
DRAFT STATUTORY INSTRUMENTS

2013 No.

The Universal Credit Regulations 2013

PART 2

ENTITLEMENT

Introduction

7. This Part contains provisions about—
- (a) the requirement to meet the basic conditions in section 4 of the Act, including exceptions from that requirement;
 - (b) the maximum amount of capital and the minimum amount of universal credit for the financial conditions in section 5 of the Act; and
 - (c) cases where no entitlement to universal credit arises even if the basic conditions and the financial conditions are met.

Minimum age

Cases where the minimum age is 16

8.—(1) For the basic condition in section 4(1)(a) of the Act (at least 18 years old), the minimum age is 16 years old where a person—

- (a) has limited capability for work;
- (b) is awaiting an assessment under Part 5 to determine whether the person has limited capability for work and has a statement given by a registered medical practitioner in accordance with the Medical Evidence Regulations which provides that the person is not fit for work;
- (c) has regular and substantial caring responsibilities for a severely disabled person;
- (d) is responsible for a child;
- (e) is a member of a couple the other member of which is responsible for a child or a qualifying young person (but only where the other member meets the basic conditions in section 4 of the Act);
- (f) is pregnant, and it is 11 weeks or less before her expected week of confinement, or was pregnant and it is 15 weeks or less since the date of her confinement; or
- (g) is without parental support (see paragraph (3)).

(2) Sub-paragraphs (c), (f) and (g) of paragraph (1) do not include any person who is a care leaver.

(3) For the purposes of paragraph (1)(g) a young person is without parental support where that person is not being looked after by a local authority and—

- (a) has no parent;
- (b) cannot live with their parents because—

- (i) the person is estranged from them, or
- (ii) there is a serious risk to the person’s physical or mental health, or that the person would suffer significant harm if the person lived with them; or
- (c) is living away from their parents, and neither parent is able to support the person financially because that parent—
 - (i) has a physical or mental impairment,
 - (ii) is detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court, or
 - (iii) is prohibited from entering or re-entering Great Britain.
- (4) In this regulation—
 - “parent” includes any person acting in the place of a parent;
 - “care leaver” means—
 - (a) in relation to England and Wales, an eligible child for the purposes of paragraph 19B of Schedule 2 to the Children Act 1989(1) or a relevant child for the purposes of section 23A of that Act;
 - (b) in relation to Scotland, a person under the age of 18 to whom a local authority in Scotland is obliged to provide advice and assistance in terms of section 29(1) of the Children (Scotland) Act 1995 and who, since reaching the age of 14, has been looked after by a local authority for a period of or periods totalling 13 weeks or more (excluding any period where the person has been placed with a member of their family); and
 - “confinement” means—
 - (a) labour resulting in the birth of a living child; or
 - (b) labour after 24 weeks of pregnancy resulting in the birth of a child whether alive or dead, and where a woman’s labour begun on one day results in the birth of a child on another day she is to be taken to be confined on the date of the birth.

In Great Britain

Persons treated as not being in Great Britain

9.—(1) For the purposes of determining whether a person meets the basic condition to be in Great Britain, except where a person falls within paragraph (4), a person is to be treated as not being in Great Britain if the person is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.

(2) A person must not be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless the person has a right to reside in one of those places.

(3) For the purposes of paragraph (2), a right to reside does not include a right which exists by virtue of, or in accordance with—

- (a) regulation 13 of the EEA Regulations or Article 6 of Council Directive No.2004/38/EC(2); or

(1) 1989 c.41. Section 19B was inserted by section 1 of the Children (Leaving Care) Act 2000 (c.35). Section 23A was inserted by section 2 of that Act.

(2) OJL 158,30.4.04, p.77.

