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DRAFT STATUTORY INSTRUMENTS

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**2013 No.**

**The Universal Credit Regulations 2013**

**PART 4**

**ELEMENTS OF AN AWARD**

**Introduction**

**23.**—(1) This Part contains provisions about the amounts (“the elements”) under—

- (a) section 9 (the standard allowance);
- (b) section 10 (responsibility for children and young persons);
- (c) section 11 (housing costs); and
- (d) section 12 (particular needs and circumstances),

of the Act that make up the maximum amount of an award of universal credit, as provided in section 8(2) of the Act.

(2) The elements to be included in an award under section 12 of the Act in respect of particular needs or circumstances are—

- (a) the LCW element and the LCWRA element (see regulations 27 and 28);
- (b) the carer element (see regulations 29 and 30); and
- (c) the childcare costs element (see regulations 31 to 35).

*Responsibility for children or young persons*

**The child element**

**24.**—(1) The amount to be included in an award of universal credit for each child or qualifying young person for whom a claimant is responsible (“the child element”) is given in the table in regulation 36.

(2) An additional amount as shown in that table is to be included in respect of each child or qualifying young person who is disabled and that amount is—

- (a) the lower rate, where the child or qualifying young person is entitled to disability living allowance or personal independence payment (unless sub-paragraph (b) applies); or
- (b) the higher rate where the child or qualifying young person is—
  - (i) entitled to the care component of disability living allowance at the highest rate or the daily living component of personal independence payment at the enhanced rate, or
  - (ii) registered as blind.

### *Housing costs*

#### **The housing costs element**

**25.**—(1) Paragraphs (2) to (4) specify for the purposes of section 11 of the Act (award of universal credit to include an amount in respect of any liability of a claimant to make payments in respect of the accommodation they occupy as their home)—

- (a) what is meant by payments in respect of accommodation (see paragraph (2));
  - (b) the circumstances in which a claimant is to be treated as liable or not liable to make such payments (see paragraph (3));
  - (c) the circumstances in which a claimant is to be treated as occupying or not occupying accommodation and in which land used for the purposes of any accommodation is to be treated as included in the accommodation (see paragraph (4)).
- (2) The payments in respect of accommodation must be—
- (a) payments within the meaning of paragraph 2 of Schedule 1 (“rent payments”);
  - (b) payments within the meaning of paragraph 4 of that Schedule (“owner-occupier payments”);
  - (c) payments within the meaning of paragraph 7 of that Schedule (“service charge payments”).
- (3) The circumstances of the liability to make the payments must be such that—
- (a) the claimant (or either joint claimant)—
    - (i) has a liability to make the payments which is on a commercial basis, or
    - (ii) is treated under Part 1 of Schedule 2 as having a liability to make the payments; and
  - (b) none of the provisions in Part 2 of that Schedule applies to treat the claimant (or either joint claimant) as not being liable to make the payments.
- (4) The circumstances in which the accommodation is occupied must be such that—
- (a) the claimant is treated under Part 1 of Schedule 3 as occupying the accommodation as their home (including any land used for the purposes of the accommodation which is treated under that Part as included in the accommodation); and
  - (b) none of the provisions in Part 2 of that Schedule applies to treat the claimant as not occupying that accommodation.
- (5) References in these Regulations—
- (a) to the housing costs element are to the amount to be included in a claimant’s award under section 11 of the Act;
  - (b) to a claimant who meets the payment condition, the liability condition or the occupation condition are, respectively, to any claimant in whose case the requirements of paragraph (2), (3) or (4) are met (and any reference to a claimant who meets all of the conditions specified in this regulation is to be read accordingly).

#### **Amount of the housing costs element – renters and owner-occupiers**

**26.**—(1) This regulation provides for the amount to be included in an award in respect of an assessment period in which the claimant meets all the conditions specified in regulation 25.

