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STATUTORY RULES OF NORTHERN IRELAND

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**2017 No. 116**

**SOCIAL SECURITY**

**The Social Security (Miscellaneous Amendments)  
Regulations (Northern Ireland) 2017**

*Made* - - - - *5th July 2017*

*Laid before Parliament* *6th July 2017*

*Coming into operation in accordance with regulation 1*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by:

- sections 122(1)(d), 132(4)(b), 171(1) and (3) to (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(1),
- Articles 4(3B), 6(2), (5) and (12), 8H(7), 8J(5)(b) and (6), 8K(4)(b) and (5)(b), 14(1), (2), (3) and (4)(a) and (b), 21(4)(b) and (5)(b), 21A(4)(b) and (5)(b), 21B(1), (4)(b) and (6) and 36(2) of, and paragraph 2(1) of Schedule 1 to the Jobseekers (Northern Ireland) Order 1995(2),
- sections 15(1)(e) and 19(2) of the State Pension Credit Act (Northern Ireland) 2002(3),
- sections 11H(7), 11J(3)(b), (4)(b) and (7), 12(3) and (4)(c), 13(3) and (4)(c) and 25(2)(a) of the Welfare Reform Act (Northern Ireland) 2007(4), and
- Articles 16(3)(a), 24(2)(d), 29(7), 31(6)(b), (7) and (8)(c), 32(4)(b), (5)(b) and (9)(c), 33(1) and (2)(f), 38, 43(3) and (6), 46, 48(1) and (2)(a) of, and paragraph 4(1) of Schedule 1 and paragraphs 1(1), 4(1)(a), 5(1), (2)(c) and (d) and (3)(a) of Schedule 6 to the Welfare Reform (Northern Ireland) Order 2015(5).

Those powers are exercisable by the Secretary of State for Work and Pensions by virtue of Article 4(1) of the Welfare Reform (Northern Ireland) Order 2015(6).

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- (1) 1992 c. 7; section 171(1) was amended by paragraph 5 of Schedule 4 to, the Tax Credits Act 2002 (c. 21).
- (2) Article 4(3B) was inserted by section 11(5) of the Welfare Reform Act (Northern Ireland) 2010 (c. 13 (N.I.)), Articles 21, 21A and 21B were inserted by Article 52 of the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I. 1)) and are repealed by Schedule 12 to that Order from a date to be appointed. Articles 8J and 8K were inserted by Article 55 of that Order. Paragraph 2 of Schedule 1 was substituted by paragraph 6(6) of Schedule 3 to the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.)) and amended by regulation 7 of S.R. 2016 No. 236; paragraph 2 provides that questions about whether a person has limited capability for work are to be determined for the purposes of that Order in accordance with Part 1 of the Welfare Reform Act (Northern Ireland) 2007 or Part 2 of the Welfare Reform (Northern Ireland) Order 2015, as the Department considers appropriate in the person's case.
- (3) 2002 c. 14 (N.I.).
- (4) 2007 c. 2 (N.I.).
- (5) S.I. 2015/2006 (N.I. 1).
- (6) Functions under or for the purposes of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, the Social Security Administration (Northern Ireland) Act 1992 and the Jobseekers (Northern Ireland) Order 1995 are vested in the Department for Communities by virtue of Article 8(b) of S.R. 1999 No. 481 and section 1(7) of the Departments Act (Northern Ireland) 2016 (c.5 (N.I.)).

### **Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2017 and come into operation in accordance with paragraphs (2) to (8).

(2) This Regulation and regulations 4(1), (2) to (5) and (9) to (14) and 6 come into operation on 25th September 2017.

(3) Regulations 2, 3, 7, 9 and 13 come into operation immediately after the coming into operation of the Universal Credit Regulations (Northern Ireland) 2016(7).

(4) Regulations 4(6) to (8) come into operation immediately after the coming into operation of the Jobseeker’s Allowance (Sanctions) (Amendment) Regulations (Northern Ireland) 2016(8).

(5) Regulation 5 comes into operation immediately after the coming into force of the Income Support (Work-Related Activity) and Miscellaneous Amendments (Northern Ireland) Regulations 2017(9).

(6) Regulation 8 comes into operation immediately after the coming into operation of the Employment and Support Allowance (Sanctions) (Amendment) Regulations (Northern Ireland) 2016(10).

(7) Regulation 10 comes into operation immediately after the coming into operation of the Jobseeker’s Allowance Regulations (Northern Ireland) 2016(11).

(8) Regulation 11 comes into operation immediately after the coming into operation of the Employment and Support Allowance Regulations (Northern Ireland) 2016(12).

(9) Regulation 12 comes into operation immediately after the coming into operation of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016(13).

(10) The Interpretation Act (Northern Ireland) 1954(14) shall apply to these Regulations as it applies to an Act of the Assembly.

### **Amendment of the Social Security (Credits) Regulations (Northern Ireland) 1975**

2. Omit regulation 8A(5)(ba) of the Social Security (Credits) Regulations (Northern Ireland) 1975(15) (credits for unemployment).

### **Amendment of the Social Fund (Cold Weather Payments) (General) Regulations (Northern Ireland) 1988**

3.—(1) The Social Fund (Cold Weather Payments) (General) Regulations (Northern Ireland) 1988(16) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (citation, commencement and interpretation)—

(a) after the definition of “the Act” insert—

““the Order” means the Welfare Reform (Northern Ireland) Order 2015;”;

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(7) S.R. 2016 No. 216.

(8) S.R. 2016 No. 241.

(9) S.R. 2017 No. 18.

(10) S.R. 2016 No. 240.

(11) S.R. 2016 No. 218.

(12) S.R. 2016 No. 219.

(13) S.R. 2016 No. 226.

(14) 1954 c. 33 (N.I.).

(15) S.R. 1975 No. 113; sub-paragraph (ba) was inserted by regulation 17 of S.R. 2014 No. 150.

(16) S.R. 1988 No. 368.

- (b) in the definition of “claimant”(17) for “or income-related employment and support allowance” substitute “, income-related employment and support allowance or universal credit”; and
- (c) after the definition of “station”(18) insert—
  - ““universal credit” means universal credit under Part 2 of the Order”.
- (3) In regulation 1A (prescribed description of persons) (19)—
  - (a) in paragraph (2)—
    - (i) at the end of sub-paragraph (c) omit “or”;
    - (ii) at the end of sub-paragraph (d) insert—
      - “; or
      - (e) universal credit.”;
  - (b) in paragraph (3)—
    - (i) for “(c) or (d)” substitute “(c), (d) or (e)”;
    - (ii) at the end of sub-paragraph (d) omit “or”; and
    - (iii) at the end of sub-paragraph (e) insert—
      - “; or
      - (f) where P has been awarded universal credit—
        - (i) the award includes an amount under Article 15(2) of the Order (child or qualifying young person who is disabled); or
        - (ii) the award includes an amount under Article 17(1) of the Order in respect of the needs or circumstances specified in Article 17(2)(a) or (b) (limited capability for work or limited capability for work and work-related activity) or would do so if it did not include an amount in respect of the needs or circumstances specified in Article 17(2)(c) (caring responsibilities for a severely disabled person).”;
  - (c) after paragraph (5) add—
    - “(6) The fourth condition, which applies only where the person has been awarded universal credit and their award of universal credit does not include an amount under Article 15(2) of the Order (child or qualifying young person who is disabled) is that —
      - (a) in a case where a cold weather payment is payable in relation to a recorded period of cold weather as mentioned in regulation 2(1)(a)(i), the person was not in employment or gainful self-employment on any day during that period; or
      - (b) in a case where a cold weather payment is payable in relation to a forecasted period of weather as mentioned in regulation 2(1)(a)(ii), the person is not in employment or gainful self-employment on the day when the Met Office supplies the Department for Communities with the forecast.
  - (7) For the purpose of paragraph (6)—
    - (a) “employment” means employment under a contract of service, or in an office, including an elective office;

(17) The definition of “claimant” was substituted by regulation 2(a) of S.R. 1991 No. 464 and amended by regulation 2(a)(i) of S.R. 2005 No. 447 and regulation 16(2)(b) of S.R. 2008 No. 286.

