applies as if, after “a person who is receiving” there were inserted “an existing benefit (within the meaning of the Universal Credit (Transitional Provisions) Regulations 2014), ”.

Support for housing costs

29.—(1) Paragraph (3) applies where—

- (a) an award of universal credit is made to a claimant who—
 - (i) was entitled to income-based jobseeker's allowance, income-related employment and support allowance or income support (a “relevant award”) at any time during the period of one month ending with the day on which the claim for universal credit was made or treated as made (or would have been so entitled were it not for termination of that award by virtue of an order made under section 150(3) of the Act or the effect of these Regulations); or
 - (ii) was at any time during the period of one month ending with the day on which the claim for universal credit was made or treated as made, the partner of a person (“P”) who was at that time entitled to a relevant award, where the award of universal credit is not a joint award to the claimant and P; and

- (b) on the relevant date, the relevant award included an amount in respect of housing costs under—
- (i) ^{F106}paragraph 16 of Schedule 2] to the Jobseeker's Allowance Regulations 1996 ^{M20} (“the 1996 Regulations”);
 - (ii) ^{F107}paragraph 18 of Schedule 6] to the Employment and Support Allowance Regulations 2008 ^{M21} (“the 2008 Regulations”); or, as the case may be,
 - (iii) ^{F108}paragraph 17 of Schedule 3] to the Income Support (General) Regulations 1987 ^{M22} (“the 1987 Regulations”).
- (2) In this regulation, the “relevant date” means—
- (a) where paragraph (1)(a)(i) applies and the claimant was not entitled to the relevant award on the date on which the claim for universal credit was made or treated as made, the date on which the relevant award terminated;
 - (b) where paragraph (1)(a)(i) applies, the claimant is not a new claimant partner and he or she was entitled to the relevant award on the date on which the claim for universal credit was made, that date;
 - (c) where paragraph (1)(a)(i) applies, the claimant is a new claimant partner and he or she was entitled to the relevant award on the date on which the claim for universal credit was treated as made, that date;
 - (d) where paragraph (1)(a)(ii) applies, the date on which the claimant ceased to be the partner of P or, if earlier, the date on which the relevant award terminated.
- (3) Where this paragraph applies, paragraph 5 of Schedule 5 to the Universal Credit Regulations (no housing costs element under this Schedule for qualifying period) does not apply.
- (4) Paragraph (5) applies where paragraph (1)(a) applies, but the relevant award did not include an amount in respect of housing costs because the claimant's entitlement (or, as the case may be, P's entitlement) was nil by virtue of—
- (a) paragraph 6(1)(c) or 7(1)(b) of Schedule 2 to the 1996 Regulations;
 - (b) paragraph 8(1)(c) or 9(1)(b) of Schedule 6 to the 2008 Regulations; or, as the case may be,
 - (c) paragraph 6(1)(c) or 8(1)(b) of Schedule 3 ^{M23} to the 1987 Regulations.
- (5) Where this paragraph applies—
- (a) paragraph 5(2) of Schedule 5 to the Universal Credit Regulations does not apply; and
 - (b) the “qualifying period” referred to in paragraph 5 of that Schedule is the period of ^{F109}273] days starting with the first day on which the claimant (or, as the case may be, P) was entitled to the relevant award, taking into account any period which was treated as a period of continuing entitlement under—
 - (i) paragraph 13 of Schedule 2 to the 1996 Regulations ^{M24};
 - (ii) paragraph 15 of Schedule 6 to the 2008 Regulations ^{M25}; or, as the case may be,
 - (iii) paragraph 14 of Schedule 3 to the 1987 Regulations ^{M26},provided that, throughout that part of the qualifying period after the award of universal credit is made, receipt of universal credit is continuous and the claimant otherwise qualifies for the inclusion of an amount calculated under Schedule 5 to the Universal Credit Regulations in their award.
- (6) For the purposes of—
- (a) paragraph (1)(b) of this regulation, inclusion of an amount in respect of housing costs in a relevant award is to be taken into account even if the relevant award subsequently

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terminated by virtue of an order made under section 150(3) of the Act, regulation 7 or, as the case may be, regulation 8, before the date on which that amount was included in the award;

- (b) paragraph (5)(b) of this regulation, entitlement to a relevant award is to be treated as having continued until the relevant date even if the award subsequently terminated by virtue of an order made under section 150(3) of the Act, regulation 7 or, as the case may be, regulation 8, before that date.