- (2) Schedule 4 has effect in relation to any claimant where—
- (a) the claimant meets all of those conditions; and
  - (b) the payments for which the claimant is liable are rent payments (whether or not service charge payments are also payable).

- (3) Schedule 5 has effect in relation to any claimant where—
- (a) the claimant meets all of those conditions; and
  - (b) the payments for which the claimant is liable are—
    - (i) owner-occupier payments (whether or not service charge payments are also payable), or
    - (ii) service charge payments only.
- (4) Where both paragraphs (2) and (3) apply in relation to a claimant who occupies accommodation under a shared ownership tenancy—
- (a) an amount is to be calculated under each of Schedules 4 and 5; and
  - (b) the amount of the claimant’s housing cost element is the aggregate of those amounts.
- (5) But where, in a case to which paragraph (4) applies, there is a liability for service charge payments, the amount in respect of those payments is to be calculated under Schedule 4.
- (6) “Shared ownership tenancy” means—
- (a) in England and Wales, a lease granted on payment of a premium calculated by reference to a percentage of the value of accommodation or the cost of providing it;
  - (b) in Scotland, an agreement by virtue of which the tenant of accommodation of which the tenant and landlord are joint owners is the tenant in respect of the landlord’s interest in the accommodation or by virtue of which the tenant has the right to purchase the accommodation or the whole or part of the landlord’s interest in it.

*Particular needs or circumstances - capability for work*

**Award to include LCW and LCWRA elements**

- 27.—(1) An award of universal credit is to include an amount—
- (a) in respect of the fact that a claimant has limited capability for work (“the LCW element”); or
  - (b) in respect of the fact that a claimant has limited capability for work and work-related activity (“the LCWRA element”).
- (2) The amounts of those elements are given in the table in regulation 36.
- (3) Whether a claimant has limited capability for work or for work and work-related activity is determined in accordance with Part 5.
- (4) In the case of joint claimants, where each of them has limited capability for work or for work and work-related activity, the award is only to include one element and that is the LCWRA element if one of them has limited capability for work and work-related activity, but otherwise it is the LCW element.

**Period for which the LCW or LCWRA element is not to be included**

- 28.—(1) An award of universal credit is not to include the LCW or LCWRA element until the beginning of the assessment period that follows the assessment period in which the relevant period ends.
- (2) The relevant period is the period of three months beginning with—
- (a) if regulation 41(2) applies (claimant with weekly earnings equal to or above the relevant threshold) the date on which the award of universal credit commences or, if later, the date on which the claimant applies for the LCW or LCWRA element to be included in the award; or

- (b) in any other case, the first day on which the claimant provides evidence of their having limited capability for work in accordance with the Medical Evidence Regulations.
- (3) But where, in the circumstances referred to in paragraph (3), there has been a previous award of universal credit—
- (a) if the previous award included the LCW or LCWRA element, paragraph (1) does not apply; and
- (b) if the relevant period in relation to that award has begun but not ended, the relevant period ends on the date it would have ended in relation to the previous award.
- (4) The circumstances are where—
- (a) immediately before the award commences, the previous award has ceased because the claimant ceased to be a member of a couple or became a member of a couple; or
- (b) within the six months before the award commences, the previous award has ceased because the financial condition in section 5(1)(b) (or, if it was a joint claim, section 5(2)(b)) of the Act was not met.
- (5) Paragraph (1) also does not apply if—
- (a) the claimant is terminally ill; or
- (b) the claimant—
- (i) is entitled to an employment and support allowance that includes the support component or the work-related activity component, or
- (ii) was so entitled on the day before the award of universal credit commenced and has ceased to be so entitled by virtue of section 1A of the Welfare Reform Act 2007<sup>(1)</sup> (duration of contributory allowance).
- (6) Paragraph (1) does not apply where an award includes the LCW element and it is subsequently determined that the claimant has limited capability for work and work-related activity.
- (7) Where, by virtue of this regulation, the condition in section 5(1)(b) or 5(2)(b) of the Act is not met, the amount of the claimant's income (or, in the case of joint claimants, their combined income) is to be treated during the relevant period as such that the amount payable is the prescribed minimum (see regulation 17).

