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STATUTORY RULES OF NORTHERN IRELAND

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**2017 No. 190 (C. 11)**

**SOCIAL SECURITY**

**The Welfare Reform (Northern Ireland) Order  
2015 (Commencement No. 8 and Transitional  
and Transitory Provisions) Order 2017**

*Made - - - - 25th September 2017*

The Secretary of State for Work and Pensions makes the following Order in exercise of the powers conferred by Article 2(2), (3)(a) and (4) of the Welfare Reform (Northern Ireland) Order 2015(1).

Those powers are exercisable by the Secretary of State by virtue of Article 4(1)(a) and (b) of the Welfare Reform (Northern Ireland) Order 2015.

**Citation**

1. This Order may be cited as the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 8 and Transitional and Transitory Provisions) Order 2017.

**Interpretation**

2.—(1) In this Order—

“the 1992 Act” means the Social Security Administration (Northern Ireland) Act 1992(2);

“the 1995 Order” means the Jobseekers (Northern Ireland) Order 1995(3);

“the 1998 Order” means the Social Security (Northern Ireland) Order 1998(4);

“the 2007 Act” means the Welfare Reform Act (Northern Ireland) 2007(5);

“the 2010 Transitional Regulations” means the Employment and Support Allowance (Transitional Provision and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010(6);

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

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(1) S.I. 2015/2006 (N.I. 1).  
(2) 1992 c. 8.  
(3) S.I. 1995/2705 (N.I. 15).  
(4) S.I. 1998/1506 (N.I. 10).  
(5) 2007 c. 2 (N.I.).  
(6) S.R. 2010 No. 312.

“the 2016 Transitional Regulations” means the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016(7);

“the amending provisions” means the provisions referred to in Article 6(1)(a) to (c);

“Appeal Tribunal” has the same meaning as in Article 39 of the 1998 Order;

“appointed day” means the day appointed for the coming into force of the amending provisions in accordance with Article 6(3);

“claimant”—

(a) in relation to an employment and support allowance, has the same meaning as in Part 1 of the 2007 Act, save as mentioned in Article 7(1) of this Order;

(b) in relation to a jobseeker’s allowance, has the same meaning as in the 1995 Order (as it applies apart from the amendments made by Part 1 of Schedule 12 to the 2015 Order that remove references to an income-based jobseeker’s allowance), save as mentioned in Article 7(1) of this Order;

(c) in relation to universal credit, has the same meaning as in Part 2 of the 2015 Order(8);

“the Claims and Payments Regulations 1987” means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(9);

“the Claims and Payments Regulations 2016” means the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016(10);

“Commissioner” means the Chief Social Security Commissioner or any other Social Security Commissioner and includes a tribunal of 2 or more of the Commissioners constituted under Article 16(7) of the 1998 Order;

“contribution-based jobseeker’s allowance” means a contribution-based allowance under the 1995 Order as it has effect apart from the amendments made by Part 1 of Schedule 12 to the 2015 Order that remove references to an income-based allowance;

“contributory employment and support allowance” means a contributory allowance under Part 1 of the 2007 Act as it has effect apart from the amendments made by Schedule 3, and Part 1 of Schedule 12, to the 2015 Order that remove references to an income-related allowance;

“conversion decision” has the meaning given by the 2010 Transitional Regulations;

“the Department” means the Department for Communities;

“employment and support allowance” means an employment and support allowance under Part 1 of the 2007 Act;

“the ESA Regulations 2008” means the Employment and Support Allowance Regulations (Northern Ireland) 2008(11);

“the ESA Regulations 2016” means the Employment and Support Allowance Regulations (Northern Ireland) 2016(12);

“housing benefit” means housing benefit under section 129 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(13);

“income-based jobseeker’s allowance” means an income-based jobseeker’s allowance under the 1995 Order;

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(7) [S.R. 2016 No. 226.](#)

(8) *See* Article 46.

(9) [S.R. 1987 No. 465.](#)

(10) [S.R. 2016 No. 220.](#)

(11) [S.R. 2008 No. 280.](#)

(12) [S.R. 2016 No. 219.](#)

(13) [1992 c. 7.](#)

“income-related employment and support allowance” means an income-related allowance under Part 1 of the 2007 Act;

“income support” means income support under section 123 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“List of the No. 1 Relevant Districts” means the List of the No. 1 Relevant Districts issued by the Department on 25th September 2017<sup>(14)</sup>;

“jobseeker’s allowance” means a jobseeker’s allowance under the 1995 Order;

“joint claimants”, in relation to universal credit, has the same meaning as in Part 2 of the 2015 Order<sup>(15)</sup>;

“the JSA Regulations 1996” means the Jobseeker’s Allowance Regulations (Northern Ireland) 1996<sup>(16)</sup>;

“the JSA Regulations 2016” means the Jobseeker’s Allowance Regulations (Northern Ireland) 2016<sup>(17)</sup>;

“new style ESA” means an employment and support allowance under Part 1 of the 2007 Act as amended by the provisions of Schedule 3, and Part 1 of Schedule 12, to the 2015 Order that remove references to an income-related allowance and “new style ESA award” shall be construed accordingly;

“new style JSA” means a jobseeker’s allowance under the 1995 Order as amended by the provisions of Part 1 of Schedule 12 to the 2015 Order that remove references to an income-based allowance and “new style JSA award” shall be construed accordingly;

“No. 1 relevant districts” means the postcodes specified in the table in the List of the No. 1 Relevant Districts;

“old style ESA” means an employment and support allowance under Part 1 of the 2007 Act as it has effect apart from the amendments made by Schedule 3, and Part 1 of Schedule 12, to the 2015 Order that remove references to an income-related allowance and “old style ESA award” shall be construed accordingly;

“old style JSA” means a jobseeker’s allowance under the 1995 Order as it has effect apart from the amendments made by Part 1 of Schedule 12 to the 2015 Order that remove references to an income-based jobseeker’s allowance and “old style JSA award” shall be construed accordingly;

“single claimant”, in relation to universal credit, has the same meaning as in Part 2 of the 2015 Order;

“tax credit” (including “child tax credit” and “working tax credit”) has the same meaning as in the Tax Credits Act 2002<sup>(18)</sup>.

(2) For the purposes of this Order, the Claims and Payments Regulations 2016 apply for the purposes of deciding—

- (a) whether a claim for universal credit is made; and
- (b) the date on which such a claim is made.

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<sup>(14)</sup> See the Explanatory Note for details of the internet publishing and availability of the List of the No 1 Relevant Districts; a copy is also being published in the libraries of both Houses of Parliament.

<sup>(15)</sup> See Article 46.

<sup>(16)</sup> S.R. 1996 No. 198.

<sup>(17)</sup> S.R. 2016 No. 218.

<sup>(18)</sup> 2002 c. 21.

### **Provisions coming into force on 27th September 2017**

**3.—**(1) The day appointed for the coming into force of the provisions of the 2015 Order referred to in paragraph (2) is 27th September 2017.

(2) The provisions referred to are—

- (a) Article 50(2) and Article 50(1) in so far as it relates to Article 50(2) (claimant commitment for jobseeker's allowance);
- (b) Article 51 (interviews) for all remaining purposes;
- (c) Article 52 (sanctions) for all remaining purposes;
- (d) Article 61 (work experience);
- (e) Article 109 (recovery of benefit payments) for all remaining purposes;
- (f) Article 134 (rate relief schemes);
- (g) paragraph 1 of Schedule 7 (jobseeker's allowance in interim period: consequential amendments), in so far as it relates to the provisions specified in sub-paragraph (h);
- (h) paragraphs 2, 3, 4, 6 to 9, 10(4) (and 10(1) in so far as it relates to 10(4)), 12 and 15(2)(c) (and 15(1) in so far as it relates to 15(2)(c)) of Schedule 7;
- (i) paragraph 3 of Schedule 8 (social fund discretionary payments: consequential amendments) for all remaining purposes;
- (j) Part 3 of Schedule 12 (repeals) save for the provisions in relation to Articles 2(2) and 22(4) and (6) of the 1995 Order; and
- (k) in relation to Part 10 of Schedule 12, the repeals of—
  - (i) section 69(10A); and
  - (ii) subject to paragraph (3), section 69(11)(aa) and (ac).

(3) Despite paragraph (2)(k)(ii), the benefits referred to in section 69(11)(aa) and (ac) of the 1992 Act remain benefits to which section 69 of the 1992 Act applies to the extent that they relate respectively to an old style JSA award and an old style ESA award.

### **Day appointed for the coming into force of the universal credit provisions in Part 2 of the 2015 Order**

**4.—**(1) The day appointed for the coming into force of the provisions of the 2015 Order referred to in paragraph (2) is 27th September 2017.

(2) The provisions referred to are—

- (a) Article 34 (concurrent exercise of certain functions by Department of Education and Learning);
- (b) Article 35 (delegation and contracting out);
- (c) Article 43 (capability for work or work-related activity) for all remaining purposes;
- (d) Article 44 (information);
- (e) Article 45 (couples) for all remaining purposes;
- (f) Article 46 (interpretation of Part 2) for all remaining purposes;
- (g) the following paragraphs of Schedule 2 to the 2015 Order (universal credit : amendments) and Article 37 of the 2015 Order ( supplementary and consequential amendments) in so far as they are not already in force—
  - (i) paragraphs 1, 2, 28, 29, 31 to 33, 43, 44 and 54;

(ii) paragraphs 4, 8, 10 to 19, 21 and 23 to 27 and paragraph 3 in so far as it relates to those paragraphs; and

(iii) paragraphs 35, 36, 38, 40, 41(2) and 41(1) in so far as it relates to 41(2) and paragraph 34 in so far as it relates to those paragraphs and sub-paragraphs.

(3) The day appointed for the coming into force of the provisions of the 2015 Order listed in Schedule 1, in so far as they are not already in force, in relation to the case of a claim referred to in paragraph (4), and any award that is made in respect of the claim, is the day appointed in accordance with paragraph (5).

(4) The claims referred to are—

(a) a claim for universal credit that is made on or after 27th September 2017 in respect of a period that begins on or after 27th September 2017 where, on the date on which the claim is made, the claimant resides in the No. 1 relevant districts;

(b) a claim for universal credit that is made on or after 27th September 2017 in respect of a period that begins on or after 27th September 2017 where—

(i) in the case of a single claimant, the claimant gives incorrect information regarding the claimant residing in the No. 1 relevant districts and the claimant does not reside in those districts on the date on which the claim is made;

(ii) in the case of joint claimants, either or both of the joint claimants gives or give incorrect information regarding his or her (or their) residing in those districts and one or both of them does not or do not reside in those districts on the date on which the claim is made,

and after a decision is made that the single claimant is, or the joint claimants are, entitled to universal credit and one or more payments have been made in respect of the single claimant or the joint claimants, the Department discovers that incorrect information has been given regarding such residence.

(5) The day appointed in relation to the case of a claim referred to in paragraph (4), and any award that is made in respect of the claim, is the first day of the period in respect of which the claim is made.

(6) For the purposes of paragraph (5), where the time for making a claim for universal credit is extended under regulation 25(2) of the Claims and Payments Regulations 2016, the reference to the first day of the period in respect of which the claim is made or treated as made is a reference to the first day of the period in respect of which the claim is, by reason of the operation of that provision, timeously made or treated as made.

### **Incorrect information regarding residence in the No. 1 relevant districts**

**5.—(1)** This Article applies where a claim for universal credit is made and it is subsequently discovered that the single claimant or either or both of two joint claimants gave incorrect information regarding his or her (or their) residing in the No. 1 relevant districts and the condition referred to in paragraph (2) is met.

(2) The condition referred to is that, on the date on which the claim was made, the claimant did not reside in the No. 1 relevant districts (unless paragraph (3) applies);

(3) This paragraph applies where the claimant resided in an area apart from the No. 1 relevant districts with respect to which the provisions of the 2015 Order referred to in Schedule 1 were in force in relation to a claim for universal credit (and a determination had not been made under regulation 2A of the 2016 Transitional Regulations<sup>(19)</sup>, preventing a claim for universal credit being made with respect to the area or category of case in question).

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<sup>(19)</sup> Regulation 2A was inserted by regulation 12(2) of [S.R. 2017 No. 116](#).

- (4) Where the discovery is made before the claim for universal credit has been decided—
- (a) the claimant is to be informed that the claimant is not entitled to claim universal credit;
  - (b) if the claimant (or, in the case of joint claimants, either of them) makes a claim for old style ESA, old style JSA or income support (“the specified benefit”) and the date on which that claim is made (as determined in accordance with the Claims and Payments Regulations 1987) is after the date on which the claim for universal credit was made, but no later than one month after the date on which the information required by sub-paragraph (a) was given—
    - (i) the claim for the specified benefit is to be treated as made on the date on which the claim for universal credit was made or the first date on which the claimant would have been entitled to the specified benefit if a claim had been made for it on that date, if later; and
    - (ii) any provision of the Claims and Payments Regulations 1987 under which the claim for the specified benefit is treated as made on a later date does not apply;
  - (c) if the claimant (or, in the case of joint claimants, either of them) makes a claim for housing benefit and the date of that claim (as determined in accordance with the Housing Benefit Regulations (Northern Ireland) 2006<sup>(20)</sup> or, as the case may be, the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006<sup>(21)</sup> (together referred to as “the Housing Benefit Regulations”)) is after the date on which the claim for universal credit was made, but no later than one month after the date on which the information required by sub-paragraph (a) was given—
    - (i) the claim for housing benefit is to be treated as made on the date on which the claim for universal credit was made or the first date on which the claimant would have been entitled to housing benefit if a claim been made for it on that date, if later; and
    - (ii) any provision of the Housing Benefit Regulations under which the claim for housing benefit is treated as made on a later date does not apply;
  - (d) if the claimant (or, in the case of joint claimants, either of them) makes a claim for a tax credit and that claim is received by a relevant authority at an appropriate office (within the meaning of the Tax Credits (Claims and Notifications) Regulations 2002 (“the 2002 Regulations”))<sup>(22)</sup> during the period of one month beginning with the date on which the information required by sub-paragraph (a) was given—
    - (i) the claim for a tax credit is to be treated as having been received by a relevant authority at an appropriate office on the date on which the claim for universal credit was made or the first date on which the claimant would have been entitled to a tax credit if a claim had been so received on that date, if later; and
    - (ii) any provision of the 2002 Regulations under which the claim is treated as having been made on a later date does not apply.
- (5) Where the discovery is made after a decision has been made that the claimant is entitled to universal credit, but before any payment has been made—
- (a) that decision is to cease to have effect immediately, by virtue of this Article;
  - (b) the claimant is to be informed that they are not entitled to claim universal credit; and
  - (c) sub-paragraphs (b) to (d) of paragraph (4) apply.

