
DRAFT STATUTORY INSTRUMENTS

2013 No.

The Universal Credit Regulations 2013

PART 7

THE BENEFIT CAP

Introduction

78.—(1) This Part makes provision for a benefit cap under section 96 of the Act which, if applicable, reduces the amount of an award of universal credit.

(2) In this Part “couple” means—

- (a) joint claimants; or
- (b) a single claimant who is a member of a couple within the meaning of section 39 of the Act and the other member of that couple,

and references to a couple include each member of that couple individually.

Circumstances where the benefit cap applies

79.—(1) Unless regulation 82 or 83 applies, the benefit cap applies where the welfare benefits to which a single person or couple is entitled during the reference period exceed the relevant amount.

(2) The reference period for the purposes of the benefit cap is the assessment period for an award of universal credit.

(3) The “relevant amount” is—

- (a) £2167 for joint claimants or a single claimant who is responsible for a child or qualifying young person; or
- (b) £1517 for a single claimant who is not responsible for a child or qualifying young person.

(4) The welfare benefits referred to in paragraph (1) are—

- (a) bereavement allowance;
- (b) carer’s allowance;
- (c) child benefit under section 141 of the Contributions and Benefits Act;
- (d) employment and support allowance;
- (e) guardian’s allowance under section 77 of the Contributions and Benefits Act;
- (f) jobseeker’s allowance;
- (g) maternity allowance;
- (h) universal credit;
- (i) widowed mother’s allowance;
- (j) widowed parent’s allowance;
- (k) widow’s pension.

Manner of determining total entitlement to welfare benefits

80.—(1) Subject to the following provisions of this regulation, the amount of a welfare benefit to be used when determining total entitlement to welfare benefits is the amount to which the single person or couple is entitled during the reference period subject to any adjustment to the amount payable in accordance with regulations under section 73 of the Social Security Administration Act 1992⁽¹⁾ (overlapping benefits).

(2) Where the welfare benefit is universal credit, the amount to be used is the amount to which the claimant is entitled before any reduction under regulation 81 or under section 26 or 27 of the Act.

(3) Where a person is disqualified for receiving an employment and support allowance by virtue of section 18 of the Welfare Reform Act 2007, it is disregarded as a welfare benefit.

(4) Where an amount of a welfare benefit is taken into account in assessing a single person's or a couple's unearned income for the purposes of an award of universal credit the amount to be used is the amount taken into account as unearned income in accordance with regulation 66.

(5) Where a welfare benefit is awarded in respect of a period that is not a month, the amount is to be calculated as the monthly equivalent as set out in regulation 73 (unearned income calculated monthly).

Reduction of universal credit

81.—(1) Where the benefit cap applies in relation to an assessment period for an award of universal credit, the amount of the award for that period is to be reduced by—

- (a) the excess; minus
- (b) any amount included in the award for the childcare costs element in relation to that assessment period.

(2) But no reduction is to be applied where the amount of the childcare costs element is greater than the excess.

(3) The excess is the total amount of welfare benefits that the single person or the couple are entitled to in the reference period, minus the relevant amount applicable under regulation 79(3).

Exceptions - earnings

82.—(1) The benefit cap does not apply to an award of universal credit in relation to an assessment period where—

- (a) the claimant's earned income or, if the claimant is a member of a couple, the couple's combined earned income, is equal to or exceeds £430; or
- (b) the assessment period falls within a grace period or is an assessment period in which a grace period begins or ends.

(2) A grace period is a period of 9 consecutive months that begins on the most recent of the following days in respect of which the condition in paragraph (3) is met—

- (a) a day falling within the current period of entitlement to universal credit which is the first day of an assessment period in which the claimant's earned income (or, if the claimant is a member of a couple, the couple's combined earned income) is less than the amount mentioned in paragraph (1)(a);
- (b) a day falling before the current period of entitlement to universal credit which is the day after a day on which the claimant has ceased paid work.

(1) 1992 c.5.

(3) The condition is that, in each of the 12 months immediately preceding that day, the claimant's earned income or, if the claimant was a member of a couple, the couple's combined earned income was equal to or exceeded the amount mentioned in paragraph (1)(a).

(4) "Earned income" for the purposes of this regulation does not include income a person is treated as having by virtue of regulation 62 (minimum income floor).

Exceptions - entitlement or receipt of certain benefits

83.—(1) The benefit cap does not apply in relation to any assessment period where—

- (a) the LCWRA element is included in the award of universal credit or the claimant is receiving an employment and support allowance that includes the support component;
- (b) a claimant is receiving industrial injuries benefit;
- (c) a claimant is receiving attendance allowance;
- (d) a claimant is receiving a war pension;
- (e) a claimant is receiving a payment under article 15(1)(c) or article 29(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(2);
- (f) a claimant, or a child or qualifying young person for whom a claimant is responsible, is receiving disability living allowance;
- (g) a claimant, or a qualifying young person for whom a claimant is responsible, is receiving personal independence payment;
- (h) a claimant, or a child or qualifying young person for whom a claimant is responsible, is entitled to a payment listed in sub-paragraph (b), (c), (d), or (e) but—
 - (i) is not receiving it by virtue of regulation 6 (hospitalisation) or regulation 7 (persons in care homes) of the Social Security (Attendance Allowance) Regulations 1991(3),
 - (ii) it is being withheld by virtue of article 53 of the Naval, Military and Air Forces etc (Disablement and Death) Service Pensions Order 2006(4) (maintenance in hospital or an institution),
 - (iii) is not receiving it by virtue of regulation 8 (hospitalisation) or regulation 9 (persons in care homes) of the Social Security (Disability Living Allowance) Regulations 1991(5), or
 - (iv) in the case of personal independence payment, is not receiving it by virtue of regulations under section 85 (care home residents) or 86 (hospital in-patients) of the Act.

(2) For the purposes of this regulation, "war pension" means—

- (a) any pension or allowance payable under any of the instruments listed in section 639(2) of ITEPA—
 - (i) to a widow, widower or a surviving civil partner, or
 - (ii) in respect of disablement;
- (b) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;

(2) [S.I. 2011/517](#).

(3) [S.I. 1991/2740](#). Relevant amendments made by [S.I. 1992/2869](#), [1999/1326](#) and [2007/2875](#).

(4) [S.I. 2006/606](#).

(5) [S.I. 1991/2890](#). Relevant amendments made by [S.I. 1992/2869](#), [1999/1326](#), [2000/1401](#), [2007/2875](#) and [2010/1172](#).

- (c) a payment which is made under any of—
 - (i) the Order in Council of 19th December 1881,
 - (ii) the Royal Warrant of 27th October 1884, or
 - (iii) the Order by His Majesty of 14th January 1922,to a widow, widower or surviving civil partner of a person whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown and whose service in such capacity terminated before 31st March 1973;
- (d) a pension paid by the government of a country outside the United Kingdom which is analogous to any of the pensions, allowances or payments mentioned in paragraphs (a) to (c).