(18) The definition of “station” was substituted by regulation 2(c) of S.R. 1996 No. 488.

(19) Regulation 1A was substituted by regulation 2(3) of S.R. 2005 No. 344.

- (b) a person is in gainful self-employment where—
- (i) they are carrying on a trade, profession or vocation as their main employment,
  - (ii) their earnings from that trade, profession or vocation are treated as self-employed earnings for the purpose of regulations made under Article 13(3) of the Order, and
  - (iii) the trade, profession or vocation is organised, developed, regular and carried on in expectation of profit.”.

#### **Amendment of the Jobseeker’s Allowance Regulations (Northern Ireland) 1996**

4.—(1) The Jobseeker’s Allowance Regulations (Northern Ireland) 1996<sup>(20)</sup> are amended in accordance with paragraphs (2) to (14).

(2) In regulation 14A(10) (circumstances in which a person is to be treated as available-victims of domestic violence)<sup>(21)</sup> for paragraphs (b) and (c) of the definition of “registered social worker” substitute—

- “(b) the Health and Care Professions Council,
- (c) Social Care Wales, or”.

(3) In regulation 1(2) (interpretation) in the definition of “attendance allowance” omit paragraphs (c) and (d).

(4) In regulation 45B(1) (relaxation of the first set of conditions)<sup>(22)</sup> omit “also”.

(5) In regulation 55(4) (short periods of sickness) <sup>(23)</sup> for “of the person’s entitlement” substitute “beginning with and including the day the person ceased to be entitled”.

(6) In regulation 69 (the period of a reduction under Article 21: higher level sanctions)<sup>(24)</sup>—

(a) for paragraph (1) substitute—

“(1) Subject to paragraphs (3) and (4), a reduction under Article 21 (higher level sanctions) in the circumstances described in the first column of the following table is to have effect for the period set out in the second column.

<i>Circumstances in which reduction period applies</i>	<i>Reduction period</i>
Where there has been no previous sanctionable failure by the claimant that falls within paragraph (2)	13 weeks
Where there have been one or more previous sanctionable failures by the claimant that fall within paragraph (2) and the date of the most recent previous sanctionable failure is not within 52 weeks beginning with and including the date of the current sanctionable failure	13 weeks
Where there have been one or more previous sanctionable failures by the claimant that fall within paragraph (2) and the date of the most recent previous sanctionable failure is within 52 weeks, but not within 2 weeks, beginning with and including the date of the current sanctionable failure and	

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<sup>(20)</sup> S.R. 1996 No. 198.

<sup>(21)</sup> S.R. 1996 No. 198; regulation 14A was inserted by regulation 2(2) of S.R. 2012 No. 155 and amended by regulation 2 of S.R. 2013 No. 250.

<sup>(22)</sup> Regulation 45B was inserted by regulation 2 of S.R. 2011 No. 434.

<sup>(23)</sup> Paragraph (4) was amended by regulation 4(2) of S.R. 2010 No.347, regulation 7(2) of S.R. 2011 No. 135 and regulation 2(4) (c) of S.R. 2015 No. 138.

<sup>(24)</sup> Regulation 69 is substituted by regulation 2(2) of S.R. 2016 No. 241.

<i>Circumstances in which reduction period applies</i>	<i>Reduction period</i>
the period of reduction applicable to the most recent previous sanctionable failure is or, but for paragraph (4), would have been—	
(a) 13 weeks	26 weeks
(b) 26 weeks	78 weeks
(c) 78 weeks	78 weeks

Where there have been one or more previous sanctionable failures by the claimant that fall within paragraph (2) and the date of the most recent previous sanctionable failure is within 2 weeks beginning with and including the date of the current sanctionable failure and the period of reduction applicable to the most recent previous sanctionable failure is or, but for paragraph (4), would have been—

(a) 13 weeks	13 weeks
(b) 26 weeks	26 weeks
(c) 78 weeks	78 weeks”;

(b) in paragraph (2)—

- (i) at the end of sub-paragraph (a) insert “and”;
- (ii) omit sub-paragraph (c) and the “and” preceding it.

(7) In regulation 69A (the period of a reduction under Article 21A: other sanctions)(25)—

(a) for paragraph (1) substitute—

“(1) A reduction under Article 21A (other sanctions) in the circumstances described in the first column of the following table is to have effect for the period set out in the second column.

<i>Circumstances in which reduction period applies</i>	<i>Reduction period</i>
Where there has been no previous sanctionable failure by the claimant that falls within paragraph (2)	4 weeks
Where there have been one or more previous sanctionable failures by the claimant that fall within paragraph (2) and the date of the most recent previous sanctionable failure is not within 52 weeks beginning with and including the date of the current sanctionable failure	4 weeks
Where there have been one or more previous sanctionable failures by the claimant that fall within paragraph (2) and the date of the most recent previous sanctionable failure is within 52 weeks, but not within 2 weeks, beginning with and including the date of the current sanctionable failure and the period of reduction applicable to the most recent previous sanctionable failure is—	
(a) 4 weeks	13 weeks
(b) 13 weeks	13 weeks

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<i>Circumstances in which reduction period applies</i>	<i>Reduction period</i>
Where there have been one or more previous sanctionable failures by the claimant that fall within paragraph (2) and the date of the most recent previous sanctionable failure is within 2 weeks beginning with and including the date of the current sanctionable failure and the period of reduction applicable to the most recent previous sanctionable failure is—	
(a) 4 weeks	4 weeks
(b) 13 weeks	13 weeks”;

(b) in paragraph (2)—

(i) at the end of sub-paragraph (a) insert “and”,

(ii) omit sub-paragraph (c) and the “and” preceding it.

(8) In regulation 69B (the period of a reduction under Article 21B: claimants ceasing to be available for employment etc.)(26), for paragraph (6) substitute—

“(6) Subject to paragraph (7), a reduction under this regulation in the circumstances described in the first column of the following table is to have effect for the period set out in the second column.

<i>Circumstances in which reduction period applies</i>	<i>Reduction period</i>
Where there has been only one occasion on which the claimant’s previous entitlement ceased	4 weeks
Where there have been two or more occasions on which the claimant’s previous entitlement ceased and the date of the most recent occasion is not within 52 weeks beginning with and including the date of the next most recent occasion	4 weeks
Where there have been two or more occasions on which the claimant’s previous entitlement ceased and the date of the most recent occasion is within 52 weeks, but not within 2 weeks, beginning with and including the date of the next most recent occasion and the period of reduction applicable on that occasion is or, but for paragraph (7), would have been—	
(a) 4 weeks	13 weeks
(b) 13 weeks	13 weeks
Where there have been two or more occasions on which the claimant’s previous entitlement ceased and the date of the most recent occasion is within 2 weeks beginning with and including the date of the next most recent occasion and the period of reduction applicable on that occasion is or, but for paragraph (7), would have been—	
(a) 4 weeks	4 weeks
(b) 13 weeks	13 weeks”.

(9) In regulation 79(1) (weekly amounts of contribution-based jobseeker’s allowance)(27) for sub-paragraphs (a) and (b) substitute—

“(a) in the case of a person who has not attained the age of 25, £57.90 per week;”.

(26) Regulation 69B is substituted by regulation 2(2) of S.R. 2016 No. 241.

(27) Regulation 79(1) was amended by Article 21(a) of S.R. 2015 No. 124.