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<sup>(20)</sup> S.R. 2006 No. 405.

<sup>(21)</sup> S.R. 2006 No. 406.

<sup>(22)</sup> S.I. 2002/2014.

(6) Where the discovery is made after a decision has been made that the claimant is entitled to universal credit and one or more payments have been made in respect of the claimant, the decision is to be treated as a decision under Article 9 of the 1998 Order.

(7) For the purposes of paragraph (4), a person makes a claim for old style ESA or old style JSA where he or she makes a claim for an employment and support allowance or a jobseeker's allowance and the claim is subject to Part 1 of the 2007 Act or the 1995 Order respectively as those provisions have effect apart from the amendments made by the amending provisions.

### **Day appointed for the abolition of income-related employment and support allowance and income-based jobseeker's allowance**

6.—(1) The day appointed for the coming into force of—

- (a) Article 39(1)(a) and (b) and (2) of the 2015 Order (abolition of benefits);
- (b) paragraphs 17 to 21 of Schedule 3 to the 2015 Order (abolition of benefits: consequential provisions) and Article 39(3) of the 2015 Order in so far as it relates to those paragraphs: and
- (c) the repeals in Part 1 of Schedule 12 to the Order (abolition of benefits superseded by universal credit) that are referred to in Schedule 2,

in relation to the case of a claim referred to in paragraph (2) and any award that is made in respect of such a claim, is the day appointed in accordance with paragraph (3).

(2) The claims referred to are—

- (a) a claim for universal credit that is made on or after 27th September 2017 in respect of a period that begins on or after 27th September 2017 where, on the date on which the claim is made, the claimant resides in the No. 1 relevant districts;
- (b) a claim for universal credit that is made on or after 27th September 2017 in respect of a period that begins on or after 27th September 2017 where—
  - (i) in the case of a single claimant, the claimant gives incorrect information regarding the claimant residing in the No. 1 relevant districts and the claimant does not reside in those districts on the date on which the claim is made;
  - (ii) in the case of joint claimants, either or both of the joint claimants gives or give incorrect information regarding his or her (or their) residing in those districts and one or both of them does not or do not reside in those districts on the date on which the claim is made;

and after a decision is made that the single claimant is, or the joint claimants are, entitled to universal credit and one or more payments have been made in respect of the single claimant or the joint claimants, the Department discovers that incorrect information has been given regarding such residence;

- (c) a claim for an employment and support allowance or a jobseeker's allowance that is made or treated as made on or after 27th September 2017 where, on the date on which the claim is made or treated as made, the claimant resides in the No. 1 relevant districts;
- (d) a claim for an employment and support allowance or a jobseeker's allowance other than one referred to in sub-paragraph (c) that is made or treated as made during the relevant period by a single claimant of universal credit or by either of two joint claimants of universal credit who has or have made a claim for universal credit within sub-paragraph (a) or (b).

(3) The day appointed in relation to the case of a claim referred to in paragraph (2), and any award that is made in respect of the claim, is the first day of the period in respect of which the claim is made.

(4) In paragraph (1), the reference to the case of a claim for universal credit referred to in paragraph (2)(a) or (b) (and any award made in respect of the claim), includes a reference to—

- (a) a case where a notice under regulation 4 of the 2010 Transitional Regulations (the notice commencing the conversion phase in relation to an award of incapacity benefit or severe disablement allowance) is issued to a single claimant or in the case of joint claimants, either of those claimants, during the designated period;
- (b) where sub-paragraph (a) does not apply, a case where a conversion decision is made during that period in relation to an award of incapacity benefit or severe disablement allowance to which a single claimant or in the case of joint claimants, either of those claimants, is entitled; and
- (c) where sub-paragraphs (a) and (b) do not apply, a case where the effective date of a conversion decision in relation to such an award occurs during that period (where “effective date” has the same meaning as in the 2010 Transitional Regulations),

and any award of an employment and support allowance that is made consequent on a conversion decision that relates to the notice referred to in sub-paragraph (a), the conversion decision referred to in sub-paragraph (b) or the conversion decision referred to in sub-paragraph (c), as the case may be.

(5) For the purposes of paragraph (4), the designated period means—

- (a) in relation to a claim for universal credit referred to in paragraph (2)(a) or (b), any period when a decision has not yet been made on the claim; and
- (b) any period, subsequent to the period referred to in sub-paragraph (a) or (b), when the single claimant or joint claimants is or are entitled to an award of universal credit in respect of the claim.

(6) For the purposes of paragraph (1), the reference to the case of a claim for universal credit referred to in paragraph (2)(a) or (b) (and any award made in respect of the claim), includes a reference to an old style ESA award or an old style JSA award that exists (or, as a result of an act as referred to in paragraph (7), is later found to have existed at that time) immediately before the day appointed (as referred to in paragraph (3)) in relation to that claim.

(7) For the purposes of paragraph (6), the acts referred to are—

- (a) the revision of a decision that the claimant was not entitled to an old style ESA or old style JSA; or
- (b) an appeal to the Appeal Tribunal, a Commissioner or a court against such a decision.

### **Provisions that apply in connection with the abolition of income-related employment and support allowance and income-based jobseeker’s allowance under Article 6**

7.—(1) For the purposes of Article 6(2)(c), where a claim for an employment and support allowance or a jobseeker’s allowance is made by a couple or a member of a couple, any reference in that paragraph to “the claimant” is a reference to each member of the couple.

(2) For the purposes of paragraph (1), “couple” has the same meaning as it has in Article 45 of the 2015 Order.

(3) For the purposes of Article 6(2)(d), “relevant period” means, in relation to a claim for universal credit within Article 6(2)(a) or (b), any UC claim period, and any period subsequent to any UC claim period in respect of which the claimant is entitled to an award of universal credit in respect of the claim.

(4) For the purposes of paragraph (3), a “UC claim period” is a period when—

- (a) a claim for universal credit within Article 6(2)(a), or within Article 6(2)(b)(i) or (ii), has been made but a decision has not yet been made on the claim; or
- (b) a decision has been made that the claimant is not entitled to universal credit and—



- (i) the Department is considering whether to revise that decision under Article 10 of the 1998 Order, whether on an application made for that purpose, or on the Department's own initiative; or
  - (ii) the claimant has appealed against that decision to the Appeal Tribunal and that appeal or any subsequent appeal to the Commissioner or to a court has not been finally determined.
- (5) For the purposes of Article 6(2)(c) and (d), the Claims and Payments Regulations 1987 apply, subject to paragraph (6) and (7), for the purposes of deciding—
- (a) whether a claim for an employment and support allowance or a jobseeker's allowance is made; and
  - (b) the date on which the claim is made or treated as made.
- (6) Subject to paragraph (7),—
- (a) a person makes a claim for an employment and support allowance or a jobseeker's allowance if they take any action which results in a decision on a claim being required under the Claims and Payments Regulations 1987; and
  - (b) except as provided in paragraph (5), it is irrelevant that the effect of any provision of the Claims and Payments Regulations 1987 is that, for the purposes of those Regulations, the claim is not made or treated as made during the relevant period.
- (7) Where, by virtue of—
- (a) regulation 6(1D)(b) or (c), in the case of a claim for an employment and support allowance(23); or
  - (b) regulation 6(4ZA) to (4ZD) and (4A)(a)(i) and (b), in the case of a claim for a jobseeker's allowance(24),
- a claim for an employment and support allowance or a jobseeker's allowance is treated as made at a date earlier than the date on which the action referred to in paragraph (6)(a) is taken, the claim is treated as made on that earlier date.
- (8) For the purposes of Article 6(3)—
- (a) in the case of a claim for universal credit, where the time for making a claim is extended under regulation 25(2) of the Claims and Payments Regulations 2016 (time within which a claim for universal credit is to be made), the reference to the first day of the period in respect of which the claim is made is a reference to the first day of the period in respect of which the claim is, by reason of the operation of that provision, timeously made;
  - (b) in the case of a claim for an employment and support allowance or a jobseeker's allowance, where the time for making a claim is extended under regulation 19 of, and Schedule 4 to, the Claims and Payments Regulations 1987 (time for claiming benefit)(25), the reference

(23) Regulation 6(1D) was inserted by regulation 13(6) of S.R. 2008 No. 286 and substituted by regulation 2(6)(c) of S.R. 2009 No. 240.

(24) Regulation 6(4ZA-4ZD) was inserted by regulation 2(5)(c) of S.R. 2000 No. 365 and amended by regulation 2(6)(d) of S.R. 2009 No. 240. Regulation 6(4A) was inserted by regulation 2(5)(c) of S.R. 1996 No. 354 and substituted by regulation 3(4)(d) of S.R. 1997 No. 156 and amended by regulation 2(4)(b)(i) and (ii) of S.R. 2000 No. 365, paragraph 2(4) of Schedule 2 to S.R. 2001 No. 175, regulation 2(6)(e) of S.R. 2009 No. 240.

(25) Regulation 19 was substituted by regulation 3(7) of S.R. 1997 No. 156 and amended by regulation 2(3) of S.R. 1997 No. 417, regulation 2(5) of S.R. 2000 No. 365, paragraph 2(7) of Schedule 2 to S.R. 2001 No. 175, regulation 2(3) of S.R. 2002 No. 67, paragraph 2 of the Schedule to S.R. 2002 No. 323, regulation 2(2)(b) of S.R. 2002 No. 327, paragraph 1(3) of Schedule 2 to S.R. 2003 No. 274, regulation 2(2) of S.R. 2004 No. 304, regulation 2(3) of S.R. 2005 No. 122, regulation 2(2)(b) and (c) of S.R. 2005 No. 139, regulation 6(3) of S.R. 2005 No. 539, regulation 2(4) of S.R. 2007 No. 392 and regulation 2(2) of S.R. 2008 No. 410. Schedule 4 was amended by regulation 9 of S.R. 1988 No. 14, regulation 6(6) and 8 of, and Schedule 3 to, S.R. 1991 No. 488, regulation 26 of S.R. 1992 No. 7, regulation 2(13) of S.R. 1994 No. 456, regulation 2(22) of S.R. 1996 No. 354, regulation 2(6) of S.R. 1996 No. 432, regulation 3(8) of S.R. 1997 No. 156, regulation 2(5) of S.R. 2005 No. 122, regulation 2(10) of S.R. 2005 No. 299, regulation 13(17) of S.R. 2008 No. 286, regulation 2(3) of S.R. 2008 No. 410, regulation 3 of S.R. 2010 No. 378, regulation 4 of S.R. 2011 No. 130 and regulation 9(18) of S.R. 2015 No. 411.

to the first day of the period in respect of which the claim is made is a reference to the first day of the period in respect of which the claim is, by reason of the operation of those provisions, timeously made.

**Transitional provision where the Department determines that claims for universal credit may not be made: effect on claims for employment and support allowance and jobseeker’s allowance**

8.—(1) Where a person makes a claim for an employment and support allowance or a jobseeker’s allowance at a time when they would not be able to make a claim for universal credit by virtue of a determination under regulation 2A of the 2016 Transitional Regulations (claims for universal credit may not be made in an area or category of case), or by virtue of regulation 40 of those Regulations (restriction on claims for universal credit during the interim period)(**26**) and where the amending provisions would otherwise have come into force in relation to the claim by virtue of Article 6(2)(c) or any corresponding provision in any order made under Article 2(2) of the 2015 Order other than this Order, then—

- (a) in relation to a claim for an employment and support allowance, Part 1 of the 2007 Act and the Welfare Reform Act (Northern Ireland) 2010(**27**) are to apply as though the amending provisions and the provisions referred to in Article 9(1)(c), (d) and (f) had not come into force in relation to the claim;
- (b) in relation to a claim for a jobseeker’s allowance, the 1995 Order, the 1992 Act(**28**) and the 1998 Order are to apply as though the amending provisions and the provisions referred to in Article 9(1)(a), (b) and (e) had not come into force in relation to the claim.

(2) Paragraph (1) does not apply in relation to a claim for an employment and support allowance (“ESA”) or a jobseeker’s allowance (“JSA”) where the claim is made or treated as made—

- (a) where the claimant of ESA or JSA has made a claim for universal credit (“UC”) within Article 6(2)(a) or (b) (whether or not the claim for UC is made jointly with another person), during the “relevant period” in relation to that claim or award as referred to in Article 7(3); or
- (b) where the claimant of ESA or JSA has made a claim for UC within any provision of an order made under Article 2(2) of the 2015 Order, apart from this Order, that corresponds to Article 6(2)(a) or (b) (whether or not the claim for UC is made by the claimant of ESA or JSA and another person as joint claimants), during the “relevant period” in relation to that claim as referred to in the provision of that order that corresponds to Article 7(3).

(3) For the purposes of this Article, paragraphs (5) to (7) of Article 7 apply for the purposes of determining—

- (a) whether a claim for ESA or JSA is made; and
- (b) the date on which the claim is made or treated as made.

**Day appointed for commencement of provisions relating to claimant responsibilities with respect to employment and support allowance and jobseeker’s allowance, and transitional provisions**

9.—(1) The day appointed for the coming into force of—

- (a) Article 50(3) of the 2015 Order and Article 50(1) of the 2015 Order in so far as it relates to Article 50(3) (claimant commitment for jobseeker’s allowance);

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(26) Regulation 40 was inserted by regulation 3(3) of S.R. 2017 No. 79.

(27) 2010 c. 13 (N.I.).

(28) 1992 c. 8.

- (b) Article 55(2) to (5) of the 2015 Order and Article 55(1) of the 2015 Order in so far as it relates to those provisions (claimant responsibilities for jobseeker's allowance);
- (c) Article 60(2) of the 2015 Order and Article 60(1) of the 2015 Order in so far as it relates to that provision (claimant commitment for employment and support allowance);
- (d) Article 63(2), (4), (5) and (8) of the 2015 Order and Article 63(1) of the 2015 Order in so far as it relates to those provisions (claimant responsibilities for employment and support allowance);
- (e) the repeals in Part 4 of Schedule 12 to the 2015 Order (jobseeker's allowance: responsibilities after introduction of universal credit); and
- (f) the repeals in Part 5 of Schedule 12 to the 2015 Order (employment and support allowance: responsibilities after introduction of universal credit),

in so far as they are not already in force, is, in relation to a particular case, the day on which the amending provisions come into force, under any secondary legislation, in relation to that case.

