
STATUTORY RULES OF NORTHERN IRELAND

2016 No. 226

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

PART 2

CHAPTER 2

EFFECT OF TRANSITION TO UNIVERSAL CREDIT

Other claimants with limited capability for work: credits only cases

22.—(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 (Northern Ireland) 1975(1) 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—

- (a) regulation 28(3) of the Universal Credit Regulations does not apply; and
- (b) the claimant is to be treated as having limited capability for work for the purposes of regulation 28(1)(a) of those Regulations and Article 26(1)(a) of the Order.

(3) Unless the notional assessment phase has applied and had lasted for less than 13 weeks at the relevant date(2), in relation to a claimant who is treated as having limited capability for work under paragraph (2)—

- (a) regulation 29 of the Universal Credit Regulations does not apply; and
- (b) 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.

(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 28(3) of the Universal Credit Regulations does not apply; and

(1) S.R. 1975 No. 113; Regulation 8B was inserted by regulation 2(6) of S.R. 1996 No. 430 and amended by regulation 3 of 2000 No. 404, regulation 2(2)(b) of S.R. 2003 No. 151, regulation 7(6)(a) of S.R. 2008 No. 286 and regulation 2(2) of S.R. 2010 No. 109. Sub-paragraph (a)(iva) was inserted by regulation 2 of S.R. 2016 No. 175.

(2) In which case see paragraph (6).

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- (b) the claimant is to be treated as having limited capability for work and work-related activity for the purposes of regulation 28(1)(b) of those Regulations and Article 24(2)(a) of the Order.
- (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 29 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 29(2) of the Universal Credit Regulations does not apply; and
 - (b) for the purposes of regulation 29 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 29 of the Universal Credit Regulations does not apply;
 - (b) if it is subsequently determined in accordance with Part 5 of those Regulations that the claimant has limited capability for work, the LCW 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;
 - (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 Department 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 ESA Regulations 2008⁽³⁾ (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made);

(3) Regulation 30 was amended by regulation 9(8) of S.R. 2010 No. 200.

- (d) references to cases in which the notional assessment phase applied are references to cases in which sections 2(2)(a), 2(3)(a), 4(4)(a) and 4(5)(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 Social Security (Credits) Regulations (Northern Ireland) 1975;
- (e) subject to sub-paragraph (e), 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), 2(3)(a), 4(4)(a) and 4(5)(a) of the 2007 Act had applied; and
- (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.

Commencement Information

II Reg. 22 in operation at 5.5.2016, see [reg. 1](#)

Changes to legislation:

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Changes and effects yet to be applied to :

- reg. 22(2)(a) omitted by [S.R. 2017/146 reg. 3\(5\)\(a\)\(i\)](#)
- reg. 22(2)(b) words omitted by [S.R. 2017/146 reg. 3\(5\)\(a\)\(ii\)](#)
- reg. 22(3) omitted by [S.R. 2017/146 reg. 3\(5\)\(b\)](#)
- reg. 22(4)(b) words substituted by [S.R. 2023/93 reg. 4\(3\)](#)
- reg. 22(7)(b) omitted by [S.R. 2017/146 reg. 3\(5\)\(c\)](#)
- reg. 22(9)(d) words substituted by [S.R. 2017/146 reg. 3\(5\)\(d\)](#)
- reg. 22(9)(e) words substituted by [S.R. 2017/146 reg. 3\(5\)\(d\)](#)

