

EXPLANATORY MEMORANDUM TO
THE UNIVERSAL CREDIT (TRANSITIONAL PROVISIONS) (AMENDMENT)
REGULATIONS 2015

2015 No. 1780

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These negative regulations amend *The Universal Credit (Transitional Provisions) Regulations 2014*¹ ('the 2014 Regulations') so that where a claimant:

- has been awarded Universal Credit (UC) and their earnings have reduced their UC award to nil; or
- has made a claim for UC, but are not entitled to an award because of the level of their earned income; and
- enters a six month 're-award' period, during which UC may be awarded without a further claim if their earnings drop or there is another change of circumstances that would make UC payable;

they will be added to the definition of a "Universal Credit claimant" contained in Regulation 6(2) of the 2014 Regulations, and may not make a claim for Income Support (IS), Housing Benefit (HB) or a Tax Credit.

2.2 This amendment does not apply to areas where UC is administered under relevant regulations as amended by *The Universal Credit (Digital Service) Amendment Regulations 2014*² ('the Digital Service Regulations'). These areas are set out in *The Welfare Reform Act 2012 (Commencement No. 21 and Transitional and Transitory Provisions) Order 2015*³, and *The Welfare Reform Act 2012 (Commencement No. 23 and Transitional and Transitory Provisions) Order 2015*⁴.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

¹ <http://www.legislation.gov.uk/uksi/2014/1230/contents/made>

² <http://www.legislation.gov.uk/uksi/2014/2887/contents/made>

³ <http://www.legislation.gov.uk/uksi/2015/33/contents/made>

⁴ <http://www.legislation.gov.uk/uksi/2015/634/contents/made>

4. Legislative Context

4.1 The Welfare Reform Act 2012⁵ provides for the introduction in Great Britain of a new working age income-related social security benefit, UC, and the abolition of income-based Jobseeker's Allowance (JSA), income-related Employment and Support Allowance (ESA), IS, HB, Working Tax Credit and Child Tax Credit ("existing benefits").

4.2 *The Universal Credit (Transitional Provisions) Regulations 2013*⁶ ('the 2013 Regulations') came into force on 29th April 2013 and provided that claims for UC could be made by limited categories of claimant.

4.3 The 2014 Regulations came into force on 16th June 2014 and revoked and replaced the 2013 Regulations, subject to certain savings. The definition of the "Pathfinder Group", prescribing who could claim UC during the initial transition period, was removed from the 2013 Regulations. In its stead, Schedule 5, containing a new set of "Gateway Conditions", was inserted into the *The Welfare Reform Act 2012 (Commencement No. 9 and Transitional and Transitory Provisions and Commencement No. 8 and Savings and Transitional Provisions (Amendment)) Order 2013*⁷, leaving the 2014 Regulations to deal with the effects of transition from existing benefits to UC.

4.4 *The Universal Credit (Transitional Provisions) (Amendment) Regulations 2015* amend the 2014 Regulations in respect of claimants who enter a re-award period of six months, during which time UC may be awarded without a further claim as described in paragraph 2.1 above.

5. Extent

5.1 This instrument applies to Great Britain. The Department for Social Development in Northern Ireland will produce its own legislation.

6. European Convention on Human Rights

6.1 As this instrument is subject to the negative resolution procedure, and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Where a claimant has been awarded or makes a claim to UC and their earnings have either reduced their UC award to nil or they are not entitled to UC after making that claim after the work allowance and taper have been applied, they enter a six month re-award period during which UC may be awarded without a further claim, if

⁵ <http://www.dwp.gov.uk/docs/a14-101.pdf>

⁶ <http://www.dwp.gov.uk/docs/a14-6501.pdf>

⁷ <http://lawvolumes.dwp.gov.uk/docs/a14-3231.pdf>

their earnings drop, or there is another change of circumstances that would make UC payable.⁸

7.2 Currently, where a claimant enters the six month re-award period and therefore has no UC entitlement, they may claim existing benefits if they are entitled to them. However, if their earnings drop or their circumstances change so that UC becomes payable again, UC would also be re-awarded. This dual access both to existing benefits and UC creates administrative complexity and potential overpayments because of the difficulty in ensuring that payments of existing benefits and UC are not made for the same period.