(2) Where, under any secondary legislation, in relation to a new style JSA award, the 1995 Order applies as though the amending provisions had not come into force, then, with effect from the day on which the 1995 Order so applies, the 1995 Order, the 1992 Act and the 1998 Order are to apply in relation to the award as though the provisions referred to in paragraph (1)(a), (b) and (e) had not come into force.

(3) Where, under any secondary legislation, in relation to a new style ESA award, Part 1 of the 2007 Act applies as though the amending provisions had not come into force, then, with effect from the day on which Part 1 of the 2007 Act so applies, Part 1 of the 2007 Act and the Welfare Reform Act (Northern Ireland) 2010 are to apply in relation to the award as though the provisions referred to in paragraph (1)(c), (d) and (f) had not come into force.

(4) For the purposes of paragraphs (1) to (3), "secondary legislation" means an order or regulation made under an Act or Order in Council.

### **Transitional provision: conversion of incapacity benefits**

**10.** Where the amending provisions come into operation under Article 6(1) in relation to the case of a claim referred to in Article 6(2), the 2010 Transitional Regulations are to apply in relation to that case as if the modifications set out in Schedule 3 were made.

### **Transition from old style ESA**

**11.—**(1) This article applies where a person—

- (a) makes, or is treated as making, a claim for an employment and support allowance and, under Article 6, Part 1 of the 2007 Act, as amended by the provisions of Schedule 3, and Part 1 of Schedule 12, to the 2015 Order that remove references to an income-related allowance, applies in relation to the claim; or
- (b)
  - (i) has an old style ESA award immediately before the appointed day in relation to a case of a claim for universal credit referred to in Article 6(2) (and any award made in respect of the claim); and
  - (ii) the old style ESA award consists of or includes a contributory employment and support allowance (which allowance therefore continues as a new style ESA award), and, in the case of sub-paragraph (a), the condition referred to in paragraph (2) is satisfied.

(2) The condition is that—

- (a) the person previously made, or was treated as having made, a claim for an employment and support allowance and Part 1 of the 2007 Act, as it has effect apart from the provisions

- of Schedule 3, and Part 1 of Schedule 12, to the 2015 Order that remove references to an income-related allowance, applied in relation to the claim; or
- (b) a notice was issued to the person under regulation 4 of the 2010 Transitional Regulations and Part 1 of the 2007 Act, as that part has effect apart from the provisions of Schedule 3, and Part 1 of Schedule 12, to the 2015 Order that remove references to an income-related allowance, applied in relation to the notice.
- (3) Where this article applies, the ESA Regulations 2016 are to be read as if—
- (a) (i) in the definitions of “period of limited capability for work” in regulations 2 (interpretation) and 3 (further interpretation), the reference to a period throughout which a person has, or is treated as having, limited capability for work included a reference to a period throughout which the person in question had, or was treated as having, limited capability for work under the ESA Regulations 2008; and
- (ii) the reference, in the definition in regulation 2, to regulation 27 of the Claims and Payments Regulations 2016 (time within which a claim for employment and support allowance is to be made) included a reference to regulation 19 of, and Schedule 4 to, the Claims and Payments Regulations 1987 (prescribed times for claiming benefit);
- (b) in regulation 6 (the assessment phase - previous claimants)—
- (i) any reference to an employment and support allowance included a reference to an old style ESA award; and
- (ii) in paragraph (3)(b)(v) and (c)(iii), the reference to regulation 26 (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made) included a reference to regulation 30 of the ESA Regulations 2008 (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made);
- (c) in regulation 7 (circumstances where the condition that the assessment phase has ended before entitlement to the support component arises does not apply)—
- (i) any reference to an employment and support allowance included a reference to an old style ESA award; and
- (ii) in paragraph (3)(b)(iv), (c)(iii), (c)(iv) and (d)(iii), the reference to regulation 26 included a reference to regulation 30 of the ESA Regulations 2008;
- (d) in regulation 11 (condition relating to youth - previous claimants), any reference to an employment and support allowance included a reference to an old style ESA award;
- (e) in regulation 15 (determination of limited capability for work)—
- (i) the reference in paragraph (7)(a) to a claimant having been determined to have limited capability for work, included a reference to such a determination made under Part 5 of the ESA Regulations 2008; and
- (ii) the reference in paragraph (7)(b) to a person being treated as having limited capability for work included a reference to a person being so treated under regulation 20 (certain claimants to be treated as having limited capability for work), 25 (hospital patients), 26 (claimants receiving certain regular treatment) or 29 (exceptional circumstances) of the ESA Regulations 2008;
- (f) in regulation 26 (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made)—
- (i) in paragraph (2)(b), the reference to regulation 18 (failure to provide information in relation to limited capability for work) and 19 (claimant may be called for a medical examination to determine whether the claimant has limited capability

for work) included a reference to regulation 22 (failure to provide information in relation to limited capability for work) and 23 (claimant may be called for a medical examination to determine whether the claimant has limited capability for work) of the ESA Regulations 2008; and

- (ii) in paragraph (4)(c), the reference to regulation 18 included a reference to regulation 22 of the ESA Regulations 2008;
- (g) in regulation 30(4) (determination of limited capability for work-related activity), the reference to a determination about whether a claimant has, or is to be treated as having or not having, limited capability for work-related activity included such a determination that was made under Part 6 of the ESA Regulations 2008;
- (h) in regulation 39(6) (exempt work), the reference to an employment and support allowance included a reference to an old style ESA award;
- (i) in regulation 85(2)(a) (waiting days), where a claimant was entitled to an old style ESA award with effect from the first day of a period of limited capability for work by virtue of regulation 144(2)(a) of the ESA Regulations 2008 and, with effect from the second or third day of that period, that award continued as a new style ESA award in the circumstances referred to in paragraph (1)(b) of this Article, the reference to an employment and support allowance included a reference to the old style ESA award;
- (j) in regulation 87(1) (claimants appealing a decision), the reference to a determination that the claimant does not have limited capacity for work under the ESA Regulations 2016 included a reference to such a determination under the ESA Regulations 2008;
- (k) in regulation 89 (short absence), where—
  - (i) a claimant had an old style ESA award in the circumstances referred to in paragraph (1)(b) of this Article;
  - (ii) a temporary absence from Northern Ireland commenced when regulation 152 of the ESA Regulations 2008 applied to the claimant; and
  - (iii) the first 4 weeks of the temporary absence had not ended immediately before the first day of entitlement to the new style ESA award,the initial words of regulation 89 included a reference to the claimant being entitled to the new style ESA award during the remainder of the first 4 weeks of the temporary absence that commenced when regulation 152 of the ESA Regulations 2008 applied to the claimant;
- (l) in regulation 90 (absence to receive medical treatment), where—
  - (i) a claimant had an old style ESA award in the circumstances referred to in paragraph (1)(b) of this Article;
  - (ii) a temporary absence from Northern Ireland commenced when regulation 153 of the ESA Regulations 2008 applied to the claimant; and
  - (iii) the first 26 weeks of the temporary absence had not ended immediately before the first day of entitlement to the new style ESA award,the initial words of paragraph (1) of regulation 90 included a reference to the claimant being entitled to the new style ESA award during the remainder of the first 26 weeks of the temporary absence that commenced when regulation 153 of the ESA Regulations 2008 applied to the claimant;
- (m) in regulation 93 (disqualification for misconduct etc)—
  - (i) in paragraph (3), for “Paragraph (2) does” there were substituted “Paragraphs (2) and (5) do”; and
  - (ii) after paragraph (4) there were inserted—

“(5) Subject to paragraph (3), a claimant is to be disqualified from receiving an employment and support allowance for any period determined by the Department under regulation 157(2) of the Employment and Support Allowance Regulations 2008 less any days during that period on which those Regulations applied to the claimant.

(6) Where paragraph (5) applies to a claimant, paragraph (2) is not to apply to that claimant with respect to any matter referred to in paragraph (1) that formed the basis for the claimant’s disqualification under regulation 157(2) of the Employment and Support Allowance 2008.”;

(n) in regulation 95 (treating a claimant as not having limited capability for work), the existing words became paragraph (1) and—

(i) at the beginning of paragraph (1), there were inserted “Subject to paragraph (2),”; and

(ii) after paragraph (1), there were inserted—

“(2) A claimant is to be treated as not having limited capability for work if—

(a) under Part 1 of the 2007 Act as it has effect apart from the amendments made by Schedule 3, and Part 1 of Schedule 12, to the 2015 Order that remove references to an income-related allowance (“the former law”), the claimant was disqualified for receiving a contributory employment and support allowance during a period of imprisonment or detention in legal custody;

(b) Part 1 of the 2007 Act as amended by the provisions of Schedule 3, and Part 1 of Schedule 12, to the 2015 Order that remove references to an income-related allowance (“the current law”) applied to the claimant with effect from a day that occurred during the period of imprisonment or detention in legal custody referred to in sub-paragraph (a) and during the period of 6 weeks with effect from the day on which the claimant was first disqualified as referred to in sub-paragraph (a); and

(c) the total of—

(i) the period for which the claimant was disqualified for receiving a contributory employment and support allowance during the period of imprisonment or detention in legal custody when the former law applied to the claimant; and

(ii) the period for which the claimant was disqualified for receiving an employment and support allowance during the period of imprisonment or detention in legal custody when the current law applied to the claimant,

amounts to more than 6 weeks.”.

(4) Subject to paragraph (5), where this article applies, the 2007 Act is to be read as though—

(a) the reference to an employment and support allowance in section 1A(1) and (4) to (6)(**29**);

(b) the first reference to an employment and support allowance in section 1A(3); and

(c) the first reference to an employment and support allowance in section 1B(**30**),

included a reference to a contributory employment and support allowance

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(**29**) Section 1A was inserted by Article 57(1) of the 2015 Order.

(**30**) Section 1B was inserted by Article 58(1) of the 2015 Order.

(5) Where this article applies and the 2010 Transitional Regulations apply to a person, paragraph (4)(c) becomes paragraph (4)(b) and, for paragraph (4)(a) and (b), there is substituted—

- “(a) in section 1A as substituted by the 2010 Transitional Regulations—
- (i) the reference to an employment and support allowance in section 1A(1), (4) and (5); and
  - (ii) the first reference to an employment and support allowance in section 1A(3); and”.

(6) Where this article applies and a claimant had an old style ESA award in the circumstances referred to in paragraph (1)(b); the 2007 Act is to be read as if, in section 24(2), the beginning of the assessment phase (subject to section 24(3)) was the first day of the period for which the claimant was entitled to the old style ESA award.

### **Transition from new style ESA**

**12.**—(1) This article applies where a person makes, or is treated as making, a claim for an employment and support allowance and Part 1 of the 2007 Act, as it has effect apart from the provisions of Schedule 3, and Part 1 of Schedule 12, to the 2015 Order that remove references to an income-related allowance, applies in relation to the claim and the condition referred to in paragraph (2) is satisfied.

(2) The condition is that—

- (a) the person previously made, or was treated as having made, a claim for an employment and support allowance and, under Article 6, Part 1 of the 2007 Act, as amended by the provisions of Schedule 3, and Part 1 of Schedule 12, to the 2015 Order that remove references to an income-related allowance, applied in relation to the claim;
- (b) a notice was issued to the person under regulation 4 of the 2010 Transitional Regulations and, under Article 6, Part 1 of the 2007 Act, as amended by the provisions of Schedule 3, and Part 1 of Schedule 12, to the 2015 Order that remove references to an income-related allowance, applied in relation to the notice; or
- (c) the person previously—
  - (i) had an old style ESA award immediately before the appointed day in relation to a case of a claim for universal credit referred to in Article 6(2) (and any award made in respect of the claim); and
  - (ii) the old style ESA award consisted of or included a contributory employment and support allowance (which allowance therefore continued as a new style ESA award).

(3) Where this article applies, the ESA Regulations 2008 are to be read as if—

- (a)
  - (i) in the definitions of “period of limited capability for work” in regulation 2(1) and (4A) (interpretation), the reference to a period throughout which a person has, or is treated as having, limited capability for work included a reference to a period throughout which the person in question had, or was treated as having, limited capability for work under the ESA Regulations 2016; and
  - (ii) the reference, in the definition in regulation 2(1), to regulation 19 (time for claiming benefit), of the Claims and Payments Regulations 1987 included a reference to regulation 27 (time within which a claim for an employment and support allowance is to be made), of the Claims and Payments Regulations 2016 ;
- (b) in regulation 5 (the assessment phase - previous claimants)—
  - (i) any reference to an employment and support allowance included a reference to a new style ESA award; and
  - (ii) in paragraph (2)(c)(v) and (d)(iii), the reference to regulation 30 (conditions for treating a claimant as having limited capability for work has been made) included

- a reference to regulation 26 of the ESA Regulations 2016 (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made);
- (c) in regulation 7 (circumstances where the condition that the assessment phase has ended before entitlement to the support component arises does not apply)—
- (i) any reference to an employment and support allowance included a reference to a new style ESA award; and
  - (ii) in paragraph (1B)(b)(iv), (c)(iii), (c)(iv) and (d)(iii), the reference to regulation 30 included a reference to regulation 26 of the ESA Regulations 2016;
- (d) in regulation 10 (condition relating to youth – previous claimants), any reference to an employment and support allowance included a reference to a new style ESA award;
- (e) in regulation 19 (determination of limited capability for work)—
- (i) the reference in paragraph (7)(a) to a claimant having been determined to have limited capability for work included a reference to such a determination made under Part 4 of the ESA Regulations 2016; and
  - (ii) the reference in paragraph (7)(b) to a person being treated as having limited capability for work included a reference to a person being so treated under regulation 16 (certain claimants to be treated as having limited capability for work), 21 (hospital patients), 22 (claimants receiving certain treatment) or 25 (exceptional circumstances) of the ESA Regulations 2016;
- (f) in regulation 30(2)(b)(ii) (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made)(31), the reference to regulation 22 (failure to provide information in relation to limited capability for work) and 23 (claimant may be called for a medical examination to determine whether the claimant has limited capability for work) included a reference to regulation 18 (failure to provide information in relation to limited capability for work) and 19 (claimant may be called for a medical examination to determine whether the claimant has limited capability for work) of the ESA Regulations 2016;
- (g) in regulation 34(4) (determination of limited capability for work-related activity), the reference to a determination about whether a claimant has, or is to be treated as having or not having, limited capability for work-related activity included such a determination that was made under Part 5 of the ESA Regulations 2016;
- (h) in regulation 45(10) (exempt work), the reference to an employment and support allowance included a reference to a new style ESA award;
- (i) in regulation 147A(1) (claimants appealing a decision)(32), the reference to a relevant decision included a relevant decision made under the ESA Regulations 2016;
- (j) in regulation 157 (disqualification for misconduct etc)—
- (i) in paragraph (3), for “Paragraph (2) does” there were substituted “Paragraphs (2) and (4) do”; and
  - (ii) after paragraph (3) there were inserted—
 

“(4) Subject to paragraph (3), a claimant is to be disqualified for receiving an employment and support allowance for any period determined by the Department under regulation 93(2) of the Employment and Support Allowance Regulations 2016 less any days during that period on which those Regulations applied to the claimant.