(10) In regulation 94 (calculation of earnings derived from employed earner’s employment and income other than earnings)–

- (a) in paragraph (1) for “paragraphs (2) to (10)” substitute “the following paragraphs”;
- (b) in paragraph (2) for “paragraphs (2A) to (10)” substitute “the following provisions of this regulation”(28);
- (c) for paragraph (2)(b) substitute—

“(b) in any other case, a period equal to such number of weeks as is equal to the number obtained by applying the formula—

$$\frac{E}{J + D}$$

where—

E is the amount of net earnings, or in the case of income which does not consist of earnings, the amount of that income less any amount paid by way of tax on that income which is disregarded under paragraph 1 of Schedule 6 (sums to be disregarded in the calculation of income rather than earnings);

J is the amount of jobseeker’s allowance which would be payable had the payment not been made;

D is an amount equal to the total of the sums which would fall to be disregarded from that payment under Schedule 5 and Schedule 5A (sums to be disregarded in the calculation of earnings) or, as the case may be, any paragraph of Schedule 6 other than paragraph 1 of that Schedule, as is appropriate in the claimant’s case,”; and

- (d) after paragraph (10) add—

“(11) For the purposes of the number obtained as referred to in paragraph (2)(b), any fraction is to be treated as a corresponding fraction of a week.”.

(11) In regulation 98(1) (earnings of employed earners) (29) in sub-paragraph (f) for “166 and 167” substitute “166 or 167”.

(12) In regulation 101(1)(b)(i), (4)(b)(ii) and (10)(a)(ii) (calculation of net profit of self-employed earners) for “social security contributions” substitute “national insurance contributions”.

(13) For regulation 102 (deduction of tax and contributions for self-employed earners) substitute—

**“Deduction of tax and contributions for self-employed earners**

**102.—**(1) Subject to paragraph (2), the amount to be deducted in respect of income tax under regulation 101(1)(b)(i), (4)(b)(i) or (10)(a)(i) (calculation of net profit of self-employed earners) is to be calculated—

- (a) on the basis of the amount of chargeable income; and
- (b) as if that income were assessable to income tax at the basic rate, or in the case of a Scottish taxpayer, the Scottish basic rate, of tax less only the personal reliefs to which the claimant is entitled under Chapters 2, 3 and 3A of Part 3 of the Income Tax Act 2007 as are appropriate to their circumstances.

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(28) Paragraph (2) was amended by regulation 5(2)(a) of S.R. 1997 No. 22, paragraph 39 of Schedule 2 to S.R. 2000 No. 350 and regulation 4(9) of S.R. 2008 No. 112.

(29) Sub-paragraph (f) was substituted by regulation 22(2) of S.R. 1996 No. 358 and amended by regulation 7(7)(a)(i) of S.R. 2007 No. 396.

(2) If the period determined under regulation 95 is less than a year, the earnings to which the basic rate, or the Scottish basic rate, of tax is to be applied and the amount of the personal reliefs deductible under paragraph (1) are to be calculated on a pro rata basis.

(3) Subject to paragraph (4), the amount to be deducted in respect of national insurance contributions under regulation 101(1)(b)(i), (4)(b)(ii) or (10)(a)(ii) is to be the total of—

- (a) the amount of Class 2 contributions payable under section 11(2) or, as the case may be, 11(8) of the Benefits Act at the rate applicable at the date of claim except where the claimant's chargeable income is less than the amount specified in section 11(4) of that Act (small profits threshold) for the tax year in which the date of claim falls; and
- (b) the amount of Class 4 contributions (if any) which would be payable under section 15 of that Act (Class 4 contributions recoverable under the Income Tax Acts) at the percentage rate applicable at the date of claim on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits and gains applicable for the tax year in which the date of claim falls.

(4) If the period determined under regulation 95 is less than a year—

- (a) the amount specified for the tax year referred to in paragraph (3)(a) is to be reduced pro rata; and
- (b) the limits referred to in paragraph (3)(b) are to be reduced pro rata.

(5) In this regulation “chargeable income” means—

- (a) except where sub-paragraph (b) applies, the earnings derived from the employment less any expenses deducted under regulation 101(4)(a) or, as the case may be, (5); and
- (b) in the case of employment as a child minder, one-third of the earnings of that employment.”.

(14) For regulation 163(4) (calculation of earnings) substitute—

“(4) In regulation 102 (deduction of tax and contributions for self-employed earners)—

- (a) in paragraphs (1) and (3), for “regulation 101(1)(b)(i)” substitute “regulation 101(3)(a)”;
- (b) omit paragraphs (2) and (4);
- (c) in paragraph (3) for “subject to paragraph (4), the” substitute “The”;
- (d) in paragraph (5)(a) for “regulation 101(4)(a) or, as the case may be, (5)” substitute “regulation 101(7)”;
- (e) at the end of the regulation add—

“(6) For the purposes of paragraphs (1) and (3) the earnings to which the basic rate, or the Scottish basic rate, of tax is to be applied and the amount of personal reliefs deductible, the amount specified in section 11(4) of the Benefits Act, and the upper limit of profits and gains referred to in paragraph (3)(b), are to be apportioned pro rata according to the period over which the earnings are assessed in accordance with regulation 101.””

### **Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999.**

5.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(30) are amended in accordance with paragraphs (2) and (3).



(2) In regulation 1(2) (citation, commencement, application and interpretation), in the definition of “Income Support Work-Related Activity Regulations” for “2016” substitute “2017”.

(3) In regulation 3(7CD) (revision of decisions) before the words “failed to satisfy a requirement” insert “, without showing good cause,”(31).

### **Amendment of the State Pension Credit Regulations (Northern Ireland) 2003**

6. In regulation 1(2) of the State Pension Credit Regulations (Northern Ireland) 2003(32) (interpretation) in the definition of “attendance allowance” omit paragraphs (c) and (d).

### **Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006**

7. In paragraph 22(2) of Schedule 7 of the Housing Benefit (Persons who have attained the age for state pension credit) Regulations (Northern Ireland) 2006(33) (capital to be disregarded) after paragraph (e) add—

“(f) paragraph 18 of Schedule 10 to the Universal Credit Regulations (Northern Ireland) 2016”.

### **Amendment of the Employment and Support Allowance Regulations (Northern Ireland) 2008**

8. In regulation 63 of the Employment and Support Allowance Regulations (Northern Ireland) 2008(34) (reduction of employment and support allowance)—

(a) for paragraph (7) substitute—

“(7) The fixed period that applies in the circumstances described in the first column of the following table is set out in the second column.

<i>Circumstances applicable to claimant’s case</i>	<i>Fixed period</i>
Where there has been no previous failure by the claimant that falls within paragraph (8).	1 week
Where there have been one or more previous failures by the claimant that fall within paragraph (8) and the date of the most recent previous failure is not within 52 weeks beginning with and including the date of the current failure.	1 week
Where there have been one or more previous failures by the claimant that fall within paragraph (8) and the date of the most recent previous failure is within 52 weeks, but not within 2 weeks, beginning with and including the date of the current failure and the period of reduction applicable to the most recent previous failure is or, but for paragraph (3), would have been—	
(a) 1 week	2 weeks
(b) 2 weeks	4 weeks
(c) 4 weeks.	4 weeks

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(31) Regulation 3(7CD) is inserted by regulation 12(3) of [SR 2017 No. 18](#).

(32) [S.R. 2003 No. 28](#). The definition of “attendance allowance” in regulation 1(2) was amended by regulation 4(2) of [S.R. 2008 No. 498](#).

(33) [S.R. 2006 No. 406](#). Regulation 22(2) was amended by regulation 4(13)(b) of [S.R. 2008 No. 378](#).

(34) [S.R. 2008 No.280](#). Paragraphs (7) and (8) of regulation 63 are inserted by regulation 4(4) of [S.R. 2016 No. 240](#).