7.3 This situation does not occur in areas where UC operates under relevant regulations as amended by the Digital Service Regulations. In these areas:

- the provision to re-award UC without a claim in these cases is revoked⁹; and
- provisions in the relevant Commencement Orders bar claims for HB, IS or a Tax Credit by people who live in relevant postcodes.¹⁰

7.4 The amendment is therefore intended to remove the administrative complexity and potential overpayments that arise from dual provision of UC and existing benefits, in a way which is consistent with the regime operating in areas subject to the Digital Service Regulations. This is done by amending Regulation 6 of the 2014 Regulations, so that claimants in the ‘re-award’ period are defined as UC claimants and may not make a claim for HB, IS or a Tax Credit.

7.5 Exceptions are provided to enable a relevant claimant to make, correct or complete a claim for HB or IS where notification of intention to claim was given, or the claim was made before the Regulations come into force.

7.6 Informal consolidated text of instruments is available to the public free of charge via ‘The Law Relating to Social Security’ (Blue Volumes) on the Department for Work and Pensions website¹¹ or the National Archive website¹². An explanation as to which instruments are maintained on each site is available at: <http://www.dwp.gov.uk/docs/lawvolnews.pdf>.

⁸ This is provided for by Regulation 6 of *The Universal Credit, Personal Independence Payment, Jobseeker’s Allowance, and Employment and Support Allowance (Claims and Payments) Regulations 2013* ([SI 2013/380](#))

⁹ Regulations 3(2)(a) of the Digital Service Regulations revokes Regulation 6 of *The Universal Credit, Personal Independence Payment, Jobseeker’s Allowance, and Employment and Support Allowance (Claims and Payments) Regulations 2013*

¹⁰ See Article 6 of *The Welfare Reform Act 2012 (Commencement No. 21 and Transitional and Transitory Provisions) Order 2015* and Article 7 of *The Welfare Reform Act 2012 (Commencement No. 23 and Transitional and Transitory Provisions) Order 2015*

¹¹ <http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/>

¹² legislation.gov.uk

8. Consultation outcome

8.1 The Department presented the draft Regulations to the Social Security Advisory Committee on 29th July 2015. The Committee decided not to consult on the Regulations.

8.2 Because the amendment has an impact on HB administration, the Department consulted the Local Authority Associations during the period 24 July to 4 September 2015. None of the Associations expressed any disagreement with the Regulations.

9. Guidance

9.1 Guidance is under development to support advisers and decision makers. In line with standard practice, the Advice for Decision Making (which has replaced the Decision Makers Guide) has now been published on the Departmental website¹³ and will be updated ready for the coming into force of the Regulations.

10. Impact

10.1 There is no impact on business, civil society organisations or the public sector.

10.2 An Impact Assessment has not been separately prepared for these Regulations. However, a full assessment has been made of the impact of the introduction of UC and has been published¹⁴. This also covers information concerning the Department's obligations regarding its Equality Duty.

11. Regulating small business

11.1 These Regulations do not apply to small business.

12. Monitoring & review

12.1 The Department is firmly committed to evaluating and monitoring the impact and effects of UC. A high level evaluation strategy was published by the Department for Work and Pensions on 10th December 2012¹⁵.

13. Contact

13.1 Fiona Fellows at the Department for Work and Pensions can answer any queries regarding the instrument. Tel: 020 7245 3780 or email: fiona.fellows@dwp.gsi.gov.uk

¹³ <https://www.gov.uk/government/publications/advice-for-decision-making-staff-guide>

¹⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220177/universal-credit-wr2011-ia.pdf

¹⁵ <https://www.gov.uk/government/publications/universal-credit-evaluation-framework>