Textual Amendments

- F106** Words in reg. 29(1)(b)(i) substituted (with effect in accordance with regs.19 - 21 of the amending S.I.) by [The Loans for Mortgage Interest Regulations 2017 \(S.I. 2017/725\)](#), reg. 1(2)(a), **Sch. 5 para. 6(a)**
- F107** Words in reg. 29(1)(b)(ii) substituted (with effect in accordance with regs.19 - 21 of the amending S.I.) by [The Loans for Mortgage Interest Regulations 2017 \(S.I. 2017/725\)](#), reg. 1(2)(a), **Sch. 5 para. 6(b)**
- F108** Words in reg. 29(1)(b)(iii) substituted (with effect in accordance with regs.19 - 21 of the amending S.I.) by [The Loans for Mortgage Interest Regulations 2017 \(S.I. 2017/725\)](#), reg. 1(2)(a), **Sch. 5 para. 6(c)**
- F109** Word in reg. 29(5)(b) substituted (1.4.2016) by [The Social Security \(Housing Costs Amendments\) Regulations 2015 \(S.I. 2015/1647\)](#), regs. 1, **6(2)** (with reg. 8)

Marginal Citations

- M20** [S.I. 1996/207](#). Paragraph 15 was amended by [S.I. 2008/2767](#); paragraph 16 was amended by [S.I. 2006/217](#) and 2378. The Regulations have been modified in their application to certain claimants by [S.I. 2008/3195](#), as amended by [S.I. 2009/3257](#) and 2011/2425.
- M21** [S.I. 2008/794](#). The Regulations have been modified in their application to certain claimants by [S.I. 2008/3195](#), as amended by [S.I. 2009/3257](#).
- M22** [S.I. 1987/1967](#). Paragraph 16 was amended by [S.I. 2008/2767](#); paragraph 17 was amended by [S.I. 2006/217](#) and 2378. The Regulations have been modified in their application to certain claimants by [S.I. 2008/3195](#), as amended by [S.I. 2009/3257](#).
- M23** Paragraphs 6(1) and 8(1) were amended by [S.I. 1995/2927](#).
- M24** Paragraph 13 was amended by [S.I. 1996/1516](#), 1517 and 2538, 1997/827 and 2863, 1998/2231, 1999/714, 1921 and 2860, 2000/724 and 1978, 2001/488 and 1029, 2002/841 and 3019, 2005/2465, 2006/2378, 2008/698, 1554, 1826 and 2767, 2009/480 and 2011/674 and 2425. See also paragraph 18(1)(c) of Schedule 2.
- M25** Paragraph 15 was amended by [S.I. 2008/2428](#), 2011/674, 2425 and 2428 and 2013/388 and 591. See also paragraph 20(1)(c) of Schedule 6.
- M26** Paragraph 14 was amended by [S.I. 1995/2927](#), 1996/206 and 1944, 1997/2863, 1998/2231, 1999/714, 1921 and 3178, 2000/724 and 1981, 2001/488 and 1029, 2002/841 and 3019, 2005/2465, 2006/2378, 2008/698, 1554, 2428 and 2767 and 2011/674. See also [S.I. 1996/206](#), **regulation 32**.

Sanctions: transition from old style ESA

30.—(1) This regulation applies where—

- (a) an award of universal credit is made to a claimant who was previously entitled to old style ESA (“the ESA award”); and
- (b) on the relevant date, payments in respect of the ESA award were reduced under regulation 63 of the Employment and Support Allowance Regulations 2008^{M27} (“the 2008 Regulations”).