<i>Circumstances applicable to claimant's case</i>	<i>Fixed period</i>
Where there have been one or more previous failures by the claimant that fall within paragraph (8) and the date of the most recent previous failure is within 2 weeks beginning with and including the date of the current failure and the period of reduction applicable to the most recent previous failure is or, but for paragraph (3), would have been—	
(a) 1 week	1 week
(b) 2 weeks	2 weeks
(c) 4 weeks.	4 weeks.”;
(b) in paragraph (8)—	
(i) at the end of sub-paragraph (a) insert “and”;	
(ii) at sub-paragraph (b) for “XXth November 2016” substitute “the date on which the Employment and Support Allowance (Sanctions) (Amendment) Regulations (Northern Ireland) 2016 come into operation”;	
(iii) omit sub-paragraph (c) and the “and” preceding it.	

#### **Amendment of the Universal Credit Regulations (Northern Ireland) 2016**

9.—(1) The Universal Credit Regulations (Northern Ireland) 2016<sup>(35)</sup> are amended in accordance with paragraphs (2) to (19).

(2) In regulation 12(4) (meaning of “receiving education”) for “paragraph (1)” substitute “paragraph (2)”.

(3) In regulation 47 (jointly held capital)—

- (a) renumber the existing provision as paragraph (1); and
- (b) after paragraph (1) add—

“(2) Any premises or land not wholly owned by the claimant are to be disregarded for such period as is reasonable in the circumstances to enable the collection of such information as is necessary to determine the treatment of capital in accordance with paragraph (1).”

(4) In regulation 54(6) (surplus earnings)—

- (a) in the definition of “the nil UC threshold” for the formula substitute—

$$\frac{(M - U) \times 100}{65} + WA$$

- (b) in the appropriate place insert “the old award” does not include an award the last day of which falls before 2nd April 2018”.

(5) In regulation 57 (self-employed earnings – treatment of losses), in Step 3, paragraphs (c) and (d) are re-lettered (a) and (b).

(6) In regulation 58 (unused losses) after paragraph (1) insert—

“(1A) In this regulation “unused loss” does not include the loss from an assessment period that ends before 2nd April 2018.”.

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(35) S.R. 2016 No. 216.

(7) In regulation 89(4) (claimants subject to no work related requirements – the earnings thresholds) in the full-out words at the end of the paragraph for “regulation 4A(a)(d)” substitute “regulation 4A(1)(d)”.

(8) In regulation 96(5) (victims of domestic violence) for paragraph (c) of the definition of “registered social worker” substitute—

“(c) Social Care Wales, or”.

(9) In Chapter 2 of Part 8 (sanctions) before regulation 98 (general principles for calculating reduction periods) insert—

**“Interpretation**

**97A.**—(1) This chapter contains provisions about the reduction in the amount of an award of universal credit in the event of a failure by a claimant which is sanctionable under Article 31 or 32 of the Order (“a sanctionable failure”).

(2) In this chapter references to a “current sanctionable failure” are to a sanctionable failure in relation to which the Department has not yet determined whether the amount of an award of universal credit is to be reduced under Article 31 or 32 of the Order.”.

(10) In regulation 98 (general principles for calculating reduction period)—

- (a) in paragraph (3), for “100” substitute “99”;
- (b) omit paragraph (4).

(11) In regulation 99 (higher-level sanctions)—

(a) for paragraph (2) substitute—

“(2) Where the sanctionable failure is not a pre-claim failure, the reduction in the circumstances described in the first column of the following table is the period set out in—

- (a) the second column, where the claimant is aged 18 or over on the date of the sanctionable failure;
- (b) the third column, where the claimant is aged 16 or 17 on the date of the sanctionable failure.

<i>Circumstances in which reduction period applies</i>	<i>Reduction period where claimant aged 18 or over</i>	<i>Reduction period where claimant aged 16 or 17</i>
Where there has been no previous sanctionable failure by the claimant giving rise to a higher-level sanction	91 days	14 days
Where there have been one or more previous sanctionable failures by the claimant giving rise to a higher-level sanction and the date of the most recent previous sanctionable failure is not within 365 days beginning with the date of the current sanctionable failure	91 days	14 days
Where there have been one or more previous sanctionable failures by the claimant giving rise to a higher-level sanction and the date of the most		

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<i>Circumstances in which reduction period applies</i>	<i>Reduction period where claimant aged 18 or over</i>	<i>Reduction period where claimant aged 16 or 17</i>
recent previous sanctionable failure is within 365 days, but not within 14 days, beginning with the date of the current sanctionable failure and the reduction period applicable to the most recent previous sanctionable failure is—		
(a) 14 days		28 days
(b) 28 days		28 days
(c) 91 days	182 days	
(d) 182 days	546 days	
(e) 546 days	546 days	
Where there have been one or more previous sanctionable failures by the claimant giving rise to a higher-level sanction and the date of the most recent previous sanctionable failure is within 14 days beginning with the date of the current sanctionable failure and the reduction period applicable to the most recent previous sanctionable failure is—		
(a) 14 days		14 days
(b) 28 days		28 days
(c) 91 days	91 days	
(d) 182 days	182 days	
(e) 546 days	546 days	-.”;

(b) for paragraph (5) substitute—

“(5) In this regulation—

“higher-level sanction” means a sanction under Article 31 of the Order;

“pre-claim failure” means a failure sanctionable under Article 31(4) of the Order.”.

(12) For regulation 100(2) (medium-level sanction) substitute—

“(2) The reduction in the circumstances described in the first column of the following table is the period set out in—

- (a) the second column, where the claimant is aged 18 or over on the date of the sanctionable failure;
- (b) the third column, where the claimant is aged 16 or 17 on the date of the sanctionable failure.

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

<i>Circumstances in which reduction period applies</i>	<i>Reduction period where claimant aged 18 or over</i>	<i>Reduction period where claimant aged 16 or 17</i>
Where there has been no previous sanctionable failure by the claimant that falls within paragraph (1)	28 days	7 days
Where there have been one or more previous sanctionable failures by the claimant that fall within paragraph (1) and the date of the most recent previous sanctionable failure is not within 365 days beginning with the date of the current sanctionable failure	28 days	7 days
Where there have been one or more previous sanctionable failures by the claimant that fall within paragraph (1) and the date of the most recent previous sanctionable failure is within 365 days, but not within 14 days, beginning with the date of the current sanctionable failure and the reduction period applicable to the most recent previous sanctionable failure is—		
(a) 7 days		14 days
(b) 14 days		14 days
(c) 28 days	91 days	
(d) 91 days	91 days	
Where there have been one or more previous sanctionable failures by the claimant that fall within paragraph (1) and the date of the most recent previous sanctionable failure is within 14 days beginning with the date of the current sanctionable failure and the reduction period applicable to the most recent previous sanctionable failure is—		
(a) 7 days		7 days
(b) 14 days		14 days
(c) 28 days	28 days	
(d) 91 days	91 days	-.”;

(13) In regulation 101 (low-level sanctions)—

(a) for paragraph (2)(b) substitute—

“(b) in the circumstances described in the first column of the following table, the number of days set out in the second column.

<i>Circumstances applicable to the claimant’s case</i>	<i>Number of days</i>
Where there has been no previous sanctionable failure by the claimant that falls within paragraph (1)	7 days

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<i>Circumstances applicable to the claimant's case</i>	<i>Number of days</i>
Where there have been one or more previous sanctionable failures by the claimant that fall within paragraph (1) and the date of the most recent previous sanctionable failure is not within 365 days beginning with the date of the current sanctionable failure	7 days
Where there have been one or more previous sanctionable failures by the claimant that fall within paragraph (1) and the date of the most recent previous sanctionable failure is within 365 days, but not within 14 days, beginning with the date of the current sanctionable failure and the reduction period applicable to the most recent previous sanctionable failure is—	
(a) 7 days	14 days
(b) 14 days	28 days
(c) 28 days	28 days
Where there have been one or more previous sanctionable failures by the claimant that fall within paragraph (1) and the date of the most recent previous sanctionable failure is within 14 days beginning with the date of the current sanctionable failure and the reduction period applicable to the most recent previous sanctionable failure is—	
(a) 7 days	7 days
(b) 14 days	14 days
(c) 28 days	28 days.”;

(b) for paragraph (3)(b) substitute—

“(b) if there was another sanctionable failure of a kind mentioned in paragraph (1) within 365 days, but not within 14 days, beginning with the date of the current sanctionable failure, 7 days.”.

