

STATUTORY RULES OF NORTHERN IRELAND

**2016 No. 216**

**The Universal Credit Regulations (Northern Ireland) 2016**

**PART 7**

**THE BENEFIT CAP**

**Definition of Couple**

**78.** In this Part “couple” means—

- (a) joint claimants, or
- (b) a single claimant who is a member of a couple within the meaning of Article 45 of the Order and the other member of that couple,

and references to a couple include each member of that couple individually.

**Circumstances where the benefit cap applies**

**79.**—(1) Unless regulation 82 or 83 applies, the benefit cap applies where the welfare benefits to which a single person or couple is entitled during the reference period exceed the relevant amount [<sup>F1</sup>determined under regulation 80A (relevant amount)].

(2) The reference period for the purposes of the benefit cap is the assessment period for an award of universal credit.

<sup>F2</sup>(3) .....

<sup>F2</sup>(4) .....

**Textual Amendments**

**F1** Words in reg. 79(1) inserted (coming into force in accordance with reg. 1(3) of the amending Rule) by [The Benefit Cap \(Housing Benefit and Universal Credit\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/375\)](#), regs. 1(3), **3(2)(a)**

**F2** Reg. 79(3)(4) omitted (coming into force in accordance with reg. 1(3) of the amending Rule) by virtue of [The Benefit Cap \(Housing Benefit and Universal Credit\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/375\)](#), regs. 1(3), **3(2)(b)**

**Manner of determining total entitlement to welfare benefits**

**80.**—(1) Subject to the following provisions of this regulation, the amount of a welfare benefit to be used when determining total entitlement to welfare benefits is the amount to which the single person or couple is entitled during the reference period subject to any adjustment to the amount payable in accordance with regulations under section 71 of the Social Security Administration (Northern Ireland) 1992 (overlapping benefits).

(2) Where the welfare benefit is universal credit, the amount to be used is the amount to which the claimant is entitled before any reduction under regulation 81 or under Article 31 or 32 of the Order.

[<sup>F3</sup>(2A) Where the welfare benefit is housing benefit under section 129 of the Contributions and Benefits Act, the amount to be used is nil.]

(3) Where a person is disqualified for receiving an employment and support allowance by virtue of section 18 of the Welfare Reform Act (Northern Ireland) 2007, it is disregarded as a welfare benefit.

(4) Where an amount of a welfare benefit is taken into account in assessing a single person or a couple's unearned income for the purposes of an award of universal credit the amount to be used is the amount taken into account as unearned income in accordance with regulation 66.

(5) Where a welfare benefit is awarded in respect of a period that is not a month, the amount is to be calculated as the monthly equivalent as set out in regulation 73 (unearned income calculated monthly).

#### Textual Amendments

**F3** Reg. 80(2A) inserted (coming into force in accordance with reg. 1(3) of the amending Rule) by [The Benefit Cap \(Housing Benefit and Universal Credit\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/375\)](#), regs. 1(3), **3(3)**

#### [<sup>F4</sup>Relevant amount

**80A.**—(1) The relevant amount is determined by dividing the applicable annual limit by 12.

(2) The applicable annual limit is—

- (a) [<sup>F5</sup>£14,753 ]for a single claimant who is not responsible for a child or qualifying young person;
- (b) [<sup>F6</sup>£22,020 ]for—
  - (i) joint claimants;
  - (ii) a single claimant who is responsible for a child or qualifying young person.]

#### Textual Amendments

**F4** Reg. 80A inserted (coming into force in accordance with reg. 1(3) of the amending Rule) by [The Benefit Cap \(Housing Benefit and Universal Credit\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/375\)](#), regs. 1(3), **3(4)**

**F5** Sum in Reg. 80A(2)(a) substituted (21.3.2024) by [The Benefit Cap \(Annual Limit\) \(Amendment\) Regulations \(Northern Ireland\) 2024 \(S.R. 2024/58\)](#), regs. 1(2), **3(a)**, 5 (with reg. 1(3))

**F6** Sum in Reg. 80A(2)(b) substituted (21.3.2024) by [The Benefit Cap \(Annual Limit\) \(Amendment\) Regulations \(Northern Ireland\) 2024 \(S.R. 2024/58\)](#), regs. 1(2), **3(b)**, 5 (with reg. 1(3))

#### Reduction of universal credit

**81.**—(1) Where the benefit cap applies in relation to an assessment period for an award of universal credit, the amount of the award for that period is to be reduced by—

- (a) the excess, minus
- (b) any amount included in the award for the childcare costs element in relation to that assessment period.

(2) No reduction is to be applied where the amount of the childcare costs element is greater than the excess.

(3) The excess is the total amount of welfare benefits that the single person or the couple are entitled to in the reference period, minus the relevant amount [<sup>F7</sup>determined under regulation 80A (relevant amount)].