(2) In this regulation, the “relevant date” means—

- (a) where the claimant was not entitled to old style ESA on the date on which the claim for universal credit was made or treated as made, the date on which the ESA award terminated;
 - (b) where the claimant is not a new claimant partner and was entitled to old style ESA on the date on which the claim for universal credit was made, that date;
 - (c) where the claimant is a new claimant partner and was entitled to old style ESA on the date on which the claim for universal credit was treated as made, that date.
- (3) Where this regulation applies—
- (a) the failure which led to reduction of the ESA award (“the ESA failure”) is to be treated, for the purposes of the Universal Credit Regulations, as a failure which is sanctionable under section 27 of the Act;
 - (b) the award of universal credit is to be reduced in relation to the ESA failure, in accordance with the provisions of this regulation and Chapter 2 of Part 8 of the Universal Credit Regulations (sanctions), as modified by this regulation; and
 - (c) the reduction is to be treated, for the purposes of the Universal Credit Regulations, as a reduction under section 27 of the Act.
- (4) The reduction period for the purposes of the Universal Credit Regulations ^{M28} is a period of the number of days which is equivalent to the length of the fixed period applicable to the person under regulation 63(7) of the 2008 Regulations in relation to the ESA failure, minus—
- (a) the number of days (if any) in that period in respect of which the amount of old style ESA was reduced; and
 - (b) if the ESA award terminated before the first date of entitlement to universal credit in connection with the current award, the number of days (if any) in the period after termination of that award, before the start of the universal credit award.
- (5) Accordingly, regulation 101 of the Universal Credit Regulations (general principles for calculating reduction periods) applies in relation to the ESA failure as if, in paragraphs (1) and (3), for “in accordance with regulations 102 to 105”, there were substituted “ in accordance with regulation 30 of the Universal Credit (Transitional Provisions) Regulations 2014 ”.
- (6) For the purposes of this regulation, a determination that payments in respect of the ESA award are to be reduced under regulation 63 of the 2008 Regulations is to be taken into account even if the ESA award subsequently terminated (in so far as it was an award of income-related employment and support allowance) on a date before the date on which that determination was made, by virtue of an order made under section 150(3) of the Act.

Marginal Citations

M27 Regulation 63 was amended by [S.I. 2011/1349](#), 2012/2756 and 2013/630.

M28 See regulation 101(1).

Escalation of sanctions: transition from old style ESA

31.—(1) This regulation applies where an award of universal credit is made to a claimant who was at any time previously entitled to old style ESA.

(2) Where this regulation applies, for the purposes of determining the reduction period under regulation 104 of the Universal Credit Regulations (low-level sanction) in relation to a sanctionable failure by the claimant, other than a failure which is treated as sanctionable by virtue of regulation 30—

- (a) a reduction of universal credit in accordance with regulation 30; and

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(b) any reduction of old style ESA under the Employment and Support Allowance Regulations 2008 (“the 2008 Regulations”) which did not result in a reduction under regulation 30, is, subject to paragraph (3), to be treated as arising from a sanctionable failure for which the reduction period which applies is the number of days which is equivalent to the length of the fixed period which applied under regulation 63 of the 2008 Regulations.

(3) In determining a reduction period under regulation 104 of the Universal Credit Regulations in accordance with paragraph (2), no account is to be taken of—

- (a) a reduction of universal credit in accordance with regulation 30 if, at any time after that reduction, the claimant was entitled to an existing benefit;
- (b) a reduction of old style ESA under the 2008 Regulations if, at any time after that reduction, the claimant was entitled to universal credit, new style ESA or new style JSA, and was subsequently entitled to an existing benefit.

Sanctions: transition from old style JSA

32.—(1) This regulation applies where—

- (a) an award of universal credit is made to a claimant who was previously entitled to old style JSA (“the JSA award”);
- (b) on the relevant date, payments in respect of the JSA award were reduced under section 19 (as it applied either before or after substitution by the Act ^{M29}) or section 19A of the Jobseekers Act 1995 (“the 1995 Act”), or under regulation 69B of the Jobseeker's Allowance Regulations 1996 ^{M30} (“the 1996 Regulations”); and
- (c) if the JSA award was made to a joint-claim couple within the meaning of the 1995 Act and the reduction related to—
 - (i) in the case of a reduction under section 19 as it applied before substitution by the Act, circumstances relating to only one member of the couple; or,
 - (ii) in the case of a reduction under section 19 as it applied after substitution by the Act, a sanctionable failure by only one member of the couple,
 the award of universal credit was made to that person.