(14) For regulation 114(2) and (3) (recoverability of hardship payments) substitute—

“(2) Paragraph (1) does not apply in relation to any assessment period in which—

- (a) the single claimant, or each joint claimant, falls within Article 24 of the Order by virtue of regulation 89 (claimants subject to no work-related requirements – the earnings threshold);
- (b) where regulation 89 applies to one of the joint claimants only, the joint claimants’ combined monthly earnings are equal to or exceed the amount of the individual threshold; or
- (c) where regulation 89 does not apply to the single claimant or to either of the joint claimants, that claimant or joint claimants’ combined monthly earnings are equal to or exceed the amount that a person of the same age as the claimant, or the youngest of the joint claimants, would be paid at the hourly rate specified in regulation 4 or regulation 4A(1)(a) to (c) of the National Minimum Wage Regulations for 16 hours per week, converted to a monthly amount by multiplying by 52 and dividing by 12.

(3) Paragraph (1) ceases to apply where, since the last day on which the claimant’s or the joint claimants’ award was subject to a reduction under Article 31 or 32 of the Order—

- (a) the single claimant, or each joint claimant, has fallen within Article 24 of the Order by virtue of regulation 89 (claimants subject to no work-related requirements – the earnings threshold);
- (b) where regulation 89 applied to one of the joint claimants only, the joint claimants’ have had combined monthly earnings that are equal to or exceed the amount of the individual threshold; or
- (c) where regulation 89 did not apply to the single claimant or to either of the joint claimants, that claimant or the joint claimants’ have had combined monthly earnings that are equal to or exceed the amount that a person of the same age as the claimant, or the youngest of the joint claimants, would be paid at the hourly rate specified in regulation 4 or regulation 4A(1)(a) to (c) of the National Minimum Wage Regulations for 16 hours per week, converted to a monthly amount by multiplying by 52 and dividing by 12,

for a period of, or more than one period where the total of those periods amounts to, at least 6 months.”.

(15) After regulation 114 insert—

**“Transitional Provision**

**115.**—(1) Until the date determined in accordance with paragraph (6), these regulations have effect subject to the following modifications.

(2) Omit regulation 54 (surplus earnings), as amended by regulation 9(4) of the Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2017<sup>(36)</sup>, and regulation 58 (unused losses).

(3) In regulation 57 (self-employed earnings- treatment of losses)—

(a) for paragraph (2) substitute—

“(2) A person’s self-employed earnings in respect of an assessment period are to be calculated by taking the amount of the gross profits (or, in the case of a partnership, the person’s share of those profits) of the trade, profession or vocation and deducting from that amount—

(a) any payment made to HMRC in the assessment period in respect of the trade, profession or vocation by way of—

(i) Class 2 contributions payable under section 11(2), (6) or (8) of the Contributions and Benefits Act or any Class 4 contributions payable under section 15 of that Act, or

(ii) income tax; and

(b) any relievable pension contributions made by the person in the assessment period (unless a deduction has been made in respect of those contributions in calculating a person’s employed earnings).

(3) The gross profits of the trade, profession or vocation in respect of an assessment period are the actual receipts in that period less any deductions for expenses allowed under regulation 58 or 59.”;

(b) in paragraph (3), for “paragraph (2)” substitute “paragraph (3)”.

(4) In regulation 59(3) (permitted expenses), after sub-paragraph (a) insert—

“(aa) any loss incurred in respect of a previous assessment period;”.

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(36) S.R. 2017 No. 116.

(5) In regulation 63 (minimum income floor), omit paragraph (5).

(6) The date is 2nd April 2018 or, in respect of an existing award of Universal Credit where 2nd April 2018 is not the first day of an assessment period, the first day of the next assessment period.”.

(16) In paragraph 1 (interpretation) of Schedule 1 (meaning of payments in respect of accommodation)—

(a) for the definition of “approved premises” substitute—

““approved premises” means hostels which receive grants for housing support services under Article 4 of the Housing Support Services (Northern Ireland) Order 2002 in respect of offenders, with bed spaces allocated for criminal justice referrals;”(37); and

(b) in the definition of “care home” after “Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003” insert “, or a nursing home as defined in Article 11 of that Order”.

(17) In paragraph 15(f)(iii) (no deduction for housing cost contributions in respect of certain non-dependants) of Schedule 4 (housing costs element for renters) for “the Social Security (General Benefit) Regulations 1982” substitute “the Social Security (General Benefit) Regulations (Northern Ireland) 1984”.

(18) In paragraph 7(4)(b) (application of paragraph 5: joint owner-occupiers ceasing to be a couple) of Schedule 5 (housing costs element for owner-occupiers for “regulation 9(6)” substitute “regulation 8(6)”.

(19) In Schedule 10 (capital to be disregarded) after paragraph 20(38) add—

“21. An ex-gratia payment made by the Secretary of State for Northern Ireland to members of the families of the disappeared, but only for a period of 52 weeks from the date of receipt of that payment.

22. A payment made under Article 10 of the Victims and Survivors (Northern Ireland) Order 2006(39).”.

### **Amendment of the Jobseeker’s Allowance Regulations (Northern Ireland) 2016**

10.—(1) The Jobseeker’s Allowance Regulations (Northern Ireland) 2016(40) are amended in accordance with paragraphs (2) to (13).

(2) In regulation 2(2) (general interpretation) after the definition of “remunerative work” insert—

““Scottish basic rate” means the rate of income tax of that name calculated in accordance with section 6A of the Income Tax Act 2007(41);

“Scottish taxpayer” has the same meaning as in Chapter 2 of Part 4A of the Scotland Act 1998(42);”.

(3) In regulation 15(5) (victims of domestic violence) for paragraph (c) of the definition of “registered social worker” substitute—

“(c) Social Care Wales, or”.

(4) In regulation 18 (interpretation) before the definition of “ESA sanctionable failure” insert—

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(37) S.I. 2002/3154 (N.I. 8).

(38) Paragraph 20 is inserted by Article 28(4) of S.R. 2017 No. 66.

(39) S.I. 2006/2953 (N.I. 17).

(40) S.R. 2016 No. 218. There are amendments to regulation 2(2) which are not relevant to these regulations.

(41) 2007 c. 3; section 6A was inserted by paragraph 3 of Schedule 38 to the Finance Act 2014 (c. 26)

(42) 1998 c. 46; Part 4A, sections 80A and 80B, were inserted by section 23(2) of the Scotland Act 2012 (c. 11) and section 80C to 80H were inserted by section 25(3) of that Act



““current sanctionable failure” means a failure of the following kinds in relation to which the Department has not yet determined whether the amount of an award of benefit is to be reduced—

- (a) a sanctionable failure,
- (b) an ESA sanctionable failure, or
- (c) a UC sanctionable failure;”.

(5) In regulation 19 (general principles for calculating reduction periods) omit paragraph (4)(a).

(6) In regulation 20 (higher-level sanctions)—

(a) for paragraph (1) substitute—

“(1) Where the sanctionable failure is not a pre-claim failure, the reduction for a higher-level sanction in the circumstances described in the first column of the following table is the period set out in the second column.