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(31) Regulation 30(2)(b) was substituted by regulation 3(2)(a) of S.R. 2015 No. 185.

(32) Regulation 147A was inserted by regulation 9(15) of S.R. 2010 No. 200 and substituted by regulation 3(3) of S.R. 2015 No. 185.



- (5) Where paragraph (4) applies to a claimant, paragraph (2) is not to apply to that claimant with respect to any matter referred to in paragraph (1) that formed the basis for the claimant's disqualification under regulation 93(2) of the Employment and Support Allowance Regulations 2016.”;
- (k) in regulation 159 (treating a claimant as not having limited capability for work)—
- (i) in paragraph (1), after “Subject to paragraph (2),” there were inserted “and paragraph (3)”;
  - (ii) after paragraph (2), there were inserted—
    - “(3) A claimant is to be treated as not having limited capability for work if—
    - (a) under Part 1 of the Act as amended by the provisions of Schedule 3, and Part 1 of Schedule 12, to the 2015 Order that remove references to an income-related allowance (“the former law”), the claimant was disqualified for receiving an employment and support allowance during a period of imprisonment or detention in legal custody;
    - (b) Part 1 of the Act as it has effect apart from the amendments made by Schedule 3, and Part 1 of Schedule 12, to the 2015 Order that remove references to an income-related allowance (“the current law”) applied to the claimant with effect from a day that occurred during the period of imprisonment or detention in legal custody referred to in sub-paragraph (a) and during the period of 6 weeks with effect from the day on which the claimant was first disqualified as referred to in sub-paragraph (a); and
    - (c) the total of—
      - (i) the period for which the claimant was disqualified for receiving an employment and support allowance during the period of imprisonment or detention in legal custody when the former law applied to the claimant; and
      - (ii) the period for which the claimant was disqualified for receiving a contributory employment and support allowance during the period of imprisonment or detention in legal custody when the current law applied to the claimant,amounts to more than 6 weeks.”;
- (l) in Schedule 6 (housing costs), in paragraph 9(1), each reference to an employment and support allowance included a reference to new style ESA.
- (4) Subject to paragraph (5), where this Article applies, the 2007 Act is to be read as though—
- (a) the reference to a contributory allowance in section (1A)(1) and (4) to (6)(33);
  - (b) the first reference to a contributory allowance in section (1A)(1) and (3); and
  - (c) the first reference to a contributory allowance in section 1B(34),
- included a reference to a new style ESA award.
- (5) Where this Article applies and the 2010 Transitional Regulations apply to a person, paragraph (4)(c) becomes paragraph (4)(b) and, for paragraph (4)(a) and (b), there is substituted—
- “(a) in section 1A as substituted by the 2010 Transitional Regulations—
    - (i) the reference to a contributory allowance in section 1A(1), (4) and (5); and
    - (ii) the first reference to a contributory allowance in section 1A(3); and”.

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(33) Section 1A was inserted by Article 57(1) of the 2015 Order.

(34) Section 1B was inserted by Article 58(1) of the 2015 Order.

### Transition from old style JSA

13.—(1) This Article applies where a person—

- (a) makes, or is treated as making, a claim for a jobseeker’s allowance and, under Article 6, the 1995 Order, as amended by the provisions of Part 1 of Schedule 12 to the 2015 Order that remove references to an income-based jobseeker’s allowance, applies in relation to the claim; or
- (b) (i) has an old style JSA award (whether or not the award was made to the person as a member of a joint-claim couple) immediately before the appointed day in relation to a case of a claim for universal credit referred to in Article 6(2) (and any award made in respect of the claim), and
  - (ii) the old style JSA award consists of or includes a contribution-based jobseeker’s allowance (which allowance therefore continues as a new style JSA award),

and, in the case of sub-paragraph (a), the condition referred to in paragraph (2) is satisfied.

(2) The condition is that the person previously made, or was treated as having made, a claim for a jobseeker’s allowance (whether or not as a member of a joint-claim couple) and the 1995 Order, as it has effect apart from the provisions of Part 1 of Schedule 12 to the 2015 Order that remove references to an income-based jobseeker’s allowance, applied in relation to the claim.

(3) Where this Article applies, the JSA Regulations 2016 are to be read as if—

- (a) in regulation 15(3)(b) (victims of domestic violence), the reference to regulation 15 applying to the claimant included a reference to the claimant having been treated as being available for employment under regulation 14A(2) or (6) of the JSA Regulations 1996;
- (b) in regulation 35(1) (waiting days), where a person was entitled to an old style JSA award with effect from the first day of a jobseeking period by virtue of regulation 46(1)(a) of the JSA Regulations 1996 and, with effect from the second or third day of that period, that award continued as a new style JSA award in the circumstances referred to in paragraph (1) (b) of this article, the reference to a jobseeker’s allowance included a reference to the old style JSA award;
- (c) in regulation 36 (jobseeking period)—
  - (i) the jobseeking period in relation to a claimant included any period that, under regulation 47 of the JSA Regulations 1996 (jobseeking period), forms part of the jobseeking period for the purposes of the 1995 Order; and
  - (ii) in paragraph (3), the reference to a day that is to be treated as a day in respect of which the claimant was entitled to a jobseeker’s allowance included a reference to any day that, under regulation 47(4) of the JSA Regulations 1996, is to be treated as a day in respect of which the claimant was entitled to a contribution-based jobseeker’s allowance;
- (d) in regulation 40 (persons temporarily absent from Northern Ireland), where a person had an old style JSA award in the circumstances referred to in paragraph (1)(b) of this Article, the reference in paragraph (2)(b), (3)(a) and (c), (5)(a) and (6)(b) to entitlement to a jobseeker’s allowance included a reference to the old style JSA award; and
- (e) in regulation 45 (short periods of sickness), after paragraph (7) there were inserted<sup>(35)</sup>—
  - “(8) Where—
    - (a) a person has been treated under regulation 55(1) of the Jobseeker’s Allowance Regulations 1996 as capable of work or as not having limited capability for work for a certain period; and

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<sup>(35)</sup> Paragraph (7) was added by regulation 10(9) of S.R. 2017 No. 116.

- (b) these Regulations apply to that person with effect from a day (“the relevant day”) within that period,

the person is to be treated for the part of that period that begins with the relevant day as capable of work or as not having limited capability for work.

(9) Where paragraph (8) applies to a person and the conditions in paragraph (1)(a) to (c) are fulfilled in relation to that person on any day within the part of a period referred to in paragraph (8), the requirement of paragraph (1) to treat the person as capable of work or as not having limited capability for work is to be regarded as satisfied with respect to the fulfilment of those conditions on that day.

(10) For the purposes of paragraph (3), where paragraph (8) applies to a person, paragraph (3) is to apply to the person as though the preceding provisions of this regulation had applied to the person with respect to the person having been treated for a period, under regulation 55(1) of the Jobseeker’s Allowance Regulations 1996 and paragraph (8), as capable of work or as not having limited capability for work.”.

(4) Where this Article applies, the 1995 Order is to be read as though, in Article 7 of the 1995 Order, the reference to a jobseeker’s allowance in paragraph (1) and the first reference to a jobseeker’s allowance in paragraph (2) included a reference to a contribution-based jobseeker’s allowance.

(5) For the purposes of this Article, “joint-claim couple” has the meaning given in article 3(4) of the 1995 Order.

### **Transition from new style JSA**

**14.—**(1) This Article applies when a person makes, or is treated as making, a claim for a jobseeker’s allowance (whether or not as a member of a joint-claim couple) and the 1995 Order, as it has effect apart from the provisions of Part 1 of Schedule 12 to the 2015 Order that remove references to an income-based jobseeker’s allowance, applies in relation to the claim and the condition referred to in paragraph (2) is satisfied.

(2) The condition is that the person previously—

- (a) made, or was treated as having made, a claim for a jobseeker’s allowance and, under Article 6, the 1995 Order, as amended by the provisions of Part 1 of Schedule 12 to the 2015 Order that remove references to an income-based jobseeker’s allowance, applied in relation to the claim; or
- (b) (i) had an old style JSA award immediately before the appointed day in relation to a case of a claim for universal credit referred to in Article 6(2) (and any award made in respect of the claim), and
- (ii) the old style JSA award consisted of or included a contribution-based jobseekers allowance (which allowance therefore continued as a new style JSA award).

(3) Where this Article applies, the JSA Regulations 1996 are to be read as if—

- (a) in regulation 11 (part-time students), the references in paragraph (2)(a) and (b) to a jobseeker’s allowance included a reference to new style JSA;
- (b) in regulation 14A (victims of domestic violence), for the purposes of paragraph (3)(b) of that regulation, a person had been treated as available for employment on a day (under paragraph (2) of that regulation) where regulation 15 of the JSA Regulations 2016 applied to that person on that day;
- (c) in regulation 17A(7) (further circumstances in which a person is to be treated as available: full-time students participating in a qualifying course), in paragraph (a) of the definition of “benefit”, the reference to a jobseeker’s allowance included a reference to new style JSA;

- (d) in regulation 19(1)(q) (circumstances in which a person is to be treated as actively seeking work), the reference to a jobseeker's allowance included a reference to new style JSA;
- (e) in regulation 47 (jobseeking period)—
- (i) the jobseeking period in relation to a claimant included any period that, under regulation 36 of the JSA Regulations 2016 (jobseeking period), forms part of the jobseeking period for the purposes of the 1995 Order; and
  - (ii) in paragraph (4), the reference to any day that is to be treated as a day in respect of which the claimant was entitled to a contribution-based jobseeker's allowance included a reference to a day that, under regulation 36(3) of the JSA Regulations 2016 (jobseeking period), is to be treated as a day in respect of which the claimant was entitled to a jobseeker's allowance;
- (f) in regulation 55 (short periods of sickness), after paragraph (7) there were inserted<sup>(36)</sup>—
- “(8) Where—
- (a) a person has been treated under regulation 45(1) of the Jobseeker's Allowance Regulations 2016 as capable of work or as not having limited capability for work for a certain period; and
  - (b) these Regulations apply to that person with effect from a day (“the relevant day”) within that period,
- the person is to be treated for the part of that period that begins with the relevant day as capable of work or as not having limited capability for work.
- (9) Where paragraph (8) applies to a person and the conditions in paragraph (1)(a) to (c) are fulfilled in relation to that person on any day within the part of a period referred to in paragraph (8), the requirement of paragraph (1) to treat the person as capable of work or as not having limited capability for work is to be regarded as satisfied with respect to the fulfilment of those conditions.
- (10) For the purposes of paragraph (3), where paragraph (8) applies to a person, paragraph (3) is to apply to the person as though the preceding provisions of this regulation had applied to the person with respect to the person having been treated for a period, under regulation 45(1) of the Jobseeker's Allowance Regulations 2016 and paragraph (8), as capable of work or as not having limited capability for work.”;
- (g) in paragraphs 6(1) and 7(1) of Schedule 2 (housing costs), each reference to a jobseeker's allowance included a reference to new style JSA; and
- (h) in paragraph 13 of Schedule 2 —
- (i) in paragraph (a) of sub-paragraph (1) (apart from sub-paragraph (ii)(bb) of that paragraph), each of the references to a jobseeker's allowance included a reference to new style JSA; and
  - (ii) in sub-paragraph (1)(b), the reference to a jobseeker's allowance included a reference to new style JSA.
- (4) Where this Article applies, the 1995 Order is to be read as though, in Article 7 of the 1995 Order, the reference to a contribution-based jobseeker's allowance in paragraph (1) and the first reference to a contribution-based jobseeker's allowance in paragraph (2) included a reference to a new style JSA award.
- (5) For the purposes of this Article, “joint-claim couple” has the meaning given in Article 3(4) of the 1995 Order.

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<sup>(36)</sup> Paragraph (7) was added by regulation 2(2) of S.R. 2016 No. 2.

### **Sanctions: transition from old style ESA in case of a new award**

- 15.—(1) This Article applies where—
- (a) a person is entitled to a new style ESA award and they were previously entitled to an old style ESA award that was not in existence immediately before the first day on which the person in question is entitled to the new style ESA award; and
  - (b) immediately before the old style ESA award terminated, payments were reduced under regulation 63 of the ESA Regulations 2008 (reduction of employment and support allowance).
- (2) Where this Article applies—
- (a) the failure which led to reduction of the old style ESA award (“the relevant failure”) is to be treated for the purposes of Part 8 of the ESA Regulations 2016, as a failure which is sanctionable under section 11J of the 2007 Act (sanctions);
  - (b) the new style ESA award is to be reduced in relation to the relevant failure, in accordance with the provisions of this article and Part 8 of the ESA Regulations 2016 as modified by this article; and
  - (c) the reduction referred to in sub-paragraph (b) is to be treated, for the purposes of the ESA Regulations 2016, as a reduction under section 11J of the 2007 Act.
- (3) The reduction period for the purposes of the ESA Regulations 2016 is to be the number of days which is equivalent to the length of the fixed period applicable to the person under regulation 63 of the ESA Regulations 2008 in relation to the relevant failure, minus—
- (a) the number of days (if any) in that fixed period in respect of which the amount of the old style ESA award was reduced; and
  - (b) the number of days (if any) in the period starting with the day after the day on which the old style ESA award terminated and ending with the day before the first day on which the person is entitled to the new style ESA award.
- (4) Accordingly, regulation 51 of the ESA Regulations 2016 (general principles for calculating reduction periods) applies in relation to the relevant failure as if—
- (a) in paragraph (1), for the words “in accordance with regulations 52 and 53” there were substituted the words “in accordance with Article 15 of the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 8 and Transitional and Transitory Provisions) Order 2017”; and
  - (b) in paragraph (3), for the words “in accordance with regulation 52 or 53” there were substituted the words “in accordance with Article 15 of the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 8 and Transitional and Transitory Provisions) Order 2017”.