(2) In this regulation, the “relevant date” means—

- (a) where the claimant was not entitled to old style JSA on the date on which the claim for universal credit was made or treated as made, the date on which the JSA award terminated;
- (b) where the claimant is not a new claimant partner and was entitled to old style JSA on the date on which the claim for universal credit was made, that date;
- (c) where the claimant is a new claimant partner and was entitled to old style JSA on the date on which the claim for universal credit was treated as made, that date.

(3) Where this regulation applies—

- (a) the circumstances or failure which led to reduction of the JSA award (in either case, “the JSA failure”) is to be treated, for the purposes of the Universal Credit Regulations, as—
 - (i) a failure which is sanctionable under section 26 of the Act, where the reduction was under section 19 of the 1995 Act; or
 - (ii) a failure which is sanctionable under section 27 of the Act, where the reduction was under section 19A of the 1995 Act or regulation 69B of the 1996 Regulations;
- (b) the award of universal credit is to be reduced in relation to the JSA failure, in accordance with the provisions of this regulation and Chapter 2 of Part 8 of the Universal Credit Regulations (sanctions), as modified by this regulation; and

- (c) the reduction is to be treated, for the purposes of the Universal Credit Regulations, as a reduction under section 26 or, as the case may be, section 27 of the Act.
- (4) The reduction period for the purposes of the Universal Credit Regulations is a period of the number of days which is equivalent to the length of the period of reduction which is applicable to the person under regulation 69, 69A or 69B of the 1996 Regulations, minus—
- the number of days (if any) in that period in respect of which the amount of old style JSA was reduced; and
 - if the award of old style JSA terminated before the first date of entitlement to universal credit in connection with the current award, the number of days (if any) in the period after termination of that award, before the start of the universal credit award.
- (5) Accordingly, regulation 101 of the Universal Credit Regulations applies in relation to the JSA failure as if, in paragraphs (1) and (3), for “in accordance with regulations 102 to 105”, there were substituted “in accordance with regulation 32 of the Universal Credit (Transitional Provisions) Regulations 2014”.
- (6) Where the JSA award was made to a joint-claim couple within the meaning of the 1995 Act and the JSA failure related to only one member of the couple, the daily reduction rate for the purposes of the Universal Credit Regulations^{M31} is the amount calculated in accordance with regulation 70(3) of the 1996 Regulations^{M32} in respect of the JSA award, divided by seven and rounded down to the nearest 10 pence, unless regulation 111(2) or (3) of the Universal Credit Regulations (daily reduction rate) applies.
- (7) Where the daily reduction rate is to be determined in accordance with paragraph (6), regulation 111(1) of the Universal Credit Regulations applies in relation to the JSA failure as if, for the words from “an amount equal to” to the end there were substituted the words “an amount determined in accordance with regulation 32 of the Universal Credit (Transitional Provisions) Regulations 2014”.
- (8) For the purposes of this regulation, a determination that payments in respect of the JSA award are to be reduced under regulation 69, 69A or 69B of the 1996 Regulations is to be taken into account even if the JSA award subsequently terminated (in so far as it was an award of income-based jobseeker's allowance) on a date before the date on which that determination was made, by virtue of an order made under section 150(3) of the Act.

Marginal Citations

M29 See section 46.

M30 Regulation 69B was inserted by [S.I. 2012/2568](#) and amended by [S.I. 2013/443](#).

M31 See regulation 111.

M32 Regulation 70 was substituted by [S.I. 2012/2568](#).

Escalation of sanctions: transition from old style JSA

33.—(1) This regulation applies where an award of universal credit is made to a claimant who was at any time previously entitled to old style JSA.