*Particular needs or circumstances – carers*

**Award to include the carer element**

**29.**—(1) An award of universal credit is to include an amount (“the carer element”) specified in the table in regulation 36 where a claimant has regular and substantial caring responsibilities for a severely disabled person, but subject to paragraphs (2) to (4).

(2) In the case of joint claimants, an award is to include the carer element for both joint claimants if they both qualify for it, but only if they are not caring for the same severely disabled person.

(3) Where two or more persons have regular and substantial caring responsibilities for the same severely disabled person, an award of universal credit may only include the carer element in respect of one them and that is the one they jointly elect or, in default of election, the one the Secretary of State determines.

(4) Where an amount would, apart from this paragraph, be included in an award in relation to a claimant by virtue of paragraphs (1) to (3), and the claimant has limited capability for work or

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(1) 2007 c.5. Section 1A was inserted by section 51 of the Welfare Reform Act 2012.

for work and work-related activity, only one out of the carer element, the LCW element and the LCWRA element may be included in respect of the claimant and that element is—

- (a) if the claimant has limited capability for work and work-related activity (and, in the case of joint claimants, the LCWRA element has not been included in respect of the other claimant), the LCWRA element; or
- (b) in any other case, the carer element.

### **Meaning of “regular and substantial caring responsibilities for a severely disabled person”**

**30.**—(1) For the purposes of Part 1 of the Act and these Regulations, a person has regular and substantial caring responsibilities for a severely disabled person if they satisfy the conditions for entitlement to a carer’s allowance or would do so but for the fact that their earnings have exceeded the limit prescribed for the purposes of that allowance.

(2) Paragraph (1) applies whether or not the person has made a claim for a carer’s allowance.

(3) But a person does not have regular and substantial caring responsibilities for a severely disabled person if the person derives earned income from those caring responsibilities.

### *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>(2)</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>(3)</sup> and is registered under Part 1 of that Act;

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(2) 2006 c.21.

(3) 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(4);
  - (b) in circumstances in which, but for article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010(5), 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(6);
  - (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(7); 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(8), 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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(4) 2010 nawm. 1.

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

(6) 2002 c.21.

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

(8) 2002 c. 32. Section 19 has been amended by S.I. 2010/1158.

### General

#### Table showing amounts of elements

**36.**—(1) The amounts of the standard allowance, the child element, the LCW and LCWRA elements and the carer element (which are all fixed amounts) and the maximum amounts of the childcare costs element are given in the following table.

(2) The amount of the housing costs element is dealt with in regulation 26.

(3) In the case of an award where the claimant is a member of a couple, but claims as a single person, the amounts are those shown in the table for a single claimant.

<i>Element</i>	<i>Amount for each assessment period</i>
Standard allowance—	
single claimant aged under 25	£246.81
single claimant aged 25 or over	£311.55
joint claimants both aged under 25	£387.42
joint claimants where either is aged 25 or over	£489.06
Child element—	
first child or qualifying young person	£272.08
second and each subsequent child or qualifying young person	£226.67
Additional amount for disabled child or qualifying young person—	
lower rate	£123.62
higher rate	£352.92
LCW and LCWRA elements—	
limited capability for work	£123.62
limited capability for work and work-related activity	£303.66
Carer element	£144.70
Childcare costs element—	
maximum amount for one child	£532.29
maximum amount for two or more children	£912.50

#### Run-on after a death

**37.** In calculating the maximum amount of an award where any of the following persons has died—

- (a) in the case of a joint award, one member of the couple;
- (b) a child or qualifying young person for whom a claimant was responsible; or
- (c) in the case of a claimant who had regular and substantial caring responsibilities for a severely disabled person, that person,



the award is to continue to be calculated as if the person had not died for the assessment period in which the death occurs and the following two assessment periods.