<i>Circumstances in which reduction period applies</i>	<i>Reduction period</i>
Where there has been no previous relevant failure by the claimant	91 days
Where there have been one or more previous relevant failures by the claimant and the date of the most recent relevant failure is not within 365 days beginning with the date of the current sanctionable failure	91 days
Where there have been one or more previous relevant failures by the claimant and the date of the most recent previous relevant failure is within 365 days, but not within 14 days, beginning with the date of the current sanctionable failure and the reduction period applicable to the most recent previous relevant failure is—	
(a) 91 days	182 days
(b) 182 days	546 days
(c) 546 days	546 days
Where there have been one or more previous relevant failures by the claimant and the date of the most recent previous relevant failure is within 14 days beginning with the date of the current sanctionable failure and the reduction period applicable to the most recent previous relevant failure is—	
(a) 91 days	91 days
(b) 182 days	182 days
(c) 546 days	546 days.”;

(b) after paragraph (3) insert—

“(4) In this regulation “relevant failure” means—

- (a) a sanctionable failure giving rise to a higher-level sanction, or
- (b) a UC sanctionable failure giving rise to a sanction under Article 31 of the Welfare Reform (Northern Ireland) Order 2015.”.

(7) For regulation 21 (medium-level sanctions) substitute—

“21.—(1) The reduction for a medium-level sanction in the circumstances described in the first column of the following table is the period set out in the second column.

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<i>Circumstances in which reduction period applies</i>	<i>Reduction period</i>
Where there has been no previous relevant failure by the claimant	28 days
Where there have been one or more previous relevant failures by the claimant and the date of the most recent previous relevant failure is not within 365 days beginning with the date of the current sanctionable failure	28 days
Where there have been one or more previous relevant failures by the claimant and the date of the most recent previous relevant failure is within 365 days, but not within 14 days, beginning with the date of the current sanctionable failure and the reduction period applicable to the most recent previous relevant failure is—	
(a) 28 days	91 days
(b) 91 days	91 days
Where there have been one or more previous relevant failures by the claimant and the date of the most recent previous relevant failure is within 14 days beginning with the date of the current sanctionable failure and the reduction period applicable to the most recent previous relevant failure is—	
(a) 28 days	28 days
(b) 91 days	91 days.

(2) In this regulation “relevant failure” means—

- (a) a sanctionable failure giving rise to a medium-level sanction, or
- (b) a UC sanctionable failure giving rise to a sanction under Article 32 of the Welfare Reform (Northern Ireland) Order 2015 to which regulation 100 of the Universal Credit Regulations (Northern Ireland) 2016 applies.”.

(8) In regulation 22 (low-level sanction) for paragraph (3) substitute—

“(3) In the circumstances described in the first column of the following table, the number of days set out in the second column.

<i>Circumstances applicable to claimant’s case</i>	<i>Number of days</i>
Where there has been no previous relevant failure by the claimant	7 days
Where there have been one or more previous relevant failures by the claimant and the date of the most recent previous relevant failure is not within 365 days beginning with the date of the current sanctionable failure	7 days
Where there have been one or more previous relevant failures by the claimant and the date of the most recent previous relevant failure is within 365 days, but not within 14 days, beginning with the date of the current sanctionable failure and the reduction period applicable to the most recent previous relevant failure is—	
(a) 7 days	14 days
(b) 14 days	28 days
(c) 28 days	28 days
Where there have been one or more previous relevant failures by the claimant and the date of the most recent previous relevant failure is within 14 days beginning with the date of the current sanctionable failure and the reduction period applicable to the most recent previous relevant failure is—	

<i>Circumstances applicable to claimant's case</i>	<i>Number of days</i>
(a) 7 days	7 days
(b) 14 days	14 days
(c) 28 days	28 days.

- (4) In this regulation “relevant failure” means—
- (a) a sanctionable failure giving rise to low-level sanction,
  - (b) a UC sanctionable failure giving rise to a sanction under Article 32 of the Welfare Reform (Northern Ireland) Order 2015 to which regulation 102 of the Universal Credit Regulations (Northern Ireland) 2016 applies, or
  - (c) an ESA sanctionable failure giving rise to a sanction under section 11J of the Welfare Reform Act (Northern Ireland) 2007 to which regulation 52 of the Employment and Support Allowance Regulations (Northern Ireland) 2016 applies.”.
- (9) In regulation 45 (short periods of sickness) after paragraph (6) add—
- “(7) For the purposes of calculating the number of occasions under paragraph (3), any occasion to which regulation 46 applies to the claimant is to be disregarded.”.
- (10) In regulation 46 (extended periods of sickness)—
- (a) in paragraph (1)—
    - (i) in sub-paragraph (b) after “disablement” insert “(“the initial condition”);”;
    - (ii) in sub-paragraph (c)(i)—
      - (aa) for the first “that disease or disablement” substitute “the initial condition or any other disease or disablement”; and
      - (bb) for “they do not expect to be unable to work on account of that disease or disablement for” substitute “not”;
    - (iii) in sub-paragraph (c)(ii), after “that regulation” insert “, and declares that he has been unable to work or expects to be unable to work, on account of the initial condition or any other disease or disablement, for 2 weeks or less”;
  - (b) at the beginning of paragraph (3) insert “Subject to paragraph (3A),”;
  - (c) after paragraph (3) insert—

“(3A) In a case where paragraph (1)(c)(ii) applies, but the period in which the person has been unable to work or expects to be unable to work in fact exceeds 2 weeks, the evidence that is required for the purposes of paragraph (1)(b) is the evidence that is required in a case where paragraph (1)(c)(i) applies.”; and
  - (d) in paragraph (4) before “disease or disablement” omit “the”.
- (11) In regulation 62 (deduction of tax and contributions for self-employed earners)—
- (a) for paragraph (1)(b) substitute—

“(b) as if that income were assessable to income tax at the basic rate, or in the case of a Scottish taxpayer, the Scottish basic rate, of tax less only the personal reliefs to which the claimant is entitled under Chapters 2, 3 and 3A of Part 3 of the Income Tax Act 2007 as are appropriate to their circumstances.”; and
  - (b) in paragraph 2—
    - (i) after “basic rate” insert “, or the Scottish basic rate,”; and

- (ii) for “personal allowance deductible under paragraph (1) is” substitute “personal reliefs deductible under paragraph (1) are”.
- (12) In regulation 63 (notional earnings)—
  - (a) in paragraph (8)(a)(ii)—
    - (i) for “starting rate” substitute “basic rate, or in the case of a Scottish taxpayer, the Scottish basic rate,”; and
    - (ii) for “personal allowance” substitute “personal reliefs”; and
  - (b) for paragraph (11) substitute—
 

“(11) For the purposes of paragraph (8)(a)(i), the amount is calculated by applying to those earnings the basic rate, or in the case of a Scottish taxpayer, the Scottish basic rate, of tax in the year of assessment less only the personal reliefs to which the claimant is entitled under Chapters 2, 3 and 3A of Part 3 of the Income Tax Act 2007 as are appropriate to the claimant’s circumstances.”.
- (13) In regulation 73(4) (calculation of earnings—share fishermen)—
  - (a) after sub-paragraph (b) insert—
 

“(ba) in paragraph (3) for “Subject to paragraph (4), the” substitute “The”;; and
  - (b) in sub-paragraph (d), in the inserted paragraph (6)—
    - (i) after “basic rate” insert “, or the Scottish basic rate,”; and
    - (ii) for “relief” substitute “reliefs”.

### **Amendment of the Employment and Support Allowance Regulations (Northern Ireland) 2016**

**11.**—(1) The Employment and Support Allowance Regulations (Northern Ireland) 2016(43) are amended in accordance with paragraphs (2) to (6).

(2) In regulation 49(5) (victims of domestic violence) for paragraph (b) of the definition of “registered social worker” substitute—

“(b) Social Care Wales;”.