### **Sanctions: transition from old style ESA in case of a continuing award**

- 16.—(1) This Article applies where—
- (a) the amending provisions have come into force under Article 6(1) in relation to the case of a claim for universal credit referred to in Article 6(2) (and any award that is made in respect of the claim);
  - (b) the person in question had an old style ESA award immediately before the appointed day which consisted of or included a contributory allowance (which allowance therefore continues as a new style ESA award); and

- (c) immediately before the appointed day, payments under that award were reduced in accordance with regulation 63 of the ESA Regulations 2008 (reduction of employment and support allowance).
- (2) Where this Article applies—
  - (a) the failure which led to reduction of the old style ESA award (“the relevant failure”) is to be treated for the purposes of Part 8 of the ESA Regulations 2016, as a failure which is sanctionable under section 11J of the 2007 Act (sanctions);
  - (b) on and after the appointed day, the award (in its continuation as a new style ESA award) is to be reduced in relation to the relevant failure, in accordance with the provisions of this article and Part 8 of the ESA Regulations 2016 as modified by this article; and
  - (c) the reduction referred to in sub-paragraph (b) is to be treated, for the purposes of the ESA Regulations 2016, as a reduction under section 11J of the 2007 Act.
- (3) The reduction period for the purposes of the ESA Regulations 2016 is to be the number of days which is equivalent to the length of the fixed period applicable to the person under regulation 63 of the ESA Regulations 2008 in relation to the relevant failure, minus the number of days (if any) in the period in respect of which the amount of the old style ESA award was reduced.
- (4) Accordingly, regulation 51 of the ESA Regulations 2016 (general principles for calculating reduction periods) applies in relation to the relevant failure as if—
  - (a) in paragraph (1), for the words “in accordance with regulations 52 and 53” there were substituted the words “in accordance with Article 16 of the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 8 and Transitional and Transitory Provisions) Order 2017”; and
  - (b) in paragraph (3), for the words “in accordance with regulation 52 or 53” there were substituted the words “in accordance with Article 16 of the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 8 and Transitional and Transitory Provisions) Order 2017”.

#### **Escalation of sanctions: transition from old style ESA**

17.—(1) This Article applies where a person is entitled to a new style ESA award and, at any time previously, the person was entitled to an old style ESA award.

(2) Where this Article applies, for the purposes of determining the reduction period under regulation 52 of the ESA Regulations 2016 (low-level sanction) in relation to a sanctionable failure by the person to whom the new style award referred to in paragraph (1) was made, other than a failure which is treated as sanctionable under Article 15 or 16—

- (a) a reduction of a new style ESA award in accordance with Article 15 or 16 as the case may be; and
- (b) a reduction of an old style ESA award under the ESA Regulations 2008 which did not result in a reduction under Article 15 or 16,

is, subject to paragraph (3), to be treated as arising from a sanctionable failure for which the reduction period which applies is the number of days which is equivalent to the length of the fixed period which applied under regulation 63 of the ESA Regulations 2008 (reduction of employment and support allowance).

(3) In determining a reduction period under regulation 52 of the ESA Regulations 2016 in accordance with paragraph (2), no account is to be taken of—

- (a) a reduction of a new style ESA award in accordance with Article 15 or 16, as the case may be, if, at any time after that reduction, the person was entitled to an old style ESA award, an old style JSA award or income support;

- (b) a reduction of an old style ESA award under the ESA Regulations 2008 if, at any time after that reduction, the person was entitled to universal credit, a new style ESA award or a new style JSA award, and was subsequently entitled to an old style ESA award, an old style JSA award or income support.

### **Sanctions: transition from old style JSA in case of a new award**

**18.—**(1) This Article applies where—

- (a) a person is entitled to a new style JSA award and they were previously entitled to an old style JSA award that was not in existence immediately before the first day on which the person in question is entitled to the new style JSA award;
- (b) immediately before that old style award terminated, payments were reduced under Article 21 (as it applied both before and after substitution by the 2015 Order) (before substitution: circumstances in which a jobseeker’s allowance is not payable; after substitution: higher-level sanctions) or 21A (other sanctions) of the 1995 Order, or under regulation 69B of the JSA Regulations 1996 (the period of a reduction under Article 21B: claimants ceasing to be available for employment etc.)(37); and
- (c) if the old style JSA award was made to a joint-claim couple within the meaning of the 1995 Order and the reduction related to—
  - (i) in the case of a reduction under Article 21 as it applied before substitution by the 2015 Order, circumstances relating to only one member of the couple; or
  - (ii) in the case of a reduction under Article 21 as it applied after substitution by the 2015 Order, a sanctionable failure by only one member of the couple,

the new style JSA award was made to that member of the couple.

(2) Where this Article applies—

- (a) the circumstances or failure which led to reduction of the old style JSA award (in either case “the relevant failure”) is to be treated, for the purposes of the JSA Regulations 2016, as—
  - (i) a failure which is sanctionable under Article 8J of the 1995 Order (higher-level sanctions), where the reduction was under Article 21 of the 2015 Order; or
  - (ii) a failure which is sanctionable under Article 8K of the 1995 Order (other sanctions), where the reduction was under Article 21A of the 1995 Order or regulation 69B of the JSA Regulations 1996;
- (b) the award of new style JSA is to be reduced in relation to the relevant failure, in accordance with the provisions of this Article and Part 3 of the JSA Regulations 2016 (sanctions), as modified by this Article; and
- (c) the reduction is to be treated, for the purposes of the JSA Regulations 2016, as a reduction under Article 8J or, as the case may be, Article 8K of the 1995 Order.

(3) The reduction period for the purposes of the JSA Regulations 2016 is to be the number of days which is equivalent to the length of the period of reduction of a jobseeker’s allowance 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 a jobseeker’s allowance was reduced; and
- (b) the number of days (if any) in the period starting with the day after the day on which the old style JSA award terminated and ending with the day before the first day on which the person is entitled to a new style JSA award.

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(37) Regulation 69B was inserted by regulation 2(2) of S.R. 2016 No. 241 and amended by regulation 4(8) of S.R. 2017 No. 116.

(4) Accordingly, regulation 19 of the JSA Regulations 2016 (general principles for calculating reduction periods) applies in relation to the relevant failure as if—

- (a) in paragraph (1), for the words “in accordance with regulations 20, 21 and 22”, there were substituted the words “in accordance with Article 18 of the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 8 and Transitional and Transitory Provisions) Order 2017”; and
- (b) in paragraph (3), for the words “in accordance with regulation 20, 21 and 22”, there were substituted the words “in accordance with Article 18 of the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 8 and Transitional and Transitory Provisions) Order 2017”.

### **Sanctions: transition from old style JSA in case of a continuing award**

**19.**—(1) This Article applies where—

- (a) the amending provisions have come into force under Article 6(1) in relation to the case of a claim for universal credit referred to in Article 6(2) (and any award that is made in respect of the claim);
- (b) the person in question had an old style JSA award immediately before the appointed day which consisted of or included a contribution-based allowance (which allowance therefore continues as a new style JSA award);
- (c) immediately before the appointed day, payments under that award were reduced under Article 21 (as it applied both before and after substitution by the 2015 Order) (before substitution: circumstances in which a jobseeker’s allowance is not payable; after substitution: higher-level sanctions) or 21A (other sanctions) of the 1995 Order, or under regulation 69B of the JSA Regulations 1996) (the period of a reduction under section 19B: Claimants ceasing to be available for employment etc.); and
- (d) if the old style JSA award was made to a joint-claim couple within the meaning of the 1995 Order and the reduction related to—
  - (i) in the case of a reduction under Article 21 as it applied before substitution by the 2015 Order, circumstances relating to only one member of the couple; or
  - (ii) in the case of a reduction under Article 21 as it applied after substitution by the 2015 Order, a sanctionable failure by only one member of the couple,
 the new style JSA award was made to that member of the couple.

(2) Where this Article applies—

- (a) the circumstances or failure which led to reduction of the old style JSA award (in either case “the relevant failure”) is to be treated, for the purposes of the JSA Regulations 2016, as—
  - (i) a failure which is sanctionable under Article 8J of the 1995 Order (higher-level sanctions), where the reduction was under Article 21 of the 1995 Order; or
  - (ii) a failure which is sanctionable under Article 8K of the 1995 Order (other sanctions), where the reduction was under Article 21A of the 1995 Order or regulation 69B of the JSA Regulations 1996;
- (b) the award (in its continuation as a new style JSA award) is to be reduced in relation to the relevant failure, in accordance with the provisions of this Article and Part 3 of the JSA Regulations 2016 (sanctions), as modified by this Article; and
- (c) the reduction is to be treated, for the purposes of the JSA Regulations 2016, as a reduction under Article 8J or, as the case may be, Article 8K of the 1995 Order.



(3) The reduction period for the purposes of the JSA Regulations 2016 is to be the number of days which is equivalent to the length of the period of reduction of a jobseeker's allowance which is applicable to the person under regulation 69, 69A or 69B of the JSA Regulations 1996, minus the number of days (if any) in that period in respect of which the amount of a jobseeker's allowance was reduced.

(4) Accordingly, regulation 19 of the JSA Regulations 2016 (general principles for calculating reduction periods) applies in relation to the relevant failure as if—

- (a) in paragraph (1), for the words “in accordance with regulations 20, 21 and 22”, there were substituted the words “in accordance with Article 19 of the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 8 and Transitional and Transitory Provisions) Order 2017”; and
- (b) in paragraph (3), for the words “in accordance with regulations 20, 21 and 22”, there were substituted the words “in accordance with Article 19 of the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 8 and Transitional and Transitory Provisions) Order 2017”.

#### **Escalation of sanctions: transition from old style JSA**

**20.**—(1) This Article applies where a person is entitled to a new style JSA award and, at any time previously, the person was entitled to an old style JSA award.

(2) Where this Article applies, for the purposes of determining the applicable reduction period under regulation 20 (higher-level sanction), 21 (medium level sanction) or 22 (low-level sanction) of the JSA Regulations 2016 in relation to a sanctionable failure by the person other than a failure which is treated as sanctionable by virtue of Article 18 or 19—

- (a) a reduction of a new style JSA award in accordance with Article 18 or 19; and
- (b) a reduction of an old style JSA award under Article 21 (as it applied both before and after substitution by the 2015 Order) or 21A of the 1995 Order, or under regulation 69B of the JSA Regulations, which did not result in a reduction under Article 18 or 19,

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

(3) In determining a reduction period under regulation 20 (higher-level sanction), 21 (medium-level sanction) or 22 (low-level sanction) of the JSA Regulations 2016 in accordance with paragraph (2), no account is to be taken of—

- (a) a reduction of a new style JSA award in accordance with Article 18 or 19 if, at any time after that reduction, the person was entitled to an old style JSA award, an old style ESA award or income support;
- (b) a reduction of an old style JSA award under Article 21 (as it applied both before and after substitution by the 2015 Order) or 21A of the 1995 Order, or under regulation 69B of the JSA Regulations 1996, if, at any time after that reduction, the person was entitled to universal credit, a new style JSA award or a new style ESA award, and was subsequently entitled to an old style JSA award, an old style ESA award or income support.

#### **Termination of sanctions under a new style ESA or JSA award**

**21.**—(1) Paragraph (2) applies where a new style ESA award or new style JSA award terminates while there is an outstanding reduction period (within the meaning of regulation 55 of the ESA Regulations 2016 (reduction period to continue where award of employment and support allowance terminates) or regulation 24 of the JSA Regulations 2016 (reduction period to continue where award

of jobseeker's allowance terminates)) and the claimant becomes entitled to an old style ESA award, an old style JSA award or income support during that period.

(2) Where this paragraph applies—

- (a) regulation 55 of the ESA Regulations 2016 or regulation 24 of the JSA Regulations 2016, as the case may be, are to cease to apply; and
- (b) the reduction period is to terminate on the first day of entitlement to an old style ESA award, old style JSA award or income support as the case may be.

### **Transitory provisions: appeals**

**22.**—(1) Paragraph (2) applies where—

- (a) the amending provisions have come into force under Article 6(1) in relation to the case of a claim referred to in Article 6(2) (and any award that is made in respect of the claim);
- (b) the person is sent notice of a decision relating to a new style ESA award or a new style JSA award; and
- (c) the date of notification with respect to that decision is before 26th March 2018.

(2) Where this paragraph applies, the provisions mentioned in paragraph (3) apply for the purposes of any appeal in relation to that decision as if regulation 54 of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations (Northern Ireland) 2016 (consequential amendments)(**38**) did not apply in that person's case.

(3) The provisions referred to are the following provisions of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(**39**)—

- (a) regulation 32 (late appeals);
- (b) regulation 33 (making of appeals and application); and
- (c) regulation 34 (death of a party to an appeal).

(4) For the purposes of paragraph (1), "the date of notification" means the date on which the decision notice was posted to the person's last known address by the Department.

### **Transitional provision: references to contributory employment and support allowance and contribution-based jobseeker's allowance**

**23.** Where the amending provisions have come into force under Article 6(1) in relation to the case of a claim referred to in Article 6(2) (and any award that is made in respect of the claim), then, in relation to such a case, any reference in the Social Security Administration (Northern Ireland) Act 1992(**40**) or the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**41**) to—

- (a) a contributory employment and support allowance is to be read as if it included a reference to a new style ESA award; and
- (b) a contribution-based jobseeker's allowance is to be read as if it included a reference to a new style JSA award.

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(38) S.R. 2016 No. 221.

(39) S.R. 1999 No. 162.

(40) 1992 c. 8.

(41) 1992 c. 7.