(2) Where this regulation applies, for the purposes of determining the applicable reduction period under regulation 102 (higher-level sanction), 103 (medium-level sanction) or 104 (low-level sanction) of the Universal Credit Regulations in relation to a sanctionable failure by the person, other than a failure which is treated as sanctionable by virtue of regulation 32—

- a reduction of universal credit in accordance with regulation 32; and
- any reduction of old style JSA under section 19 or 19A of the Jobseekers Act 1995 (“the 1995 Act”), or under regulation 69B of the 1996 Regulations which did not result in a

reduction under regulation 32, is, subject to paragraph (3), to be treated as arising from a sanctionable failure for which the reduction period is the number of days which is equivalent to the length of the period which applied under regulation 69, 69A or 69B of the 1996 Regulations.

(3) In determining a reduction period under regulation 102, 103 or 104 of the Universal Credit Regulations in accordance with paragraph (2), no account is to be taken of—

- (a) a reduction of universal credit in accordance with regulation 32 if, at any time after that reduction, the claimant was entitled to an existing benefit;
- (b) a reduction of old style JSA under section 19 or 19A of the 1995 Act, or under regulation 69B of the 1996 Regulations if, at any time after that reduction, the claimant was entitled to universal credit, new style ESA or new style JSA, and was subsequently entitled to an existing benefit.

Sanctions: temporary return to certain existing benefits

34. If an award of universal credit terminates while there is an outstanding reduction period (within the meaning of regulation 107 of the Universal Credit Regulations) and the claimant becomes entitled to old style JSA, old style ESA or income support (“the relevant benefit”) during that period—

- (a) regulation 107 of the Universal Credit Regulations (reduction period to continue where award terminates) ceases to apply; and
- (b) the reduction period is to terminate on the first date of entitlement to the relevant benefit.

Loss of benefit penalties: transition from existing benefits other than tax credits

35.—(1) Subject to paragraph (6), this regulation applies in the cases set out in paragraphs (2) to (4).

(2) The first case is where—

- (a) an award of universal credit is made to a claimant who is an offender;
- (b) the claimant was entitled to old style JSA, old style ESA, income support or housing benefit (“the earlier award”) at any time during the period of one month ending with the date on which the claim for universal credit was made or treated as made (or would have been so entitled were it not for termination of that award by virtue of an order made under section 150(3) of the Act or, as the case may be, the effect of these Regulations); and
- (c) payments in respect of the earlier award were, on the relevant date, subject to a restriction under section 6B (loss of benefit in case of conviction, penalty or caution for benefit offence), 7 (repeated benefit fraud) or 8 (effect of offence on joint-claim jobseeker's allowance) of the 2001 Act.

(3) The second case is where—

- (a) an award of universal credit is made to a claimant who is an offender;
- (b) another person who was the offender's family member (but is no longer their family member) was entitled to old style JSA, old style ESA, income support or housing benefit (“the earlier award”) at any time during the period of one month ending with the date on which the claim for universal credit was made or treated as made; and
- (c) payments in respect of the earlier award were, on the relevant date, subject to a restriction under section 9 (effect of offence on benefits for members of offender's family) of the 2001 Act.