**Textual Amendments**

**F7** Words in reg. 81(3) substituted (coming into force in accordance with reg. 1(3) of the amending Rule) by [The Benefit Cap \(Housing Benefit and Universal Credit\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/375\)](#), regs. 1(3), **3(5)**

**Exceptions - earnings**

**82.**—(1) The benefit cap does not apply to an award of universal credit in relation to an assessment period where—

- (a) the claimant's earned income, or if the claimant is a member of a couple, the couple's combined earned income, is equal to or exceeds [<sup>F8</sup>the amount of earnings that a person would be paid at the hourly rate set out in regulation 4 of the National Minimum Wage Regulations 2015 for 16 hours per week, converted to a monthly amount by multiplying by 52 and dividing by 12]; or
- (b) the assessment period falls within a grace period or is an assessment period in which a grace period begins or ends.

(2) A grace period is a period of 9 consecutive months that begins on the most recent of the following days in respect of which the condition in paragraph (3) is met—

- (a) a day falling within the current period of entitlement to universal credit which is the first day of an assessment period in which the claimant's earned income (or, if the claimant is a member of a couple, the couple's combined earned income) is less than the amount mentioned in paragraph (1)(a);
- (b) a day falling before the current period of entitlement to universal credit which is the day after a day on which the claimant has ceased paid work.

(3) The condition is that, in each of the 12 months immediately preceding that day, the claimant's earned income or, if the claimant was a member of a couple, the couple's combined earned income was equal to or [<sup>F9</sup>exceeded—

<sup>F10</sup>(a) .....

(b) <sup>F11</sup>... the amount calculated in accordance with paragraph (1)(a).]

(4) “Earned income” for the purposes of this regulation does not include income a person is treated as having by virtue of regulation 63 (minimum income floor).

[<sup>F12</sup>(5) For the purposes of paragraphs (2)(a) and (3), when calculating the amount in accordance with paragraph (1)(a) the reference to regulation 4 of the National Minimum Wage Regulations is a reference to regulation 4 as in force at the beginning of the assessment period or month for which the calculation is performed.]

### Textual Amendments

- F8** Words in reg. 82(1)(a) substituted (coming into force in accordance with reg. 1 of the amending Rule) by [The Universal Credit \(Benefit Cap Earnings Exception\) \(Amendment\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/145\)](#), regs. 1, **2(3)(a)**
- F9** Reg. 82(3)(a)(b) and word substituted for words (coming into force in accordance with reg. 1 of the amending Rule) by [The Universal Credit \(Benefit Cap Earnings Exception\) \(Amendment\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/145\)](#), regs. 1, **2(3)(b)**
- F10** Reg. 82(3)(a) omitted (13.7.2020) by virtue of [The Universal Credit \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/107\)](#), regs. 1(2), **2(2)(a)**
- F11** Words in reg. 82(3)(b) omitted (13.7.2020) by virtue of [The Universal Credit \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/107\)](#), regs. 1(2), **2(2)(b)**
- F12** Reg. 82(5) added (13.7.2020) by [The Universal Credit \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/107\)](#), regs. 1(2), **2(2)(c)**

### Exceptions - entitlement or receipt of certain benefits

- 83.—**(1) The benefit cap does not apply in relation to any assessment period where—
- (a) the LCWRA element is included in the award of universal credit or the claimant is receiving an employment and support allowance that includes the support component;
  - (b) the carer element is included in the award of universal credit;
  - (c) a claimant is receiving industrial injuries benefit;
  - (d) a claimant is receiving attendance allowance;
  - (e) a claimant is receiving a war pension;
  - (f) a claimant is receiving a payment under Article 15(1)(c) or 29(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 <sup>M1</sup>;
  - (g) a claimant, or a child or qualifying young person for whom a claimant is responsible, is receiving disability living allowance;
  - (h) a claimant, or a qualifying young person for whom a claimant is responsible, is receiving personal independence payment;
  - (i) a claimant, or a child or qualifying young person for whom a claimant is responsible, is entitled to a payment listed in [<sup>F13</sup>sub-paragraphs (c) to (h) [<sup>F14</sup>, (ia) and (ib)]] but—
    - (i) is not receiving it by virtue of regulation 6 (hospitalisation) or regulation 7 (persons in care homes) of the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992 <sup>M2</sup>,
    - (ii) it is being withheld by virtue of Article 53 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 <sup>M3</sup> (maintenance in a hospital or institution),
    - (iii) is not receiving it by virtue of regulation 8 (hospitalisation) or 9 (persons in care homes) of the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992 <sup>M4</sup>, <sup>F15</sup> ...
    - (iv) in the case of personal independence payment, is not receiving it by virtue of regulations under Article 90 (care home residents) or 91 (hospital in-patients) of the Order;
- [<sup>F16</sup>(iva) in the case of adult disability payment, is not receiving it by virtue of regulation 27 (effect of admission to a care home on ongoing entitlement to daily living

component) or 28 (effect of admission to hospital on ongoing entitlement to Adult Disability Payment) of the Disability Assistance for Working Age People (Scotland) Regulations 2022, or]