**Transitional provision: claims for housing benefit, income support or a tax credit**

24.—(1) Except as provided by paragraphs (2) to (6), a person may not make a claim for housing benefit, income support or a tax credit (in the latter case, whether or not as part of a Tax Credit Act couple) on any date where, if that person made a claim for universal credit on that date (in the capacity, whether as a single person or as part of a couple, in which he or she is permitted to claim universal credit under the Universal Credit Regulations), the provisions of the 2015 Order listed in Schedule 1 would come into force under Article 4(3) and (4)(a) of this Order in relation to that claim for universal credit.

(2) Paragraph (1) does not apply to a claim for housing benefit, income support or a tax credit where, by virtue of a determination made under regulation 2A or by virtue of regulation 40 of the 2016 Transitional Regulations, the person in question would be prevented from making a claim for universal credit as referred to in that paragraph.

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

(4) Paragraph (1) does not apply to a claim for housing benefit or a tax credit where—

- (a) in the case of a claim for housing benefit, the claim is made by a person who has reached the qualifying age for state pension credit, or by a person who is a member of a State Pension Credit Act couple the other member of which has reached that age;
- (b) in the case of a claim for a tax credit, the claim is made by—
  - (i) a person who has reached the qualifying age for state pension credit;
  - (ii) a Tax Credits Act couple both members of which have reached, or either member of which has reached, that age; or
  - (iii) in a case not covered by paragraph (i), a person who is a member of a State Pension Credit Act couple where the other member of the couple has reached that age.

(5) Paragraph (1) does not apply to a claim for a tax credit where a person or persons makes or make a claim for child tax credit or working tax credit and on the date on which he or she (or they) makes or make the claim he or she (or they) is or are entitled to working tax credit or child tax credit respectively.

(6) Paragraph (1) does not apply to a claim for a tax credit where a person is or was, or persons are or were, entitled to child tax credit or working tax credit in respect of a tax year and that person or those persons makes or make (or is or are treated as making) a claim for that tax credit for the next tax year.

(7) In paragraph (5), the reference to a person being entitled to a tax credit includes where a person is treated as being entitled to a tax credit in the circumstances referred to in regulation 9 of the 2016 Transitional Regulations but as if regulation 9 were amended as follows—

- (a) in paragraph (1), for “For the purposes of regulations 5(7) and 6(4)” substitute “For the purposes of Article 24(5) of the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 8 and Transitional and Transitory Provisions) Order 2017; and
- (b) for paragraph (2)(d)(iii), substitute—
  - “(iii) the person’s claim for child tax credit or working tax credit is made during the period of 30 days starting with the date on the notice referred to in paragraph (ii).”.

(8) Subject to paragraph (9), for the purposes of this Article—

- (a) a claim for housing benefit, income support or a tax credit is made by a person on the date on which he or she takes any action which results in a decision on a claim being required under the relevant Regulations; and

(b) it is irrelevant that the effect of any provision of the relevant Regulations is that, for the purpose of those Regulations, the claim is made or treated as made on a date that is earlier than the date on which that action is taken.

(9) Where under the provisions referred to in paragraph (10), a claim for housing benefit or income support is treated as made at a date that is earlier than the date on which the action referred to in paragraph (8)(a) is taken, the claim is treated as made on that earlier date.

(10) The provisions referred to are—

- (a) in the case of a claim for housing benefit, regulation 81(4E), (4F), (5)(d) or (8) of the Housing Benefit Regulations (Northern Ireland) 2006(42) or, as the case may be, regulation 62(5F), (5G), (6)(d) or (9) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(43); or
- (b) in the case of a claim for income support, regulation 6(1A)(b) and 6A of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987.

(11) For the purposes of this Article—

“couple” (apart from in the expressions “State Pension Credit Act couple” and “Tax Credit Act couple”) has the meaning given in Article 45 of the 2015 Order;

“housing benefit” means a housing benefit under section 129 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“income support” means income support under section 123 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“qualifying age for state pension credit” means the qualifying age referred to in section 1(6) of the State Pension Credit Act (Northern Ireland) 2002(44);

“relevant Regulations” means—

- (i) in the case of a claim for housing benefit, the Housing Benefit Regulations (Northern Ireland) 2006 or, as the case may be, the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006;
- (ii) in the case of a claim for income support, the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987;
- (iii) in the case of a claim for a tax credit, the Tax Credits (Claims and Notifications) Regulations 2002(45);

“specified accommodation” means accommodation to which one or more of sub-paragraphs (2) to (5) of paragraph 4 of Schedule 1 to the Universal Credit Regulations applies;

“state pension credit” means state pension credit under the State Pension Credit Act (Northern Ireland) 2002;

“State Pension Credit Act couple” means a couple as defined in section 17 of the State Pension Credit Act (Northern Ireland) 2002(46);

“Tax Credits Act couple” means a couple as defined in section 3(5A) of the Tax Credits Act 2002(47);

“the Universal Credit Regulations” means the Universal Credit Regulations (Northern Ireland) 2016(48).

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(42) S.R. 2006 No. 405.

(43) S.R. 2006 No. 406.

(44) S.R. 2002 c. 14 (N.I.).

(45) S.I. 2002/2014.

(46) The definition of “couple” was substituted by paragraph 150(2) of Schedule 24 to the Civil Partnership Act 2004 (c. 33).

(47) Subsection (5A) was inserted by section 254(1) of, and paragraph 144(1) and (3) of Schedule 24 to, the Civil Partnership Act 2004.

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

### **Appeals relating to old style ESA and old style JSA**

**25.**—(1) This article applies where, after an award of universal credit has been made to a claimant (where that award is made by virtue of the coming into force of the provisions of the 2015 Order referred to in Schedule 1, under any secondary legislation)—

- (a) an appeal against a decision relating to the entitlement of the claimant to an old style ESA award or an old style JSA award is finally determined; or
- (b) a decision relating to the claimant’s entitlement to such an award is revised under Article 10 of the 1998 Order or superseded under Article 11 of that Order.

(2) Where this article applies, the Department is to consider whether it is appropriate to revise under Article 10 of the 1998 Order the decision in relation to entitlement to universal credit or, if that decision has been superseded under Article 11 of that Order, the decision as so superseded (in either case, “the UC decision”).

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

- (a) the decision of the Appeal Tribunal, Commissioner or court, or, as the case may be, the decision relating to entitlement to an old style ESA award or an old style JSA award, as revised or superseded; and
- (b) any finding of fact by the Appeal Tribunal, Commissioner or court.

(4) For the purposes of this Article, “secondary legislation” means an instrument made under an Act or Order in Council.

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

25th September 2017

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

SCHEDULE 1

Article 4(3)

UNIVERSAL CREDIT PROVISIONS COMING INTO OPERATION  
IN RELATION TO CERTAIN CLAIMS AND AWARDS

1. Article 6 (universal credit).
2. Article 7 (claims).
3. Article 8 (entitlement).
4. Article 9 (basic conditions).
5. Article 10 (financial conditions).
6. Article 11 (restrictions on entitlement).
7. Article 12 (basis of awards).
8. Article 13 (calculation of awards).
9. Article 14 (standard allowance).
10. Article 15 (responsibility for children and young persons).
11. Article 16 (housing costs).
12. Article 17 (other particular needs or circumstances).
13. Article 18 (work-related requirements: introductory).
14. Article 19 (claimant commitment).
15. Article 20 (work-focused interview requirement).
16. Article 21 (work preparation requirement).
17. Article 22 (work search requirement).
18. Article 23 (work availability requirement).
19. Article 24 (claimants subject to no work-related requirements).
20. Article 25 (claimants subject to work-focused interview requirement only).
21. Article 26 (claimants subject to work preparation requirement).
22. Article 27 (claimants subject to all work-related requirement).
23. Article 28 (connected requirements).
24. Article 29 (imposition of requirements).
25. Article 31 (higher-level sanctions).
26. Article 32 (other sanctions).

## SCHEDULE 2

Article 6(1)

## COMMENCEMENT OF REPEALS IN PART 1 OF SCHEDULE 12 TO THE 2015 ORDER

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Jobseeker's (Northern Ireland) Order 1995 (N.I. 15)	<p>In Article 2(2)</p> <ul style="list-style-type: none"> <li>(a) in the definition of “claimant”, the words from “except” to the end;</li> <li>(b) the definitions of “contribution-based jobseeker’s allowance”, “income-based jobseeker’s allowance”, “income-related employment and support allowance”, joint-claim couple”, “joint-claim jobseeker’s allowance” and “the nominated member”.</li> </ul> <p>Article 3(2A) to (2D) and (4).</p> <p>In Article 4(3C), in the definition of “benefit”, in sub-paragraph (d), “contribution-based”.</p> <p>Article 5 to 5B.</p> <p>In Article 6—</p> <ul style="list-style-type: none"> <li>(a) in paragraph (1). “contribution-based”;</li> <li>(b) paragraphs (3), (3A) and (6) to (11A).</li> </ul> <p>Article 6A.</p> <p>In Article 7—</p> <ul style="list-style-type: none"> <li>(a) in the heading and in paragraph (1) “contribution-based”;</li> <li>(b) in paragraph (2), “contribution-based” in the first two places;</li> <li>(c) in paragraph (3), “contribution-based”.</li> </ul> <p>Article 15.</p> <p>Articles 17 to 19.</p> <p>In Article 19A(10), the definition of “claimant”.</p> <p>Article 25.</p> <p>Article 28.</p>

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

<i>Short title and chapter</i>	<i>Extent of repeal</i>
	<p>In Article 38—</p> <ul style="list-style-type: none"> <li>(a) in paragraphs (1) and (2), “contribution-based”;</li> <li>(b) paragraph (4).</li> </ul> <p>In Schedule 1—</p> <ul style="list-style-type: none"> <li>(a) in paragraph 6(1), “contribution-based”;</li> <li>(b) paragraphs 8 and 8A;</li> <li>(c) paragraphs 9 to 10;</li> <li>(d) in paragraph 11(1), “contribution-based”;</li> <li>(e) in paragraph 16(1) and (2)(d), “contribution-based”;</li> <li>(f) paragraph 18(b) and (c).</li> </ul>
Welfare Reform and Pensions (Northern Ireland) Order 1999 (N.I. 11)	<p>In Schedule 7, paragraphs 2, 3(3) and (4), 5, 6(3) and (4), 7, 10 to 12 and 16.</p> <p>In Schedule 8, paragraph 27(2).</p>
State Pension Credit Act (Northern Ireland) 2002 (c. 14)	In Schedule 2, paragraphs 24 to 26.
Income Tax (Earnings and Payments) Act 2003 (c. 1)	In Schedule 6, paragraphs 233 to 235.
Civil Partnership Act 2004 (c. 33)	In Schedule 24, paragraphs 131 – 137.
Welfare Reform Act (Northern Ireland) 2007 (c. 2)	<p>In section 1—</p> <ul style="list-style-type: none"> <li>(a) in subsection (2), in the opening words, “either”;</li> <li>(b) in subsection (2)(a), “Part 1 of” and “that Part of”;</li> <li>(c) subsection (2)(b) and the preceding “or”;</li> <li>(d) in subsection (3)(f), the words from “(and” to “allowance”;</li> <li>(e) in subsection (3A), “Part 1 of”;</li> <li>(f) in subsection (6), the definition of “joint-claim jobseeker’s allowance”;</li> <li>(g) subsection (6A) and (7).</li> </ul> <p>In subsection 1A—</p> <ul style="list-style-type: none"> <li>(a) in the heading “contributory”;</li> <li>(b) in subsections (1) (in both places), (3) and (4), “Part 1 of”.</li> </ul>



<i>Short title and chapter</i>	<i>Extent of repeal</i>
	<p>Section 1B(2).</p> <p>In section 2, in the heading, “contributory”.</p> <p>In section 3, in the heading, “contributory”.</p> <p>Sections 4 to 6.</p> <p>Section 23.</p> <p>In section 24(1), the definitions of “contributory allowance” and “income-related allowance”.</p> <p>In section 26(3)(a), “or 4(4)(c) or (5)(c)”.</p> <p>Section 27(3)</p> <p>In Schedule 1—</p> <p style="padding-left: 40px;">(a) the heading to Part 1;</p> <p style="padding-left: 40px;">(b) Part 2.</p> <p>In Schedule 2—</p> <p style="padding-left: 40px;">(a) in the headings to paragraphs 6 and 7, “Contributory allowance.”;</p> <p style="padding-left: 40px;">(b) paragraph 8;</p> <p style="padding-left: 40px;">(c) paragraph 11(b) and (c);</p> <p style="padding-left: 40px;">(d) paragraph 12.</p>
Welfare Reform Act (Northern Ireland) 2010 (c. 13)	In Part 3 of Schedule 4, the entry relating to the Civil Partnership Act 2004.

## SCHEDULE 3

Article 10

## MODIFICATIONS OF THE 2010 TRANSITIONAL REGULATIONS

1. The 2010 Transitional Regulations are to be read as if the amendments set out in this Schedule were made.
2. In regulation 2 (interpretation)—
  - (a) in paragraph (1)—
    - (i) after the definition of “the Claims and Payments Regulations” insert—
 

““the Claims and Payments Regulations 2016” means the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations (Northern Ireland) 2016(49);”;

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(49) S.R. 2016 No. 220.

- (ii) after the definition of “conversion decision” insert—
    - ““the Decisions and Appeals Regulations” means the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations (Northern Ireland) 2016(50);”;
  - (iii) after the definition of “the Employment and Support Allowance Regulations” insert—
    - ““the Employment and Support Allowance Regulations 2016” means the Employment and Support Allowance Regulations (Northern Ireland) 2016(51);”;
  - (iv) omit the definition of “income-related allowance”;
  - (v) omit paragraph (a) of the definition of “relevant deduction”;
  - (vi) in the definition of “benefit week”, for “the Employment and Support Allowance Regulations” substitute “the Employment and Support Allowance Regulations 2016”.
- (b) in paragraph (3), omit “or awards”.
3. In regulation 4 (the notice commencing the conversion phase), omit paragraph (6).
  4. In regulation 5 (deciding whether an existing award qualifies for conversion)—
    - (a) in paragraph (1), omit “or awards”;
    - (b) in paragraph (2)(a), for “or awards qualify” substitute “qualifies”;
    - (c) in paragraph (2)(b), for “or awards do” substitute “does”;
    - (d) in paragraph (6)(b), omit “or awards”.
  5. In regulation 6(2) (application of certain statutory provisions for purpose of making conversion decisions), for sub-paragraphs (c), (d) and (e) substitute—
    - “(c) the Decision and Appeals Regulations;
    - (d) the Employment and Support Allowance Regulations 2016;
    - (e) regulation 37(2) and (3) of the Claims and Payments Regulations 2016 (evidence and information in connection with an award).”.
  6. In regulation 7 (qualifying for conversion)(52)—
    - (a) in paragraph (1)—
      - (i) omit “or awards”;
      - (ii) for “qualify” substitute “qualifies”;
    - (b) in paragraphs (2)(b) and (3)(b), for “regulation 30 of the Employment and Support Allowance Regulations” substitute “regulation 26 of the Employment and Support Allowance Regulations 2016”.
  7. In regulation 8(1) (amount of an employment and support allowance on conversion)(53), after “the Employment and Support Allowance Regulations” insert “2016”.
  8. In regulation 9(1) (determining entitlement to a transitional addition)—
    - (a) for “or awards qualify” substitute “qualifies”;

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(50) S.R. 2016 No. 221.