(4) The third case is where—

- (a) an award of universal credit is made to a claimant who is an offender's family member;
 - (b) the offender, or the claimant, was entitled to old style JSA, old style ESA, income support or housing benefit ("the earlier award") at any time during the period of one month ending with the date on which the claim for universal credit was made or treated as made; and
 - (c) payments in respect of the earlier award were, on the relevant date, subject to a restriction under section 6B, 7, 8 or, as the case may be, 9 of the 2001 Act.
- (5) Where this regulation applies—
- (a) any subsequent payment of universal credit to the claimant in respect of an assessment period which falls wholly or partly within the remainder of the disqualification period applicable to the offender is to be reduced in accordance with regulation 36; and
 - (b) regulation 3ZB of the 2001 Regulations ^{M33} does not apply.
- (6) This regulation does not apply if the earlier award was a joint-claim jobseeker's allowance and—
- (a) payments in respect of the award were, on the relevant date, subject to a restriction under section 8(2) of the 2001 Act; or
 - (b) the award of universal credit is not made to joint claimants who were, on the relevant date, both entitled to the joint-claim jobseeker's allowance.
- (7) In this regulation and in regulation 36—
- "the 2001 Act" means the Social Security Fraud Act 2001 ^{M34};
- "the 2001 Regulations" means the Social Security (Loss of Benefit) Regulations 2001 ^{M35};
- "disqualification period" has the meaning given in the 2001 Act ^{M36}, interpreted in accordance with the 2001 Regulations ^{M37};
- "earlier award" is to be interpreted in accordance with paragraph (2)(b), (3)(b) or, as the case may be, (4)(b) and, for the purposes of regulation 36, where there is more than one earlier award, the term refers to the award to which the claimant became entitled most recently;
- "offender" means an offender within the meaning of the 2001 Act ^{M38};
- "offender's family member" has the same meaning as in the 2001 Act ^{M39};
- "the relevant date" means—
- (a) in relation to the first case—
 - (i) where the claimant was not entitled to the earlier award on the date on which the claim for universal credit was made or treated as made, the date on which the earlier award terminated;
 - (ii) where the claimant is not a new claimant partner and was entitled to the earlier award on the date on which the claim for universal credit was made, that date;
 - (iii) where the claimant is a new claimant partner and was entitled to the earlier award on the date on which the claim for universal credit was treated as made, that date;
 - (b) in relation to the second case, the date on which the person entitled to the earlier award ceased to be the offender's family member or, if the award terminated before that date, the date on which the earlier award terminated;
 - (c) in relation to the third case—
 - (i) where the claimant was entitled to the earlier award but that entitlement terminated before the date on which the claim for universal credit was made or treated as made, the date on which the earlier award terminated;

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- (ii) where the claimant is not a new claimant partner and was entitled to the earlier award on the date on which the claim for universal credit was made, that date;
- (iii) where the claimant is a new claimant partner and was entitled to the earlier award on the date on which the claim for universal credit was treated as made, that date;
- (iv) where the offender's family member was entitled to the earlier award, the date on which that person ceased to be the offender's family member or, if earlier, the date on which the earlier award terminated.

(8) For the purposes of this regulation, the fact that payments in respect of an earlier award were subject to a restriction is to be taken into account, even if the earlier award subsequently terminated before the date on which payments became subject to a restriction by virtue of an order made under section 150(3) of the Act (in so far as it was an award of income-based jobseeker's allowance or income-related employment and support allowance), regulation 7 or, as the case may be, regulation 8.

Marginal Citations

- M33** Regulation 3ZB was inserted by [S.I. 2013/385](#).
M34 [2001 c.11](#). See sections 6B and 7.
M35 [S.I. 2001/4022](#).
M36 See sections 6B and 7.
M37 See regulations 1A and 2 which were substituted by [S.I. 2010/1260](#) and amended by [S.I. 2013/385](#).
M38 See sections 6B(1), 7(1) and 9(2)(c).
M39 See section 9(2)(a).

Loss of benefit penalties: reduction of universal credit

36.—(1) Subject to paragraph (6) [^{F110}and to regulation 38] , where regulation 35 applies, the amount of a reduction of universal credit in respect of an assessment period is to be calculated by multiplying the daily reduction rate by the number of days in the assessment period, unless paragraph (2) applies.

(2) Where the disqualification period ends during an assessment period, the amount of the reduction for that assessment period is (subject to paragraph (6)) to be calculated by multiplying the daily reduction rate by the number of days in the assessment period which are within the disqualification period.

(3) Subject to paragraphs (4) and (5), the daily reduction rate where regulation 35 applies is an amount which is equal to—

- (a) the monetary amount by which payments in respect of the earlier award were reduced in accordance with section 6B or 7 of the 2001 Act or, as the case may be, regulation 3, 3ZA^{M40} or 17 of the 2001 Regulations in respect of the last complete week before the relevant date (within the meaning of regulation 35);
- (b) multiplied by 52;
- (c) divided by 365; and
- (d) rounded down to the nearest 10 pence.