(3) In regulation 50 (interpretation)—

(a) before the definition of “JSA sanctionable failure” insert—

““current sanctionable failure” means a failure of the following kinds in relation to which the Department has not yet determined whether the amount of an award of benefit is to be reduced—

- (a) a sanctionable failure;
- (b) a JSA sanctionable failure; or
- (c) a UC sanctionable failure;”;

(b) before the definition of “sanctionable failure” insert—

““relevant failure” means—

- (a) a sanctionable failure giving rise to a low-level sanction;
- (b) a UC sanctionable failure giving rise to a sanction under Article 32 of the Welfare Reform (Northern Ireland) Order 2015 to which regulation 101 of the Universal Credit Regulations (Northern Ireland) 2016 applies; or

- (c) a JSA sanctionable failure giving rise to a sanction under Article 8K of the Jobseekers (Northern Ireland) Order 1995 to which regulation 22 of the Jobseeker’s Allowance Regulations (Northern Ireland) 2016 applies;”.
- (4) In regulation 51 (general principles for calculating reduction periods) omit paragraph (4)(a).
- (5) In regulation 52 (low-level sanction) for paragraph (b) substitute—
- “(b) in the circumstances described in the first column of the following table, the number of days set out in the second column.

<i>Circumstances applicable to claimant’s case</i>	<i>Number of days</i>
Where there has been no previous relevant failure by the claimant.	7 days
Where there have been one or more previous relevant failures by the claimant and the date of the most recent previous relevant failure is not within 365 days beginning with and including the date of the current sanctionable failure.	7 days
Where there have been one or more previous relevant failures by the claimant and the date of the most recent previous relevant failure is within 365 days, but not within 14 days, beginning with and including the date of the current sanctionable failure and the reduction period applicable to the most recent previous relevant failure is—	
(a) 7 days	14 days
(b) 14 days	28 days
(c) 28 days	28 days
Where there have been one or more previous relevant failures by the claimant and the date of the most recent previous relevant failure is within 14 days beginning with and including the date of the current sanctionable failure and the reduction period applicable to the most recent previous relevant failure is—	
(a) 7 days	7 days
(b) 14 days	14 days
(c) 28 days	28 days.”.

- (6) In regulation 84 (deduction of tax and contributions for self-employed earners)—
- (a) in paragraph (1)—
- (i) after “basic rate” insert “, or in the case of a Scottish taxpayer, the Scottish basic rate;”; and
- (ii) for “personal allowance to which the claimant is entitled under sections 35 and 38 to 40 of the Income Tax Act 2007 (personal allowances) as is” substitute “personal reliefs to which the claimant is entitled under Chapters 2, 3 and 3A of Part 3 of the Income Tax Act 2007 as are”;
- (b) in paragraph (2) after “basic rate” insert “, or the Scottish basic rate,” and
- (c) in paragraph (4) at the end add—
- ““Scottish basic rate” means the rate of income tax of that name calculated in accordance with section 6A of the Income Tax Act 2007;
- “Scottish taxpayer” has the same meaning as in Chapter 2 of Part 4A of the Scotland Act 1998.”.

## **Amendment of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016**

**12.**—(1) The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016<sup>(44)</sup> are amended in accordance with paragraphs (2) to (7).

(2) In Part 2 before Chapter 1 (entitlement to other benefits) insert—

### **“CHAPTER A1**

#### **ENTITLEMENT TO CLAIM UNIVERSAL CREDIT**

#### **Department discretion to determine that claims for universal credit may not be made**

**2A.**—(1) Where the Department considers it necessary, in order to—

- (a) safeguard the efficient administration of universal credit; or
- (b) ensure the effective testing of systems for the administration of universal credit,

to cease to accept claims in any area, or in any category of case (either in all areas or in a specified area), the Department may determine that claims for universal credit may not be made in that area, or in that category of case.

(2) A determination under paragraph (1) has effect until it ceases to have effect in accordance with a further determination made by the Department.

(3) More than one determination under paragraph (1) may have effect at the same time.”

(3) In regulation 8(1)(a) (treatment of overpayments) after “tax credit” insert “, any housing benefit in the form of a rate rebate awarded in accordance with regulation 12 of the Housing Benefit Regulations”.

(4) For regulation 10(4) (modification of tax credits legislation: overpayments and penalties) substitute—

“(4) For section 29(4) substitute—

“(4) Where a notice states that this subsection applies in relation to an amount (or part of an amount), it may be recovered—

- (a) subject to provision made by regulations, by deduction from payments of any tax credit under an award made for any period to the person, or either or both of the persons, to whom the notice was given; or
- (b) subject to regulation made by the Department for Social Development under the Social Security Administration (Northern Ireland) Act 1992<sup>(45)</sup>—
  - (i) by deductions under section 69ZC of that Act (deduction from benefit) <sup>(46)</sup>,
  - (ii) by deductions under section 69ZD of that Act<sup>(47)</sup> (deduction from earnings), or
  - (iii) as set out in section 69ZE of that Act<sup>(48)</sup> (court action etc).”

(5) In regulation 21(1)(b) (transition from jobseeker’s allowance following an extended period of sickness) for “regulation 16” substitute “regulation 46”.

(6) In regulation 33 (sanctions: transition from old style JSA)—

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<sup>(44)</sup> S.R. 2016 No. 226.

<sup>(45)</sup> 1992 c. 8.

<sup>(46)</sup> Section 69ZC is inserted by Article 109 of S.I 2015/2006 (N.I.1).

<sup>(47)</sup> Section 69ZD is inserted by Article 109 of S.I 2015/2006 (N.I.1).

<sup>(48)</sup> Section 69ZE is inserted by Article 109 of S.I 2015/2006 (N.I.1).

- (a) in paragraph(1)(b) after “the Jobseekers Order 1995” insert “, or under regulation 69B of the JSA Regulations 1996(49)”;
- (b) in paragraph (3)(a)(ii) after “the Jobseekers Order” insert “1995 or regulation 69B of the JSA Regulations 1996”; and
- (c) after paragraph (3) add—
  - “(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 JSA Regulations 1996, minus—
    - (a) the number of days (if any) in that period in respect of which the amount of old style JSA was reduced; and
    - (b) 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 98 of the Universal Credit Regulations applies in relation to the JSA failure as if, in paragraphs (1) and (3), for “in accordance with regulations 99 to 102” there were substituted “in accordance with regulation 33 of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016”.
  - (6) Where the JSA award was made to a joint-claim couple within the meaning of the Jobseekers Order 1995 and the JSA failure related to only one member of the couple, the daily reduction rate for the purposes of regulation 108 of the Universal Credit Regulations (daily reduction rate) is the amount calculated in accordance with regulation 70(3) of the JSA Regulations 1996(50) in respect of the JSA award, divided by 7 and rounded down to the nearest 10 pence, unless regulation 108(2) or (3) of the Universal Credit Regulations applies.
  - (7) Where the daily reduction rate is to be determined in accordance with paragraph (6), regulation 108(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 33 of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016”.
  - (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 JSA Regulations 1996 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 Article 2(2) of the Order.”.
- (7) In regulation 34 (escalation of sanctions: transition from old style JSA)—
  - (a) in paragraph (2)(b) after “the Jobseekers Order 1995” insert “, or under regulation 69B of the JSA Regulations 1996”;
  - (b) in the closing words at the end of paragraph (2) after “regulation 69” insert “, 69A or 69B”; and
  - (c) in paragraph (3)(b) after “the Jobseekers Order 1995” insert “, or under regulation 69B of the JSA Regulations 1996”.

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(49) Regulation 69B is inserted by regulation 2(2) of [S.R. 2016 No. 241](#).

(50) Regulation 70 is substituted by regulation 2(3) of [S.R. 2016 No. 241](#).

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**Amendment of the Jobseeker's Allowance (Sanctions) (Amendment) Regulations (Northern Ireland) 2016**

**13.** In regulation 6 of the Jobseeker's Allowance (Sanctions) (Amendment) Regulations (Northern Ireland) 2016<sup>(51)</sup> (consequential amendments relating to sanctions) omit paragraph (1).