[<sup>F17</sup>(v) is not receiving it by virtue of regulation 17 (effect of admission to a care home on ongoing entitlement to care component) of the DACYP Regulations;]

[<sup>F18</sup>(ia) a claimant, or a child or qualifying young person for whom a claimant is responsible, is receiving child disability payment;]

[<sup>F19</sup>(ib) a claimant, or qualifying young person for whom a claimant is responsible, is receiving adult disability payment;]

(j) a claimant[<sup>F20</sup>, or a qualifying young person for whom a claimant is responsible,] is entitled to a carer's allowance;

[<sup>F21</sup>(ja) a claimant, or a qualifying young person for whom a claimant is responsible, is entitled to carer support payment;]

(k) a claimant is entitled to guardian's allowance under section 77 of the Contributions and Benefits Act.

(2) For the purposes of this regulation “war pension” means—

(a) any pension or allowance payable under any of the instruments listed in section 639(2) of the ITEPA Act—

(i) to a widow, widower or a surviving civil partner, or

(ii) in respect of disablement;

(b) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under a statutory provision to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of Her Majesty's forces;

(c) a payment which is made under any of—

(i) the Order in Council of 19th December 1881,

(ii) the Royal Warrant of 27th October 1884, or

(iii) the Order by His Majesty of 14th January 1922,

to a widow, widower or surviving civil partner of a person whose death was attributable to service in a capacity analogous to service as a member of Her Majesty's forces and whose service in such capacity terminated before 31st March 1973;

(d) a pension paid by the government of a country outside the United Kingdom which is analogous to any of the pensions, allowances or payments mentioned in sub-paragraphs (a) to (c).

### Textual Amendments

**F13** Words in reg. 83(1)(i) substituted (8.5.2018) by The Universal Credit (Persons Required to Provide Information, Miscellaneous Amendments and Saving and Transitional Provision) Regulations (Northern Ireland) 2018 (S.R. 2018/92), regs. 1(2), **6(14)**

**F14** Words in reg. 83(1)(i) substituted (21.3.2022) by The Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022 (S.I. 2022/177), arts. 1(2), **28(6)(a)**

**F15** Word in reg. 83(1)(i)(iii) omitted (21.3.2022) by virtue of The Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022 (S.I. 2022/177), arts. 1(2), **28(6)(b)**

**F16** Reg. 83(1)(i)(iva) inserted (21.3.2022) by The Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022 (S.I. 2022/177), arts. 1(2), **28(6)(c)**

- F17** Reg. 83(1)(i)(v) inserted (22.11.2021) by The Social Security (Scotland) Act 2018 (Information-Sharing and Disability Assistance) (Consequential Provision and Modifications) Order 2021 (S.I. 2021/1188), arts. 1(2), **13(2)(b)**
- F18** Reg. 83(1)(ia) inserted (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance for Children and Young People) (Consequential Modifications) Order 2021 (S.I. 2021/786), art. 1(2), **Sch. 12 para. 6**
- F19** Reg. 83(1)(ib) inserted (21.3.2022) by The Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022 (S.I. 2022/177), arts. 1(2), **28(6)(d)**
- F20** Words in reg. 83(1)(j) inserted (coming into force in accordance with reg. 1(3) of the amending Rule) by The Benefit Cap (Housing Benefit and Universal Credit) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/375), regs. 1(3), **3(6)**
- F21** Reg. 83(1)(ja) inserted (19.11.2023) by The Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023 (Consequential Amendments) Order 2023 (S.I. 2023/1218), arts. 1(2), **51(6)**

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### Marginal Citations

- M1** S.I. 2011/517.
- M2** S.R. 1992 No. 20; regulation 6 was amended by regulation 2 of S.R. 1992 No. 481, **regulation 3** of S.R. 1999 No. 221, **regulation 2(3)** of S.R. 2000 No. 195; regulation 7 was amended by regulation 2(2) of S.R. 2007 No. 431.
- M3** S.I. 2006/606.
- M4** S.R. 1992 No. 32; regulation 8 was amended by regulation 3(2) of S.R. 1992 No. 481, **regulation 4(2)** of S.R. 1999 No. 221, **regulation 3(2)** of S.R. 2000 No. 195; regulation 9 was amended by regulation 3(2) of S.R. 2007 No. 431.

**Changes to legislation:**

There are currently no known outstanding effects for the The Universal Credit Regulations (Northern Ireland) 2016, PART 7.