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

(52) Regulation 7 was amended by regulation 2(3) of S.R. 2010 No. 347 and regulation 9(2) of S.R. 2016 No. 175.

(53) Regulation 8(1) was inserted by regulation 2(4)(a) of S.R. 2010 No. 347.

- (b) omit “or 11(2)”.
9. In regulation 10 (transitional addition: incapacity benefit or severe disablement allowance)—
- (a) in paragraph (1), omit “and for the purpose of this regulation it is irrelevant whether the person is also entitled to any existing award of income support”;
  - (b) in paragraph (4)(a), for “regulation 67(2) of the Employment and Support Allowance Regulations (prescribed amounts for purpose of calculating a contributory allowance)” substitute “regulation 62(1) of the Employment and Support Allowance Regulations 2016 (prescribed amounts)”.
10. Omit regulation 11 (transitional addition: income support).
11. In regulation 12 (regulations 10 and 11: supplementary)—
- (a) in the title, for “Regulations 10 and 11” substitute “Regulation 10”;
  - (b) in paragraph (1), for “regulations 10 and 11” substitute “regulation 10”;
  - (c) in paragraph (2), for “Amounts A and C are” substitute “Amount A is” and for “Amounts B and D are” substitute “Amount B is”;
  - (d) for paragraph (3)(a) substitute—
    - “(a) by virtue of an order made under section 132 of the Administration Act (annual up-rating of benefits), there is an increase in the weekly rate which, in accordance with regulation 10(3) (transitional addition: incapacity benefit or severe disablement allowance), is to be used to calculate Amount A; and”;
  - (e) in paragraph (4)(a), for “paragraph (3)(a)(i) or (ii)” substitute “paragraph (3)(a)”;
  - (f) in paragraphs (3) and (4), omit “or C” and “or applicable amount, as the case may be,”.
12. In regulation 13(3) (the effective date of a conversion decision), omit “or awards”.
13. In regulation 14 (conversion decision that existing award qualifies for conversion)(~~54~~)—
- (a) in paragraph (1)—
    - (i) for “Subject to paragraph (2A), paragraphs (2) to (6)” substitute “Paragraphs (2) to (5)”;
    - (ii) for “or awards qualify” substitute “qualifies”;
  - (b) for paragraph (2) substitute—
    - “(2) On the effective date of the conversion decision P’s existing award is by virtue of this paragraph converted into, and shall have effect on and after that date as, a single award of an employment and support allowance of such amount as is specified in the conversion decision.”;
  - (c) omit paragraphs (2A), (2B) and (6);
  - (d) in paragraph (4), omit “or awards”;
  - (e) for paragraph (7) substitute—
    - “(7) In this regulation paragraphs (2) to (5) are subject to regulation 17 (changes of circumstances before the effective date).”.
14. In regulation 15 (conversion decision that existing award does not qualify for conversion)(~~55~~)—
- (a) in paragraph (1)—

(54) Regulation 14 was amended by regulation 2(6) of S.R. 2010 No. 347.

(55) Regulation 15 was amended by regulation 2(7) of S.R. 2010 No. 347.

- (i) for “Subject to paragraphs (2A) and (4), paragraphs (2), (3) and (6)” substitute “Subject to paragraph (4), paragraphs (2) and (3);
  - (ii) for “or awards do” substitute “does”;
  - (b) for paragraph (2) substitute—
    - “(2) P’s entitlement to an existing award of incapacity benefit or severe disablement allowance shall terminate by virtue of this paragraph immediately before the effective date of P’s conversion decision.”;
  - (c) omit paragraphs (2A), (2B) and (6);
  - (d) in paragraph (4)(a)—
    - (i) for “the Employment and Support Allowance Regulations” substitute “the Employment and Support Allowance Regulations 2016”;
    - (ii) in paragraph (i), for “regulation 22(1)” substitute “regulation 18(1)”;
    - (iii) in paragraph (ii) ,for “regulation 23(2) (failure to attend for a medical examination to determine whether the claimant has limited capability for work)” substitute “regulation 19(2) (claimant may be called for a medical examination to determine whether the claimant has limited capability for work)”;
  - (e) in paragraph (5)—
    - (i) in sub-paragraph (c), omit “or awards”;
    - (ii) in sub-paragraph (d), omit “or those existing awards”;
  - (f) for paragraph (7) substitute—
    - “(7) In this regulation paragraphs (2) and (3) are subject to regulation 17 (changes of circumstances before the effective date).”.
15. In regulation 16 (application of other statutory provisions applying to employment and support allowance)(**56**)—
- (a) in paragraph (1A)(b), for “regulation 145(1) of the 2008 Regulations” substitute “regulation 86 of the Employment and Support Allowance Regulations 2016”;
  - (b) for paragraph (2)(e) substitute—
    - “(e) the Employment and Support Allowance Regulations 2016;”.
16. In regulation 17 (changes of circumstances before the effective date)(**57**)—
- (a) omit “or awards” in both places it occurs;
  - (b) in paragraph (a)(ii)—
    - (i) omit “regulation 14(2B)(a) (termination of an existing award of incapacity benefit or severe disablement allowance where entitlement to award of income support continues),”;
    - (ii) for “(termination of existing awards which do not qualify for conversion)” substitute “(termination of an existing award which does not qualify for conversion)”;
  - (c) omit paragraph (ab).
17. In regulation 18 (reducing the transitional addition: general rule), for paragraph (2) substitute
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(56) Regulation 16 was amended by regulation 19 of S.R. 2012 No. 121.

(57) Regulation 17 was amended by regulation 2(8) of S.R. 2010 No. 347 and regulation 25(3) of S.R. 2011 No. 357.

“(2) For the purposes of paragraph (1), a relevant increase is an increase in any amount applicable to the person under regulation 62(1) or (2) of the Employment and Support Allowance Regulations 2016, which is not excluded by paragraph (3).”.

18. In regulation 21 (termination of transitional addition)(**58**)—
- (a) in paragraph (1)(b)—
    - (i) for “, (3A) and (4)” substitute “ and (3A)” ;
    - (ii) omit “an employment and support allowance which arises from section 1(2)(a) or (b) of the Act, or to” and “or to an income-related allowance”;
  - (b) omit paragraph (4);
  - (c) in paragraph (5)(a), for “regulation 145(1) of the Employment and Support Allowance Regulations (linking rules)” substitute “regulation 86 of the Employment and Support Allowance Regulations 2016 (linking period)”;
  - (d) in paragraph (5)(c)(ii), for “regulation 30 of those Regulations” substitute “regulation 26 of those Regulations”;
  - (e) in paragraph (5A)(c), for “regulation 145(1) of the Employment and Support Allowance Regulations (linking rules)” substitute “regulation 86 of the Employment and Support Allowance Regulations 2016 (linking period)”;
  - (f) omit paragraph (6);
  - (g) in paragraph (7)—
    - (i) for “, 1A and 2” substitute “and 1A”;
    - (ii) omit “or additions, as the case may be,” in both places where it occurs;
    - (iii) for “an allowance which is referred to in paragraph (1)(b)” substitute “a contributory allowance”.
19. In regulation 22 (disapplication of certain enactments following conversion decision), omit paragraphs (c) and (d).
20. In Schedule 1 (modification of statutory provisions: making conversion decisions)—
- (a) in paragraph 1—
    - (i) in sub-paragraph (b)(i), for the modified section 1(2) substitute(**59**)—

“(2) Subject to the provisions of this Part, a notified person is entitled to an employment and support allowance if the person satisfies the basic conditions and is entitled to an existing award of incapacity benefit or severe disablement allowance.”;
    - (ii) for sub-paragraph (e) substitute—

“(e) Schedule 1 to the 2007 Act is to be read as if paragraphs 1 to 6 were omitted.”;
  - (b) in the heading to Part 2, after “the Employment and Support Allowance Regulations” insert “2016”;
  - (c) in paragraph 2—
    - (i) in the introductory words, after “Regulations” insert “2016”;
    - (ii) in sub-paragraph (c), for “regulation 30” substitute “regulation 26”;
    - (iii) omit sub-paragraph (ca)(**60**);

(58) Regulation 21 was amended by regulation 2(11) of S.R. 2010 No. 347, regulation 3 of S.R. 2012 No. 160, regulation 9(3) of S.R. 2016 No. 175 and regulation 5 of S.R. 2016 No. 176.

(59) Sub-paragraph (b)(i) was substituted by regulation 2(13)(a) of S.R. 2010 No. 347.

(60) Sub-paragraph (ca) was inserted by regulation 2(13)(b) of S.R. 2010 No. 347.

- (iv) in sub-paragraph (d), for “regulation 75” substitute “regulation 68”;
- (v) in sub-paragraph (e), for “regulation 144” substitute “regulation 85”;
- (d) in the sub-heading to Part 3, after “Regulations” insert “2016”;
- (e) in paragraph 3—
  - (i) for “Regulation 32 of the Claims and Payments Regulations” substitute “Regulation 37 of the Claims and Payments Regulations 2016”;
  - (ii) in sub-paragraph (a), for “paragraph (1)” substitute “paragraph (2)”;
  - (iii) in sub-paragraph (b), for “paragraph (1A)” substitute “paragraph (3)”.

21.—(1) The following amendments to Schedule 2 (modification of enactments: after the conversion phase).

(2) In paragraph 1—

- (a) in sub-paragraph (b)(i) in the modified section 1(2)—
  - (i) in paragraph (a), for “or awards into a single award of employment and support allowance” substitute “into an award of an employment and support allowance; and”;
  - (ii) at the end of paragraph (b), for “; and” substitute “;”;
  - (iii) omit paragraph (c);
  - (iv) in sub-paragraph (b)(ii) in the modified section 1(7)—
    - (aa) for the definition of “contributory allowance” substitute—
 

““employment and support allowance” means an employment and support allowance to which a person is entitled by virtue of the Existing Awards Regulations which was based on an award of incapacity benefit or severe disablement allowance to which the person was entitled.”
    - (bb) omit the definition of “income-related allowance”;
- (v) in sub-paragraph (ba)—
  - (aa) in sub-paragraph (i), omit “contributory”; and
  - (bb) in sub-paragraph (ii) in the substituted section 1A—
    - (cc) in paragraphs (1) and (3) to (5), for “a contributory allowance” substitute “an employment and support allowance”; and
    - (dd) in paragraph (3), omit “Part 1 of”;
- (vi) in sub-paragraph (c)(ii), for “regulation 147A of the Employment and Support Allowance Regulations” substitute “regulation 87 of the Employment and Support Allowance Regulations 2016”;
- (vii) omit sub-paragraphs (d) and (f).

(3) In the heading to Part 2, after “Regulations” insert “2016”;

(4) In paragraph 4—

- (a) after “Regulations” insert “2016”;
- (b) in sub-paragraph (b), for “regulation 147A of those Regulations” substitute “regulation 87 of those Regulations”;
- (c) in sub-paragraph (c), for “regulation 30” substitute “regulation 26”;
- (d) for sub-paragraph (e) substitute—

- “(e) regulation 39 (exempt work) is to be read as if, in the definition of “work period” in paragraph (6), after “referred to in paragraph (1)(c)”, in both places where it occurs, there were inserted “, or any work done in accordance with regulation 17(4) of the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995(61)””;
- (e) for sub-paragraph (f) substitute—
- “(f) Regulation 67 (prescribed amounts) is to be read as if, in paragraph (1), for sub-paragraphs (a) and (b) there were substituted—
- (a) (i) where the claimant satisfies the conditions set out in section 2(2) or (3) of the Act, £73.10; or
- (ii) where the claimant does not satisfy the conditions set out in section 2(2) or (3) of the Act—
- (aa) where the claimant is aged not less than 25, £73.10; or
- (bb) where the claimant is aged less than 25, £57.90; and
- (b) the amount of any transitional addition to which the person is entitled under regulation 10 of the Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010.”;
- (f) omit sub-paragraph (g);
- (g) in sub-paragraph (h), for “regulation 75” substitute “regulation 68”;
- (h) in sub-paragraph (i)—
- (i) in the introductory words, for “regulation 147A” substitute “regulation 87”;
- (ii) in the inserted regulation—
- (aa) in the description of the number of the regulation, for “147A.—” substitute “87.—”;
- (bb) in paragraph (2), for “regulation 19” substitute “regulation 15”;
- (cc) in paragraph (4)(a), for “regulation 22 or 23” substitute “regulation 18 or 19”;
- (dd) for “regulation 30”, in all places where it occurs, substitute “regulation 26”;
- (ee) in paragraph (5)(c), for the words from “, struck out” to “(making of appeals and application)” substitute “or struck out”;
- (ff) in paragraph (6), for “either—” and sub-paragraphs (a) and (b) substitute “receives the Appeal Tribunal’s notification that the appeal is dismissed, withdrawn or struck out.”;
- (i) omit sub-paragraph (j).
- (5) In paragraph 5—
- (a) in the introductory words, after “Regulations” insert “2016”;
- (b) for sub-paragraph (b) substitute—
- “(b) Regulation 6 (claims not required for entitlement to an employment and support allowance in certain areas) is to read as if after paragraph (1) there were inserted—

(61) Regulation 17(4) was amended by regulation 6(4)(a) of [S.R. 2011 No. 135](#) and regulation 2(a) of [S.R. 2017 No. 50](#).