- (b) regulation 15A(1) of the EEA Regulations⁽³⁾, but only in cases where the right exists under that regulation because the claimant satisfies the criteria in regulation 15A(4A) of those Regulations or article 20 of the Treaty on the Functioning of the European Union (in a case where the right to reside arises because a British citizen would otherwise be deprived of the genuine enjoyment of their rights as a European citizen).
- (4) A person falls within this paragraph if the person is—
 - (a) a qualified person for the purposes of regulation 6 of the EEA Regulations as a worker or a self-employed person;
 - (b) a family member of a person referred to in sub-paragraph (a) within the meaning of regulation 7(1)(a), (b) or (c) of the EEA Regulations;
 - (c) a person who has a right to reside permanently in the United Kingdom by virtue of regulation 15(1)(c), (d) or (e) of the EEA Regulations;
 - (d) a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967;
 - (e) a person who has exceptional leave to enter or remain in the United Kingdom granted outside the rules made under section 3(2) of the Immigration Act 1971⁽⁴⁾;
 - (f) a person who has humanitarian protection granted under those rules; or
 - (g) a person who is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999⁽⁵⁾ and who is in the United Kingdom as a result of their deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom.

Crown servants and members of Her Majesty’s forces posted overseas

10.—(1) The following persons do not have to meet the basic condition to be in Great Britain—

- (a) a Crown servant or member of Her Majesty’s forces posted overseas;
- (b) in the case of joint claimants, the partner of a person mentioned in sub-paragraph (a) while they are accompanying the person on that posting.

(2) A person mentioned in paragraph (1)(a) is posted overseas if the person is performing overseas the duties of a Crown servant or member of Her Majesty’s forces and was, immediately before their posting or the first of consecutive postings, habitually resident in the United Kingdom.

(3) In this regulation—

“Crown servant” means a person holding an office or employment under the Crown; and

“Her Majesty’s forces” has the meaning in the Armed Forces Act 2006⁽⁶⁾.

Temporary absence from Great Britain

11.—(1) A person’s temporary absence from Great Britain is disregarded in determining whether they meet the basic condition to be in Great Britain if—

- (a) the person is entitled to universal credit immediately before the beginning of the period of temporary absence; and
- (b) either—

⁽³⁾ Regulation 15A was inserted by [S.I. 2012/1547](#) and paragraph (4A) of that regulation was inserted by [S.I.2012/2560](#).

⁽⁴⁾ [1971 c.77](#).

⁽⁵⁾ [1999 c.33](#).

⁽⁶⁾ [2006 c.52](#).

- (i) the absence is not expected to exceed, and does not exceed, one month, or
- (ii) paragraph (3) or (4) applies.

(2) The period of one month in paragraph (1)(b) may be extended by up to a further month if the temporary absence is in connection with the death of—

- (a) the person’s partner or a child or qualifying young person for whom the person was responsible; or
- (b) a close relative of the person, or of their partner or of a child or qualifying young person for whom the person or their partner was responsible,

and the Secretary of State considers that it would be unreasonable to expect the person to return to Great Britain within the first month.

(3) This paragraph applies where the absence is not expected to exceed, and does not exceed, 6 months and is solely in connection with—

- (a) the person undergoing—
 - (i) treatment for an illness or physical or mental impairment by, or under the supervision of, a qualified practitioner, or
 - (ii) medically approved convalescence or care as a result of treatment for an illness or physical or mental impairment, where the person had that illness or impairment before leaving Great Britain; or
- (b) the person accompanying their partner or a child or qualifying young person for whom they are responsible for treatment or convalescence or care as mentioned in sub-paragraph (a).

(4) This paragraph applies where the absence is not expected to exceed, and does not exceed, 6 months and the person is—

- (a) a mariner; or
- (b) a continental shelf worker who is in a designated area or a prescribed area.

(5) In this regulation—

“continental shelf worker” means a person who is employed, whether under a contract of service or not, in a designated area or a prescribed area in connection with any activity mentioned in section 11(2) of the Petroleum Act 1998(7);

“designated area” means any area which may from time to time be designated by Order in Council under the Continental Shelf Act 1964(8) as an area within which the rights of the United Kingdom with respect to the seabed and subsoil and their natural resources may be exercised;

“mariner” means a person who is employed under a contract of service either as a master or member of the crew of any ship or vessel, or in any other capacity on board any ship or vessel where—

- (a) the employment in that other capacity is for the purposes of that ship or vessel or its crew or any passengers or cargo or mails carried by the ship or vessel; and
- (b) the contract is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on its voyage;

“medically approved” means certified by a registered medical practitioner;

“prescribed area” means any area over which Norway or any member State (other than the United Kingdom) exercises sovereign rights for the purpose of exploring the seabed and subsoil and exploiting their natural resources, being an area outside the territorial seas of Norway or

(7) 1998 c.17.