Signed by authority of the Secretary of State for Work and Pensions

5th July 2017

*Damien Hinds*  
Minister of State  
Department for Work and Pensions



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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Regulation 2 makes a minor amendment to the Social Security (Credits) Regulations (Northern Ireland) 1975 (S.R. 1975 No.113). Regulation 12 makes a related minor amendment to the Jobseeker’s Allowance (Sanctions) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016 No. 241) and omits a provision of those regulations which would have provided for the amendment of the Social Security (Credits) Regulations (Northern Ireland) 1975 as that amendment has now been superseded.

Regulations 3(2) and (3)(a) and (b) ensure that persons in receipt of universal credit may be entitled to a cold weather payment. The regulations make further amendments to ensure that the Social Fund (Cold Weather) Payments (General) Regulations (Northern Ireland) 1988 (S.R. 1988 No. 368) apply correctly in relation to the entitlement to cold weather payments of those who are in receipt of universal credit.

Regulation 3(3)(c) provides that there is no entitlement to a cold weather payment where a person in receipt of universal credit has been in employment or gainful self-employment for any of the days during a seven day recorded period of cold weather, or where the period of cold weather is forecasted, on the day when the Met. Office supplies the Department of Communities with the forecast. There is an exception where the claimant is in receipt of an additional amount of universal credit in respect of a disabled child or qualifying young person.

Regulation 4(2) to (5) and (9) to (14) amends the Jobseeker’s Allowance Regulations (Northern Ireland) 1996 (S.R. 1996 No. 198) (“the 1996 JSA Regulations”) in order to ensure consistency with the Jobseeker’s Allowance Regulations (Northern Ireland) 2016 (S.R. 2016 No. 218) (“the 2016 JSA Regulations”).

Regulations 4(6) to (8), 8(a), 9(9) to (14), 10(4) to (8) and 11(3) to (5) amend the sanctions provisions in the 1996 JSA Regulations, the Employment and Support Allowance Regulations (Northern Ireland) 2008 (S.R. 2008 No. 280) (“the 2008 ESA Regulations”), the Universal Credit Regulations (Northern Ireland) 2016 (S.R. 2016 No. 216) (“the UC Regulations”), the 2016 JSA Regulations and the Employment and Support Allowance Regulations (Northern Ireland) 2016 (S.R. 2016 219) (“the 2016 ESA Regulations”) respectively. In each case, a table setting out the reduction periods that apply depending on the circumstances in which the failure has occurred is substituted for the existing provisions so as to ensure that in all cases where a failure has occurred within 14 days of a previous one the reduction period for the subsequent failure is for the same duration as the previous reduction period. The length of the actual reduction periods is not altered. Regulation 8(b) also clarifies the date from which these rules relating to reduction periods apply for Employment and Support Allowance claimants who come within the 2008 ESA Regulations.

Regulation 5(2) makes a minor correction to the definition of “Income Support Work-Related Activity Regulations” in the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 (S.R. 1999 No.162) (“the Child Support Regulations”).

Regulation 5(3) amends regulation 3(7CD) of the Child Support Regulations, as inserted by regulation 12(3) of the Income Support (Work-Related Activity) and Miscellaneous Amendments Regulations (Northern Ireland) 2017 (S.R. 2017 No. 18). Regulation 3(7CD) provides for the revision of a decision made in consequence of a determination under regulation 6(2) of S.R. 2017 No.18. The amendment makes clear that a decision may only be revised where the claimant has not shown good cause for a failure to undertake work-related activity. This aligns the wording of the provision with the wording of regulation 6(2).

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

Regulation 6 makes a minor amendment to the State Pension Credit Regulations (Northern Ireland) 2003 to reflect change made to the 1996 JSA Regulations.

Regulation 7 amends the Housing Benefit (Persons who have attained the age for state pension credit) Regulations (Northern Ireland) 2006 (S.R. 2006 No. 406) so as to include reference to relevant provisions in the Universal Credit Regulations (Northern Ireland) 2016 (S.R. 2016 No. 216).

Regulation 9(2), (5), (7), (16), (17) and (18) make minor corrections and amendments to the UC Regulations.

Regulation 9(3) inserts a Northern-Ireland specific provision into the UC Regulations which allows for any premises or land not wholly owned by a claimant to be temporarily disregarded whilst the extent of the claimant's beneficial interest is ascertained.

Regulation 9(8) amends the definition of "registered social worker" to reflect the re-naming, by Part 3 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), of the Care Council for Wales as Social Care Wales. Regulations 10(3) and 11(2) make equivalent amendments to the same definition in the 2016 JSA Regulations and the 2016 ESA Regulations. In these sets of regulations, the definition of "registered social worker" describes one of the professionals who may be deemed to be acting in an official capacity and able to provide evidence that domestic violence has been inflicted or threatened against a claimant for the purposes of these benefits.

Regulation 9(15) makes transitional provision for the calculation of earned income for the purposes of calculating an award of universal credit during the period prior to 2nd April 2018, when the rules on the treatment of surplus earnings and self-employed losses in Chapter 2 of Part 6 of the UC Regulations will come into force. Regulation 9(4) and (6) makes related corrections and amendments to regulations 54 and 58 of the UC Regulations, which deal with surplus earnings and unused losses in the calculation of earned income.

Regulation 9(19) inserts two additional Northern Ireland- specific capital disregards into the UC Regulations.

Regulation 10(2) and (11) to (13) amends provisions in the 2016 JSA Regulations relating to calculation or estimation of income in consequence of the power of the Scottish Parliament to set a Scottish rate of income tax provided for in Part 4A of the Scotland Act 1998 (c. 46). The amendments introduce definitions of a "Scottish taxpayer" and the "Scottish basic rate" of tax to the existing references to the basic rate of tax. They also update references to "personal allowance" and "personal reliefs" so as to refer to the relevant provisions of the Income Tax Act 2007 (c. 3). Regulation 11(6) makes equivalent amendments to regulation 84 of the 2016 ESA Regulations.

Regulation 10(9) and (10) amends the 2016 JSA Regulations concerning the circumstances in which a claimant is treated as capable of work (or as not having limited capability for work) on account of a period of disease or disablement.

Regulation 10(9) amends regulation 45 of the 2016 JSA Regulations by adding a new paragraph which provides that where a claimant satisfies the requirements for a short period of sickness, but goes on to satisfy the requirements for an extended period of sickness under regulation 46 of the Regulations in respect of the same period of sickness, the short period of sickness under regulation 45 is disregarded for the purpose of calculating the maximum number of short periods of sickness which a person may have under regulation 45(3).

Regulation 10(10) amends regulation 46 of the 2016 JSA Regulations. It ensures that regulation 46 continues to apply where a claimant's original health condition changes (the period of sickness or disablement must still be continuous, in accordance with paragraph (4) of regulation 46). It also ensures that where a period of sickness is initially expected to last for two weeks or less, but ends up lasting for more than two weeks, the claimant is required to provide the same supporting medical evidence as someone who expected to be unable to work for longer than two weeks at the outset.

Regulation 12 makes amendments to the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016 No. 226).

Regulation 12(2) provides discretion for the Department temporarily to exclude claims in any area, or in any category of case, if it considers this is necessary in order to safeguard the efficient administration of universal credit, or to ensure the effective testing of administrative systems.

Regulation 12(3) adds housing benefit in the form of a rate rebate to the list of benefits which cannot be offset against entitlement to universal credit.

Regulation 12(4) and (5) makes minor corrections.

Regulation 12(6) and (7) makes minor amendments to ensure the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 ([S.R. 2016 No. 226](#)) correctly cross-refer to the new sanction provisions.

Regulation 13 makes a minor amendment to the Jobseeker's Allowance (Sanctions) (Amendment) Regulations (Northern Ireland) 2016 ([S.R. 2016 No. 241](#)) which amended the Social Security (Credits) Regulations (Northern Ireland) 1975 ([S.R. 1975 No.113](#)).

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.