“(1A) It is also not to be a condition of entitlement to an employment and support allowance that a claim be made for it where any of the following conditions are met—

- (a) the claimant—
    - (i) has made and is pursuing an appeal against a conversion decision made by virtue of the Existing Awards Regulations which embodies a determination that the beneficiary does not have limited capability for work; or
    - (ii) was entitled to an employment and support allowance by virtue of the Existing Awards Regulations and has made and is pursuing an appeal against a later decision which embodies a determination that the claimant does not have limited capability for work; or
  - (b) the claimant is entitled to an existing award which is subject to conversion under the Existing Award Regulations.”.
  - (c) in sub-paragraph (c), for “regulation 26C” substitute “regulation 46”;
  - (d) in sub-paragraph (d)—
    - (i) for “regulation 32(1B)” substitute “regulation 37(4)”;
    - (ii) in paragraph (i), for the words “sub-paragraph (a)” substitute “sub-paragraph (b)”;
    - (iii) in paragraph (ii), for “(ab)” substitute (bb);
  - (e) omit sub-paragraph (e);
  - (f) in sub-paragraph (f), for “Schedule 8C” substitute “Schedule 6”.
22. In Schedule 3 (regulations that apply after the conversion phase)—
- (a) for “The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987” substitute “the Claims and Payments Regulations 2016”;
  - (b) for “The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999” substitute “the Decisions and Appeals Regulations”.

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## EXPLANATORY NOTE

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

This Order brings into force provisions of the Welfare Reform (Northern Ireland) Order 2015 ([S.I. 2015/2006 \(N.I. 1\)](#) (“the 2015 Order”) that relate to universal credit (“UC”) and the abolition of income related employment and support allowance and income-based jobseeker’s allowance.

Article 3 brings into force on 27th September 2017 various provisions of Parts 3, 6 and 7 of, and Schedules 7, 8 and 12 to, the 2015 Order, mainly in relation to jobseeker’s allowance (“JSA”), employment and support allowance (“ESA”) and the extension of powers to recover benefit overpayments to apply in relation to UC.

Paragraphs (1) and (2) of Article 4 bring into force on 27th September 2017 various provisions relating to UC including certain supplementary and consequential provisions set out in Schedule 2



to the 2015 Order. Paragraphs (3) and (4) bring into force the provisions in Part 2 of the 2015 Order (“the UC provisions”), as set out in Schedule 1, in relation to the different cases as set out below.

Under Article 4(3) and (4)(a), the UC provisions come into force in relation to a claim for UC, and any award that is made in respect of the claim, where the claim is made on or after 27th September 2017 with respect to a period that begins on or after 27th September 2017 and, on the date on which the claim is made, the claimant resides in one of the No. 1 relevant districts.

The postcodes in the No. 1 Relevant Districts are set out in the table contained in the document entitled the List of the No. 1 Relevant Districts, issued by the Department for Communities on the date of making of this Order. The document is available in the libraries of both Houses of Parliament and may also be obtained free of charge from the Social Security and Legislation Division, Department for Communities, Level 8 Causeway Exchange, 1-7 Bedford Street, Belfast, BT2 7EG, in hard copy, or from the Department for Communities website, in soft copy, at: <https://www.communities-ni.gov.uk/publications/universal-credit-roll-out-by-postcode>.

Under Article 4(3) and (4)(b), the UC provisions come into force in relation to a claim for UC, and any award that is made in respect of the claim, where the claimant claims UC on or after 27th September 2017 in respect of a period that begins on or after 27th September 2017 and provides incorrect information regarding the claimant residing in one of the No. 1 relevant districts, but this is only discovered once payments of UC have been made.

Under Article 4(5), the day appointed for the coming into force of the UC provisions in the above cases is the first day of the period in respect of which the claim is made.

Article 5 contains provision with respect to the position where a person claims UC and provides incorrect information as to their place of residence.

Article 6 brings into force provisions of the 2015 Order relating to the abolition of income-related employment and support allowance and income-based jobseeker’s allowance (“the amending provisions”), in relation to a number of different cases as referred to below.

Under Article 6(1) and (2)(a), the amending provisions come into force in relation to a claim for UC, and any award that is made in respect of the claim, where the claim is made on or after 27th September 2017 with respect to a period that begins on or after 27th September 2017 and, on the date on which the claim is made, the claimant resides in one of the No. 1 relevant districts.

Under Article 6(1) and (2)(b), the amending provisions come into force in relation to a claim for UC, and any award that is made in respect of the claim, where a claimant claims UC on or after 27th September 2017 in respect of a period that begins on or after 27th September 2017 and provides incorrect information regarding the claimant residing in one of the No. 1 relevant districts, but this is only discovered once payments of UC have been made.

Under Article 6(1) and (2)(c), the amending provisions come into force in relation to a claim for ESA or JSA, and any award that is made in respect of the claim, where the claim is made on or after 27th September 2017 and, on the date on which the claim is made, the claimant resides in one of the No. 1 relevant districts.

Under Article 6(1) and (2)(d), the amending provisions come into force in relation to the case of a claim for ESA or JSA where the claim is not a claim for ESA or JSA as referred to in Article 6(2) (c) and where the claim is made during the “relevant period” (mainly the period when a claim for UC is being considered or an award of UC is extant).

Under Article 6(3), the day appointed for the coming into force of the amending provisions in the above cases is the first day of the period in respect of which the claim is made.

Paragraphs (4) to (6) of Article 6 provide that a reference in paragraph (1) to a claim for UC includes a reference to any notice under the Employment and Support Allowance (Transitional Provision and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010 (S.R. 2010 No. 312) (“2010 Transitional Regulations”) that is issued to such a person, relating to the conversion of existing awards of incapacity benefit and severe disablement allowance to ESA, and to any award of

ESA that is made as a result of a conversion decision, where the notice is issued within the period of the UC award. It also includes a reference to any claim for ESA or JSA, and any award that is made in respect of that claim, where the claim is made within the period of the UC award by a person to whom the award is made and with respect to a period that commences on or after the first day of entitlement to UC.

Article 7 contains provisions that apply in connection with Article 6.

Article 8 provides that, where a person claims ESA or JSA and they would not be able to claim UC by virtue of a determination made by the Department for Communities under regulation 2A of the Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016 No. 226) (claims for UC may not be made in a specified category of case or area), or by virtue of regulation 40 of those regulations (claims for UC prevented by persons with more than two children or qualifying young persons during specified period), then Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (2007 c. 2 (N.I.)), the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)) and other relevant provisions apply in relation to the claim for ESA or JSA as if the amending provisions had not come into force. There is an exception where the claim for ESA or JSA is made during the period specified in Article 6(2)(d) (mainly, where the claim for ESA or JSA is made during the period when a claim for UC is being considered or an award of UC is extant).

Article 9 provides that the appointed day for the coming into force of the specified provisions in the 2015 Order that relate to claimant responsibilities in relation to a new style ESA award or a new style JSA award, as well as related transitional provisions, is, in relation to a particular case, the day the amending provisions come into force.

Article 10 and Schedule 3 provide for transitional provisions whereby, in relation to cases with respect to which the amending provisions have come into force, the 2010 Transitional Regulations are to be read as if the amendments set out in Schedule 3 were made; the amendments substitute references to provisions that apply to new style ESA awards including the Employment and Support Allowance Regulations (Northern Ireland) 2016 (S.R. 2016 No. 219).

Articles 11 and 12 provide for transitional provisions with respect to assessments of limited capability for work or for work and work-related activity where a person has a new style ESA award and previously had an old style ESA award, or vice versa.

Articles 13 and 14 provide for transitional provisions with respect to the continuity of jobseeking periods where a person has a new style JSA award and previously had an old style JSA award, or vice versa.

Articles 15 to 17 provide for transitional provisions in relation to sanctions where a person has a new style ESA award and previously had an old style ESA award and was subject to sanctions. Articles 18 to 20 make similar provision for JSA.

Article 21 provides that where a person has a new style ESA award or new style JSA award, is subject to sanctions and subsequently becomes entitled to an old style ESA award, old style JSA award or income support, the sanctions cease to have effect.

Article 22 provides for a transitory provision with respect to appeals where a person is sent a notice relating to a new style ESA award or a new style JSA award.

Article 23 contains a transitional provision providing that, in relation to a case with respect to which the amending provisions have come into force under Article 6(1), references in certain Acts to a contributory employment and support allowance or to a contribution-based jobseeker's allowance are to be construed as if they included a reference to a new style ESA award or to a new style JSA award respectively.

Article 24 contains transitional provisions that provide that, save in specified cases, a person may not make a claim for housing benefit, income support or a tax credit on any date where, if that person made a claim for universal credit on that date, the UC provisions would come into force in relation to the claim by virtue of Article 4(3) and (4)(a) of this Order.

Article 25 makes provision relating to the possible revision of a decision to make a UC award, where an appeal against a decision not to award old style ESA or old style JSA is finally determined, or a decision relating to a claimant's entitlement to such an award is revised, after a UC award has been made.

### NOTE AS TO EARLIER COMMENCEMENT ORDERS

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

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.R. number</i>
Article 7 (partially)	2nd May 2016	2016 No. 215
Articles 9 to 17 (partially)	2nd May 2016	2016 No. 215
Articles 18 to 27 (partially)	2nd May 2016	2016 No. 215
Article 29 (partially)	2nd May 2016	2016 No. 215
Article 30	2nd May 2016	2016 No. 215
Articles 31 and 32 (partially)	2nd May 2016	2016 No. 215
Article 33	2nd May 2016	2016 No. 215
Articles 36 to 38	2nd May 2016	2016 No. 215
Article 39 (partially)	2nd May 2016	2016 No. 215
Articles 41 and 42	2nd May 2016	2016 No. 215
Article 43 (partially)	2nd May 2016	2016 No. 215
Articles 45 to 47 (partially)	2nd May 2016	2016 No. 215
Articles 48 and 49	2nd May 2016	2016 No. 215
Article 50 (partially)	2nd May 2016	2016 No. 215
Article 51 and 52 (partially)	1st June 2016	2016 No. 234
Article 53	17th February 2016	2016 No. 46
Article 54	2nd May 2016	2016 No. 215
Article 55 (partially)	2nd May 2016	2016 No. 215
Article 56	17th February 2016	2016 No. 46
Article 57 (partially)	17th March 2016	2016 No. 46
Article 57 (remaining)	28th November 2016	2016 No. 46
Article 58	28th November 2016	2016 No. 46
Article 59	17th February 2016	2016 No. 46
Article 60 (partially)	2nd May 2016	2016 No. 215
Article 62	1st June 2016	2016 No. 234
Article 63 (partially)	2nd May 2016	2016 No. 215
Article 64	16th January 2017	2016 No. 46
Article 70 (partially)	1st June 2016	2016 No. 234

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

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.R. number</i>
Article 70 (remaining)	31st October 2016	2016 No. 234
Article 71	31st October 2016	2016 No. 234
Article 72 (partially)	2nd May 2016	2016 No. 215
Article 72 (partially)	1st June 2016	2016 No. 234
Articles 73 and 74	31st October 2016	2016 No. 234
Article 75	9th September 2016	2016 No. 325
Article 76 (partially)	28th November 2016	2016 No. 411
Article 76 (partially)	31st March 2017	2016 No. 411
Article 77 to 79	17th February 2016	2016 No. 46
Articles 82 to 84 (partially)	2nd May 2016	2016 No. 215
Articles 82 to 84 (remaining)	20th June 2016	2016 No. 215
Articles 85 and 86	2nd May 2016	2016 No. 215
Article 87	20th June 2016	2016 No. 215
Article 88 (partially)	2nd May 2016	2016 No. 215
Article 88 (remaining)	20th June 2016	2016 No. 215
Articles 89 to 91	2nd May 2016	2016 No. 215
Article 92 (partially)	2nd May 2016	2016 No. 215
Article 92 (remaining)	20th June 2016	2016 No. 215
Articles 93 and 94	20th June 2016	2016 No. 215
Articles 96 to 99	2nd May 2016	2016 No. 215
Article 100 (partially)	2nd May 2016	2016 No. 215
Article 100 (remaining)	20th June 2016	2016 No. 215
Articles 101 and 102	17th February 2016	2016 No. 46
Articles 103 to 106	2nd May 2016	2016 No. 215
Article 107 (partially)	17th March 2016	2016 No. 166
Article 108	2nd May 2016	2016 No. 215
Article 109 (partially)	4th April 2016	2016 No. 46
Articles 109 (partially)	2nd May 2016	2016 No. 215
Articles 109 (partially)	20th June 2016	2016 No. 215
Articles 110 (partially)	2nd May 2016	2016 No. 215
Articles 110 (remaining)	20th June 2016	2016 No. 215
Articles 111 to 113	17th February 2016	2016 No. 46
Articles 115 and 116	4th April 2016	2016 No. 46
Articles 117 and 118 (partially)	2nd May 2016	2016 No. 215

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.R. number</i>
Articles 117 and 118 (remaining)	9th September 2016	2016 No. 325
Articles 120 to 125	17th February 2016	2016 No. 46
Article 127 (partially)	17th February 2016	2016 No. 46
Articles 129 to 133	17th February 2016	2016 No. 46
Articles 135 to 140	17th February 2016	2016 No. 46
Schedule 1 (partially)	2nd May 2016	2016 No. 215
Schedule 2 (partially)	2nd May 2016	2016 No. 215
Schedule 2 (partially)	10th July 2017	2017 No. 118
Schedule 3 (partially)	2nd May 2016	2016 No. 215
Schedule 5 (partially)	2nd May 2016	2016 No. 215
Schedule 6	2nd May 2016	2016 No. 215
Schedule 7 (partially)	2nd May 2016	2016 No. 215
Schedule 7 (partially)	1st June 2016	2016 No. 234
Schedule 8 (partially)	28th November 2016	2016 No. 411
Schedule 8 (partially)	31st March 2017	2016 No. 411
Schedule 9 (partially)	2nd May 2016	2016 No. 215
Schedule 9 (partially)	20th June 2016	2016 No. 215
Schedule 10	2nd May 2016	2016 No. 215
Schedule 11 (partially)	17th March 2016	2016 No. 166
Schedule 12 (partially)	17th February 2016	2016 No. 46
Schedule 12 (partially)	31st October 2016	2016 No. 234
Schedule 12 (partially)	28th November 2016	2016 No. 411
Schedule 12 (partially)	31st March 2017	2016 No. 411