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DRAFT STATUTORY INSTRUMENTS

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**2013 No.**

**The Universal Credit Regulations 2013**

**PART 8**

**CLAIMANT RESPONSIBILITIES**

**CHAPTER 1**

**WORK-RELATED REQUIREMENTS**

*Introductory*

**Introduction**

**84.** This Chapter contains provisions about the work-related requirements under sections 15 to 25 of the Act, including the persons to whom they are to be applied, the limitations on those requirements and other related matters.

**Meaning of terms relating to carers**

**85.** In this Chapter—

“relevant carer” means—

- (a) a parent of a child who is not the responsible carer, but has caring responsibilities for the child; or
- (b) a person who has caring responsibilities for a person who has a physical or mental impairment; and

“responsible foster parent” in relation to a child means a person who is the only foster parent in relation to that child or, in the case of a couple both members of which are foster parents in relation to that child, the member who is nominated by them in accordance with regulation 86.

**Nomination of responsible carer and responsible foster parent**

**86.—(1)** This regulation makes provision for the nomination of the responsible carer or the responsible foster parent in relation to a child.

(2) Only one of joint claimants may be nominated as a responsible carer or a responsible foster parent.

(3) The nomination applies to all the children, where there is more than one, for whom either of the joint claimants is responsible.

(4) Joint claimants may change which member is nominated—

- (a) once in a 12 month period, starting from the date of the previous nomination; or
- (b) on any occasion where the Secretary of State considers that there has been a change of circumstances which is relevant to the nomination.

## References to paid work

**87.** References in this Chapter to obtaining paid work include obtaining more paid work or better paid work.

## Expected hours

**88.**—(1) The “expected number of hours per week” in relation to a claimant for the purposes of determining their individual threshold in regulation 90 or for the purposes of regulation 95 or 97 is 35 unless some lesser number of hours applies under paragraph (2).

(2) The lesser number of hours is—

(a) where—

- (i) the claimant is a relevant carer, a responsible carer or a responsible foster parent, and
- (ii) the Secretary of State is satisfied that the claimant has reasonable prospects of obtaining paid work,

the number of hours that the Secretary of State considers is compatible with those caring responsibilities;

- (b) where the claimant is a responsible carer for a child under the age of 13, the number of hours that the Secretary of State considers is compatible with the child’s normal school hours (including the normal time it takes the child to travel to and from school); or
- (c) where the claimant has a physical or mental impairment, the number of hours that the Secretary of State considers is reasonable in light of the impairment.

## *Work-related groups*

## Claimants subject to no work-related requirements

**89.**—(1) A claimant falls within section 19 of the Act (claimants subject to no work-related requirements) if—

- (a) the claimant has reached the qualifying age for state pension credit;
- (b) the claimant has caring responsibilities for one or more severely disabled persons for at least 35 hours a week but does not meet the conditions for entitlement to a carer’s allowance and the Secretary of State is satisfied that it would be unreasonable to require the claimant to comply with a work search requirement and a work availability requirement, including if such a requirement were limited in accordance with section 17(4) or 18(3) of the Act;
- (c) the claimant 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;
- (d) the claimant is an adopter and it is 12 months or less since—
  - (i) the date that the child was placed with the claimant, or
  - (ii) if the claimant requested that the 12 months should run from a date within 14 days before the child was expected to be placed, that date;
- (e) the claimant does not have to meet the condition in section 4(1)(d) of the Act (not receiving education) by virtue of regulation 14 and—
  - (i) is a person referred to in paragraph (a) of that regulation (under 21, in non-advanced education and without parental support), or
  - (ii) has student income in relation to the course they are undertaking which is taken into account in the calculation of the award; or

- (f) the claimant is the responsible foster parent of a child under the age of 1.
- (2) In paragraph (1)(b) “severely disabled” has the meaning in section 70 of the Contributions and Benefits Act.
- (3) In paragraph (1)(d)—
  - (a) “adopter” means a person who has been matched with a child for adoption and who is, or is intended to be, the responsible carer for the child, but excluding a person who is a foster parent or close relative of the child; and
  - (b) a person is matched with a child for adoption when it is decided by an adoption agency that the person would be a suitable adoptive parent for the child.

**Claimants subject to no work-related requirements - the earnings thresholds**

**90.**—(1) A claimant falls within section 19 of the Act (claimants subject to no work-related requirements) if the claimant’s weekly earnings are equal to or exceed the claimant’s individual threshold.

(2) A claimant’s individual threshold is the amount that a person of the same age as the claimant would be paid at the hourly rate applicable under regulation 11 or regulation 13(1) or (2) of the National Minimum Wage Regulations for—

- (a) 16 hours per week, in the case of a claimant who would otherwise fall within section 20 (claimants subject to work-focused interview requirement only) or section 21 (claimants subject to work-preparation requirement) of the Act; or
- (b) the expected number of hours per week in the case of a claimant who would otherwise fall within section 22 of the Act (claimants subject to all work-related requirements).