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

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

- Pt. 2 Ch. A1 inserted by [S.R. 2017/116 reg. 12\(2\)](#)
- Pt. 3 inserted by [S.R. 2017/79 reg. 3\(3\)](#)
- Pt. 4 added by [S.R. 2019/152 reg. 2\(8\)](#)
- Sch. 1 Sch. renumbered as Sch. 1 by [S.R. 2019/152 reg. 2\(9\)](#)
- Sch. 1 para. 2(b) omitted by [S.R. 2023/93 reg. 4\(6\)\(a\)](#)
- Sch. 1 para. 25(a) omitted by [S.R. 2023/93 reg. 4\(6\)\(b\)](#)
- Sch. 1 para. 26(b) omitted by [S.R. 2023/93 reg. 4\(6\)\(c\)](#)
- Sch. 1 para. 27(b) omitted by [S.R. 2023/93 reg. 4\(6\)\(d\)](#)
- Sch. 1 para. 16(c) substituted by [S.R. 2024/54 reg. 8\(4\)](#)
- Sch. 2 para. 8(1) Sch. 2 para. 8 renumbered as Sch.2 para. 8(1) by [S.R. 2023/93 reg. 4\(7\)\(b\)](#)
- Sch. 2 inserted by [S.R. 2019/152 reg. 2\(10\)](#)
- Sch. 2 para. 8(2) inserted by [S.R. 2023/93 reg. 4\(7\)\(b\)](#)
- Sch. 2 para. 9 inserted by [S.R. 2023/93 reg. 4\(7\)\(c\)](#)
- Sch. 2 para. 8(3) inserted by [S.I. 2023/1218 art. 52\(b\)](#)
- Sch. 2 substituted by [S.R. 2021/2 reg. 2](#)
- Sch. 2 para. 5 sum substituted by [S.R. 2023/145 reg. 7\(1\)\(a\)](#)
- Sch. 2 para. 5 sum substituted by [S.R. 2023/145 reg. 7\(1\)\(b\)](#)
- Sch. 2 para. 5 sum substituted by [S.R. 2023/145 reg. 7\(1\)\(c\)](#)
- Sch. 2 para. 5 sum substituted by [S.R. 2023/151 reg. 7\(1\)\(a\)](#)
- Sch. 2 para. 5 sum substituted by [S.R. 2023/151 reg. 7\(1\)\(b\)](#)
- Sch. 2 para. 5 sum substituted by [S.R. 2023/151 reg. 7\(1\)\(c\)](#)
- Sch. 2 para. 5 sum substituted by [S.R. 2023/45 reg. 7\(1\)\(a\)](#)
- Sch. 2 para. 5 sum substituted by [S.R. 2023/45 reg. 7\(1\)\(b\)](#)
- Sch. 2 para. 5 sum substituted by [S.R. 2023/45 reg. 7\(1\)\(c\)](#)
- Sch. 2 para. 5 sum substituted by [S.R. 2024/71 reg. 6\(1\)\(a\)](#)
- Sch. 2 para. 5 sum substituted by [S.R. 2024/71 reg. 6\(1\)\(b\)](#)
- Sch. 2 para. 5 sum substituted by [S.R. 2024/71 reg. 6\(1\)\(c\)](#)
- Sch. 2 para. 8(2) words inserted by [S.I. 2023/1218 art. 52\(a\)](#)
- Sch. 2 para. 5(b)(i) words substituted by [S.R. 2023/93 reg. 4\(7\)\(a\)](#)
- Sch. 3 inserted by [S.R. 2024/5 reg. 2\(3\)](#)
- reg. 2(3)(4) inserted by [S.R. 2019/152 reg. 2\(2\)\(b\)](#)
- reg. 2(4) words omitted by [S.R. 2022/194 Sch. para. 1\(2\)](#)
- reg. 2A revoked by [S.R. 2022/194 reg. 2](#)
- reg. 2B inserted by [S.R. 2019/2 reg. 2\(3\)](#)