(4) Where the monetary amount by which payments in respect of the earlier award would have been reduced would, if the claimant had remained entitled to the earlier award, have changed during the disqualification period because of an order made under section 150 of the Social Security Administration Act 1992 (annual up-rating of benefits)—

- (a) the daily reduction rate is to be calculated in accordance with paragraph (3), but on the basis of the new amount by which payments would have been reduced; and

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- (b) any adjustment to the reduction of universal credit is to take effect from the first day of the first assessment period to start after the date of the change.
- (5) Where the earlier award was a joint-claim jobseeker's allowance, the daily reduction rate is an amount which is equal to—
- (a) the amount of the standard allowance ^{M41} applicable to the joint claimants under regulation 36 of the Universal Credit Regulations (table showing amounts of elements);
 - (b) multiplied by 12;
 - (c) divided by 365;
 - (d) reduced by 60%; and
 - (e) rounded down to the nearest 10 pence.
- (6) The amount of the reduction under this regulation in respect of any assessment period is not to exceed the amount of the standard allowance which is applicable to the claimant in respect of that period.

Textual Amendments

F110 Words in reg. 36(1) inserted (13.10.2014) by [The Universal Credit \(Transitional Provisions\) \(Amendment\) Regulations 2014 \(S.I. 2014/1626\)](#), **reg. 1(2)**, 6(1)

Marginal Citations

M40 Regulation 3ZA was inserted by [S.I. 2013/385](#).

M41 See section 9 of the Act.

[^{F111} **Loss of benefit penalties: transition from working tax credit**

- 37.—**(1) This regulation applies where an award of universal credit is made to a claimant who—
- (a) was previously entitled to working tax credit; and
 - (b) is an offender, within the meaning of the 2002 Act.
- (2) Where this regulation applies, the Social Security (Loss of Benefit) Regulations 2001 apply as if in regulation 3ZB of those Regulations—
- (a) in paragraph (1) at the beginning there were inserted “Subject to regulation 38 of the Universal Credit (Transitional Provisions) Regulations 2014,”;
 - (b) “disqualification period” includes a disqualification period within the meaning of the 2002 Act;
 - (c) “offender” includes an offender within the meaning of the 2002 Act; and
 - (d) “offender’s family member” includes a person who is a member of the family (within the meaning of section 137(1) of the Social Security Contributions and Benefits Act 1992) of a person who is an offender within the meaning of the 2002 Act.

Textual Amendments

F111 Reg. 37 38 inserted (13.10.2014) by [The Universal Credit \(Transitional Provisions\) \(Amendment\) Regulations 2014 \(S.I. 2014/1626\)](#), **reg. 1(2)**, 6(2)

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Loss of benefit penalties: maximum total reduction

38. Where regulations 35 and 37 both apply to a claimant, the total amount of a reduction of universal credit in respect of any assessment period under—

- (a) regulation 36; and
- (b) regulation 3ZB of the Social Security (Loss of Benefit) Regulations 2001,
must not exceed the amount of the standard allowance which is applicable to the claimant in respect of that period.]

Textual Amendments

F111 Reg. 37 38 inserted (13.10.2014) by [The Universal Credit \(Transitional Provisions\) \(Amendment\) Regulations 2014 \(S.I. 2014/1626\)](#), **reg. 1(2)**, 6(2)

Changes to legislation:

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Table of Contents words inserted by [S.I. 2018/65 reg. 6\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. The table of contents for this legislation will be dynamically updated when its provisions are revised)
- Table of Contents words inserted by [S.I. 2018/65 reg. 6\(2\)\(b\)](#) (This amendment not applied to legislation.gov.uk. The table of contents for this legislation will be dynamically updated when its provisions are revised)
- Table of Contents words omitted by [S.I. 2018/65 reg. 6\(2\)\(c\)](#) (This amendment not applied to legislation.gov.uk. The table of contents for this legislation will be dynamically updated when its provisions are revised)
- Sch. 1 para. 16(c) substituted by [S.I. 2024/341 reg. 8\(4\)](#)