(8) 1964 c.29.

such member State, or any other area which is from time to time specified under section 10(8) of the Petroleum Act 1998;

“qualified practitioner” means a person qualified to provide medical treatment, physiotherapy or a form of treatment which is similar to, or related to, either of those forms of treatment.

Receiving education

Meaning of “receiving education”

12.—(1) For the basic condition in section 4(1)(d) of the Act (not receiving education) a qualifying young person is to be treated as receiving education.

(2) In any other case “receiving education” means—

- (a) undertaking a full-time course of advanced education; or
- (b) undertaking any other full-time course of study or training at an educational establishment for which a student loan or grant is provided for the person’s maintenance.

(3) In paragraph (2)(a) “course of advanced education” means—

- (a) a course of study leading to—
 - (i) a postgraduate degree or comparable qualification,
 - (ii) a first degree or comparable qualification,
 - (iii) a diploma of higher education,
 - (iv) a higher national diploma; or
- (b) any other course of study which is of a standard above advanced GNVQ or equivalent, including a course which is of a standard above a general certificate of education (advanced level), or above a Scottish national qualification (higher or advanced higher).

(4) A claimant who is not a qualifying young person and is not undertaking a course described in paragraph (2) is nevertheless to be treated as receiving education if the claimant is undertaking a course of study or training that is not compatible with any work-related requirement imposed on the claimant by the Secretary of State.

Meaning of “undertaking a course”

13.—(1) For the purposes of these Regulations a person is to be regarded as undertaking a course of education or training—

- (a) throughout the period beginning on the date on which the person starts undertaking the course and ending on the last day of the course or on such earlier date (if any) as the person finally abandons it or is dismissed from it; or
- (b) where a person is undertaking a part of a modular course, for the period beginning on the day on which that part of the course starts and ending—
 - (i) on the last day on which the person is registered as undertaking that part, or
 - (ii) on such earlier date (if any) as the person finally abandons the course or is dismissed from it.

(2) The period referred to in paragraph (1)(b) includes—

- (a) where a person has failed examinations or has failed to complete successfully a module relating to a period when the person was undertaking a part of the course, any period in respect of which the person undertakes the course for the purpose of retaking those examinations or completing that module; and

(b) any period of vacation within the period specified in paragraph (1)(b) or immediately following that period except where the person has registered to attend or undertake the final module in the course and the vacation immediately follows the last day on which the person is to attend or undertake the course.

(3) In this regulation “modular course” means a course which consists of two or more modules, the successful completion of a specified number of which is required before a person is considered by the educational establishment to have completed the course.

(4) A person is not to be regarded as undertaking a course for any part of the period mentioned in paragraph (1) during which the following conditions are met—

- (a) the person has, with the consent of the relevant educational establishment, ceased to attend or undertake the course because they are ill or caring for another person;
- (b) the person has recovered from that illness or ceased caring for that person within the past year, but not yet resumed the course; and
- (c) the person is not eligible for a grant or student loan.

Exceptions to the requirement not to be receiving education

14. A person does not have to meet the basic condition in section 4(1)(d) of the Act (not receiving education) if—

- (a) the person—
 - (i) is undertaking, a full-time course of study or training which is not a course of advanced education,
 - (ii) is under the age of 21, or is 21 and reached that age whilst undertaking the course, and
 - (iii) is without parental support (as defined in regulation 8(3));
- (b) the person is entitled to attendance allowance, disability living allowance or personal independence payment and has limited capability for work;
- (c) the person is responsible for a child or a qualifying young person;
- (d) the person is a single person and a foster parent with whom a child is placed;
- (e) the person is a member of a couple, both of whom are receiving education, and the other member is—
 - (i) responsible for a child or qualifying young person, or
 - (ii) a foster parent with whom a child is placed; or
- (f) the person—
 - (i) has reached the qualifying age for state pension credit, and
 - (ii) is a member of a couple the other member of which has not reached that age.