- reg. 2B revoked by S.R. 2019/152 reg. 6
- reg. 2B(1) reg. 2B renumbered as reg. 2B(1) by S.R. 2019/152 reg. 2(3)
- reg. 2B(2) added by S.R. 2019/152 reg. 2(3)
- reg. 3(2)(a)(ab) substituted for reg. 3(2)(a) by S.R. 2019/152 reg. 3(2)
- reg. 3(2)(b)(iv)(c) and word added by S.R. 2020/119 reg. 6(3)(d)
- reg. 3(2)(ab) words substituted by S.R. 2022/194 Sch. para. 1(3)
- reg. 3A inserted by S.R. 2018/92 reg. 9(4)
- reg. 3A word omitted by S.R. 2018/187 reg. 4(2)
- reg. 4(8A) inserted by S.R. 2020/119 reg. 6(4)
- reg. 4A inserted by S.R. 2022/194 reg. 4
- reg. 4A(1) word substituted by S.R. 2024/54 reg. 8(2)(a)
- reg. 4A(6) omitted by S.R. 2024/54 reg. 8(2)(b)
- reg. 4A(7) omitted by S.R. 2024/54 reg. 8(2)(c)
- reg. 4A(8)(b) words omitted by S.R. 2024/54 reg. 8(2)(d)
- reg. 5(5)(c) and word added by S.R. 2020/119 reg. 6(5)(b)
- reg. 6(2A) inserted by S.R. 2018/92 reg. 9(6)(b)
- reg. 6(2A) words inserted by S.R. 2019/152 reg. 3(3)(b)
- reg. 6(2A) words omitted by S.R. 2019/152 reg. 3(3)(b)
- reg. 6(2B) inserted by S.R. 2022/194 reg. 5(3)(c)
- reg. 6A inserted by S.R. 2018/92 reg. 9(7)
- reg. 6A words inserted by S.R. 2019/152 reg. 2(5)(a)
- reg. 6A words substituted by S.R. 2022/194 Sch. para. 1(4)
- reg. 6A(a) word omitted by S.R. 2019/152 reg. 2(5)(c)
- reg. 6A(a) words inserted by S.R. 2019/152 reg. 2(5)(b)
- reg. 6A(a) words substituted by S.R. 2022/194 Sch. para. 1(4)
- reg. 6A(b) words inserted by S.R. 2019/152 reg. 2(5)(b)
- reg. 6A(b) words substituted by S.R. 2022/194 Sch. para. 1(4)
- reg. 6A(c) and word inserted by S.R. 2019/152 reg. 2(5)(d)
- reg. 6B inserted by S.R. 2019/152 reg. 3(4)
- reg. 6B words substituted by S.R. 2022/194 Sch. para. 1(5)
- reg. 8A inserted by S.R. 2018/187 reg. 4(3)
- reg. 8A(1) words inserted by S.R. 2019/195 reg. 9(2)(a)(i)
- reg. 8A(1)(d) words inserted by S.R. 2019/195 reg. 9(2)(a)(ii)
- reg. 8A(3) added by S.R. 2019/195 reg. 9(2)(b)
- reg. 8B inserted by S.R. 2019/195 reg. 9(3)
- reg. 8C inserted by S.R. 2020/108 reg. 9
- reg. 9(2)(ca) inserted by S.R. 2018/92 reg. 9(8)(a)(ii)
- reg. 19(2)(c) and words substituted for words in reg. 19(2)(b) by S.R. 2021/303 reg. 3(a)
- reg. 19(4)(c) and words substituted for words in reg. 19(4)(b) by S.R. 2021/303 reg. 3(b)(ii)
- reg. 19(10) added by S.R. 2017/146 reg. 3(2)(h)
- reg. 33(4)-(8) added by S.R. 2017/116 reg. 12(6)(c)
- reg. 40 omitted by S.R. 2019/3 reg. 3(2)
- reg. 41 omitted by S.R. 2019/3 reg. 3(3)
- reg. 45(5)(a) word inserted by S.R. 2022/194 Sch. para. 1(7)(a)
- reg. 45(5)(b) omitted by S.R. 2022/194 Sch. para. 1(7)(b)
- reg. 45(7) revoked by S.R. 2022/194 reg. 6
- reg. 47(1)(a) words inserted by S.R. 2019/152 reg. 3(5)(a)
- reg. 47(1)(a) words inserted by S.R. 2022/194 reg. 7
- reg. 47(1)(b) words inserted by S.R. 2023/93 reg. 4(4)
- reg. 47(1)(b) words substituted by S.R. 2019/152 reg. 3(5)(b)
- reg. 47(5) omitted by S.R. 2022/194 Sch. para. 1(8)
- reg. 48 revoked by S.R. 2022/194 reg. 8(1)
- reg. 48(2)(a) words inserted by S.R. 2019/152 reg. 3(6)(a)
- reg. 48(2)(b) words substituted by S.R. 2019/152 reg. 3(6)(b)
- reg. 51(2) words substituted by S.R. 2022/194 reg. 8(2)
- reg. 54(7) words inserted by S.R. 2022/194 reg. 9(2)

- reg. 54(10) words substituted by S.R. 2023/93 reg. 4(5)
- reg. 54(11)(a) words inserted by S.R. 2022/194 reg. 9(2)(a)
- reg. 56(4) words inserted by S.R. 2022/194 reg. 10(2)
- reg. 56(5)(6) inserted by S.R. 2022/194 reg. 10(3)
- reg. 57(3) substituted by S.R. 2023/3 reg. 3
- reg. 59 words omitted by S.R. 2022/194 Sch. para. 1(9)
- reg. 60 revoked by S.R. 2019/152 reg. 5(2)
- reg. 61(1) reg. 61 renumbered as reg. 61(1) by S.R. 2022/194 reg. 11
- reg. 61(2) inserted by S.R. 2022/194 reg. 11
- reg. 64 words substituted by S.R. 2024/5 reg. 2(2)
- reg. 65 revoked by S.R. 2022/194 reg. 12