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DRAFT STATUTORY INSTRUMENTS

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**2013 No.**

**The Universal Credit Regulations 2013**

**PART 4**

**ELEMENTS OF AN AWARD**

*Particular needs or circumstances - childcare costs*

**Award to include childcare costs element**

**31.** An award of universal credit is to include an amount in respect of childcare costs (“the childcare costs element”) in respect of an assessment period in which the claimant meets both—

- (a) the work condition (see regulation 32); and
- (b) the childcare costs condition (see regulation 33).

**The work condition**

**32.—**(1) The work condition is met in respect of an assessment period if —

- (a) the claimant is in paid work or has an offer of paid work that is due to start before the end of the next assessment period; and
- (b) if the claimant is a member of a couple (whether claiming jointly or as a single person), the other member is either in paid work or is unable to provide childcare because that person—
  - (i) has limited capability for work,
  - (ii) has regular and substantial caring responsibilities for a severely disabled person, or
  - (iii) is temporarily absent from the claimant’s household.

(2) For the purposes of meeting the work condition in relation to an assessment period a claimant is to be treated as being in paid work if—

- (a) the claimant has ceased paid work—
  - (i) in that assessment period,
  - (ii) in the previous assessment period, or
  - (iii) if the assessment period in question is the first or second assessment period in relation to an award, in that assessment period or in the month immediately preceding the commencement of the award; or
- (b) the claimant is receiving statutory sick pay, statutory maternity pay, ordinary statutory paternity pay, additional statutory paternity pay, statutory adoption pay or a maternity allowance.

**The childcare costs condition**

**33.—**(1) The childcare costs condition is met in respect of an assessment period if—

- (a) the claimant pays charges in that period for relevant childcare in respect of—
    - (i) a child, or
    - (ii) a qualifying young person who has not reached the 1st September following their 16th birthday,
 for whom the claimant is responsible; and
  - (b) the charges are for childcare arrangements—
    - (i) that are to enable the claimant to take up paid work or to continue in paid work, or
    - (ii) where the claimant is treated as being in paid work by virtue of regulation 32(2), that are to enable the claimant to maintain childcare arrangements that were in place when the claimant ceased paid work or began to receive those benefits.
- (2) The childcare costs condition is only met in respect of an assessment period if those charges are reported to the Secretary of State before the end of the assessment period following the assessment period in which they are paid.

#### **Amount of childcare costs element**

- 34.**—(1) The amount of the childcare costs element for an assessment period is the lesser of—
- (a) 70% of the amount paid as charges for relevant childcare; or
  - (b) the maximum amount specified in the table in regulation 36.
- (2) In determining the amount of charges paid for relevant childcare, there is to be left out of account any amount—
- (a) that the Secretary of State considers excessive having regard to the extent to which the claimant (or, if the claimant is a member of a couple, the other member) is engaged in paid work; or
  - (b) that is met or reimbursed by an employer or some other person or is covered by other relevant support.
- (3) “Other relevant support” means payments out of funds provided by the Secretary of State or by Scottish or Welsh Ministers in connection with the claimant’s participation in work-related activity or training.

#### **Meaning of “relevant childcare”**

- 35.**—(1) “Relevant childcare” means any of the care described in paragraphs (2) to (5) other than care excluded by paragraph (7) or (8).
- (2) Care provided in England for a child—
    - (a) by a person registered under Part 3 of the Childcare Act 2006<sup>(1)</sup>; or
    - (b) by or under the direction of the proprietor of a school or a local authority on school premises out of school hours.
  - (3) Care provided in Scotland for a child—
    - (a) by a person in circumstances in which the care service provided by the person consists of child minding or of day care of children within the meaning of section 2 of the Regulation of Care (Scotland) Act 2001<sup>(2)</sup> and is registered under Part 1 of that Act;

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(1) 2006 c.21.  
(2) 2001 asp 8.

- (b) by a childcare agency where the care service consists of or includes supplying, or introducing to persons who use the service, childcarers within the meaning of section 2(7) and (8) of the Regulation of Care (Scotland) Act 2001; or
  - (c) by a local authority in circumstances in which the care service provided by the local authority consists of child minding or of day care of children within the meaning of section 2 of the Regulation of Care (Scotland) Act 2001 and is registered under Part 1 of that Act.
- (4) Care provided in Wales for a child—
- (a) by a person registered under Part 2 of the Children and Families (Wales) Measure 2010<sup>(3)</sup>;
  - (b) in circumstances in which, but for article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010<sup>(4)</sup>, the care would be day care for the purposes of Part 2 of the Children and Families (Wales) Measure 2010;
  - (c) by a childcare provider approved in accordance with a scheme made by the National Assembly for Wales under section 12(5) of the Tax Credits Act 2002<sup>(5)</sup>;
  - (d) by or under the direction of the proprietor of a school or a local authority on school premises;
  - (e) by a domiciliary care worker under the Domiciliary Care Agencies (Wales) Regulations 2004<sup>(6)</sup>; or
  - (f) by a foster parent in relation to the child (other than one whom the foster parent is fostering) in circumstances in which the care would be child minding or day care for the purposes of Part 2 of the Children and Families (Wales) Measure 2010 but for the fact that the child is over the age of the children to whom that Measure applies.
- (5) Care provided anywhere outside Great Britain by a childcare provider approved by an organisation accredited by the Secretary of State.
- (6) In paragraphs (2)(b) and (4)(d)—
- (a) “proprietor”, in relation to a school, means—
    - (i) the governing body incorporated under section 19 of the Education Act 2002<sup>(7)</sup>, or
    - (ii) if there is no such governing body, the person or body of persons responsible for the management of the school; and
  - (b) “school premises” means premises that may be inspected as part of an inspection of the school.
- (7) The following are not relevant childcare—
- (a) care provided for a child by a close relative of the child, wholly or mainly in the child’s home; and
  - (b) care provided by a person who is a foster parent of the child.
- (8) Care is not within paragraph (2)(a) if it is provided in breach of a requirement to register under Part 3 of the Childcare Act 2006.
- (9) In this regulation “child” includes a qualifying young person mentioned in regulation 33(1)(a)(ii).

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(3) 2010 nawm. 1.

(4) S.I. 2010/2839 (W 233).

(5) 2002 c.21.

(6) S.I. 2004/219 (W 23).

(7) 2002 c. 32. Section 19 has been amended by S.I. 2010/1158.

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**Draft Legislation:** This is a draft item of legislation. This draft has since been made  
as a UK Statutory Instrument: The Universal Credit Regulations 2013 No. 376

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