Accepting a claimant commitment

Claimant commitment – date and method of acceptance

15.—(1) For the basic condition in section 4(1)(e) of the Act, a person who has accepted a claimant commitment within such period after making a claim as the Secretary of State specifies is to be treated as having accepted that claimant commitment on the first day of the period in respect of which the claim is made.

(2) In a case where an award may be made without a claim, a person who accepts a claimant commitment within such period as the Secretary of State specifies is to be treated as having accepted

a claimant commitment on the day that would be the first day of the first assessment period in relation to the award in accordance with regulation 21(3).

(3) The Secretary of State may extend the period within which a person is required to accept a claimant commitment or an updated claimant commitment where the person requests that the Secretary of State review—

- (a) any action proposed as a work search requirement or a work availability requirement; or
- (b) whether any limitation should apply to those requirements,

and the Secretary of State considers that the request is reasonable.

(4) A person must accept a claimant commitment by one of the following methods, as specified by the Secretary of State—

- (a) electronically;
- (b) by telephone; or
- (c) in writing.

Claimant commitment – exceptions

16. A person does not have to meet the basic condition to have accepted a claimant commitment if the Secretary of State considers that—

- (a) the person cannot accept a claimant commitment because they lack the capacity to do so; or
- (b) there are exceptional circumstances in which it would be unreasonable to expect the person to accept a claimant commitment.

Financial conditions

Minimum amount

17. For the purposes of section 5(1)(b) and (2)(b) of the Act (financial conditions: amount payable not less than any prescribed minimum) the minimum is one penny.

Capital limit

18.—(1) For the purposes of section 5(1)(a) and (2)(a) of the Act (financial conditions: capital limit)—

- (a) the prescribed amount for a single claimant is £16,000; and
- (b) the prescribed amount for joint claimants is £16,000.

(2) In a case where the claimant is a member of a couple, but makes a claim as a single person, the claimant's capital is to be treated as including the capital of the other member of the couple.

Restrictions on entitlement

Restrictions on entitlement – prisoners etc.

19.—(1) Entitlement to universal credit does not arise where a person is—

- (a) a member of a religious order who is fully maintained by their order;
- (b) a prisoner; or
- (c) serving a sentence of imprisonment detained in hospital.

(2) Paragraph (1)(b) does not apply during the first 6 months when the person is a prisoner where—

- (a) the person was entitled to universal credit immediately before becoming a prisoner, and the calculation of their award included an amount for the housing costs element; and
- (b) the person has not been sentenced to a term in custody that is expected to extend beyond that 6 months.

(3) In the case of a prisoner to whom paragraph (2) applies, an award of universal credit is not to include any element other than the housing costs element.

(4) In paragraph (1)(c) a person serving a sentence of imprisonment detained in hospital is a person who is—

- (a) being detained—
 - (i) under section 45A or 47 of the Mental Health Act 1983⁽⁹⁾ (power of higher courts to direct hospital admission; removal to hospital of persons serving sentence of imprisonment etc), and
 - (ii) before the day which the Secretary of State certifies to be that person's release date within the meaning of section 50(3) of that Act (in any case where there is such a release date); or
- (b) being detained under—
 - (i) section 59A of the Criminal Procedure (Scotland) Act 1995⁽¹⁰⁾ (hospital direction), or
 - (ii) section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003⁽¹¹⁾ (transfer of prisoners for treatment of mental disorder).

⁽⁹⁾ 1983 c.20. Section 45A was inserted by section 45A was inserted by section 46 of the Crime (Sentences) Act 1997.

⁽¹⁰⁾ 1995 c.46. Section 59A was inserted by section 133 of the Mental Health (Care and Treatment) (Scotland) Act 2003.

⁽¹¹⁾ 2003 asp13.