(3) A claimant who is a member of a couple falls within section 19 of the Act if the couple’s combined weekly earnings are equal to or exceed whichever of the following amounts is applicable—

- (a) in the case of joint claimants, the sum of their individual thresholds; or
- (b) in the case of a claimant who claims universal credit as a single person by virtue of regulation 3(3), the sum of—
  - (i) the claimant’s individual threshold, and
  - (ii) the amount a person would be paid for 35 hours per week at the hourly rate specified in regulation 11 of the National Minimum Wage Regulations.

(4) A claimant falls within section 19 of the Act if the claimant is employed under a contract of apprenticeship and has weekly earnings that are equal to or exceed the amount they would be paid for—

- (a) 30 hours a week; or
- (b) if less, the expected number of hours per week for that claimant,

at the rate specified in regulation 13(3) of the National Minimum Wage Regulations.

(5) A claimant who is treated as having earned income in accordance with regulation 62 (minimum income floor) in respect of an assessment period is to be taken to have weekly earnings equal to their individual threshold in respect of any week falling within that assessment period.

(6) A person’s weekly earnings are the person’s earned income taken as a weekly average by reference to—

- (a) the amount of that earned income calculated or estimated in relation to the current assessment period before any deduction for income tax, national insurance contributions or relievable pension contributions; or

- (b) in a case where the person's earned income fluctuates (or is likely to fluctuate) the amount of that income—
  - (i) where there is an identifiable cycle, over the duration of one such cycle, or
  - (ii) where there is no identifiable cycle, over three months or such other period as may, in the particular case, enable the weekly average to be determined more accurately.

(7) In this regulation “the National Minimum Wage Regulations” means the National Minimum Wage Regulations 1999(1).

### **Claimants subject to work-focused interview requirement only**

**91.**—(1) For the purposes of section 20(1)(a) of the Act (claimant is the responsible carer for a child aged at least 1 and under a prescribed age) the prescribed age is 5.

(2) A claimant falls within section 20 of the Act if—

- (a) the claimant is the responsible foster parent in relation to a child aged at least 1;
- (b) the claimant is the responsible foster parent in relation to a qualifying young person, and the Secretary of State is satisfied that the qualifying young person has care needs which would make it unreasonable to require the claimant to comply with a work search requirement or a work availability requirement, including if such a requirement were limited in accordance with section 17(4) or 18(3) of the Act;
- (c) the claimant is a foster parent, but not the responsible foster parent, in relation to a child or qualifying young person, and the Secretary of State is satisfied that the child or qualifying young person has care needs which would make it unreasonable to require the claimant to comply with a work search requirement or a work availability requirement, including if such a requirement were limited in accordance with section 17(4) or 18(3) of the Act;
- (d) the claimant has fallen within sub-paragraph (a), (b) or (c) within the past 8 weeks and has no child or qualifying young person currently placed with them, but expects to resume being a foster parent; or
- (e) the claimant has become a friend or family carer in relation to a child within the past 12 months and is also the responsible carer in relation to that child.

(3) In paragraph (2)(e) “friend or family carer” means a person who is responsible for a child, but is not the child's parent or step-parent, and has undertaken the care of the child in the following circumstances—

- (a) the child has no parent or has parents who are unable to care for the child; or
- (b) it is likely that the child would otherwise be looked after by a local authority because of concerns in relation to the child's welfare.

### **Claimants subject to all work-related requirements - EEA jobseekers**

**92.**—(1) A claimant who is—

- (a) a person mentioned in regulation 6(1)(a) of the EEA Regulations;
- (b) a person who is treated as a worker for the purposes of regulation 6(1)(b) of the EEA Regulations by reason of satisfying the conditions set out in regulation 6(2)(b) of those Regulations; or
- (c) a person who has a right to reside by virtue of article 45 of the Treaty on the Functioning of the European Union (in a case where the person is seeking work in the United Kingdom, Channel Islands, Isle of Man or the Republic of Ireland),

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(1) [S.I. 1999/584](#). Relevant amendments in [S.I. 2010/1901](#) and [S.I. 2011/2345](#).

and who would otherwise fall within section 19, 20 or 21 of the Act, is to be treated as not falling within any of those sections.

(2) A claimant who is a family member of a person mentioned in paragraph (1)(a) or (c) and who would otherwise fall within section 19, 20 or 21 of the Act, is to be treated as not falling within any of those sections.

(3) In this regulation “family member” has the same meaning as in regulation 7(1)(a), (b) or (c) of the EEA Regulations

### *The work-related requirements*

#### **Purposes of a work-focused interview**

**93.** The purposes of a work-focused interview are any or all of the following—

- (a) assessing the claimant’s prospects for remaining in or obtaining paid work;
- (b) assisting or encouraging the claimant to remain in or obtain paid work;
- (c) identifying activities that the claimant may undertake that will make remaining in or obtaining paid work more likely;
- (d) identifying training, educational or rehabilitation opportunities for the claimant which may make it more likely that the claimant will remain in or obtain paid work or be able to do so;
- (e) identifying current or future work opportunities for the claimant that are relevant to the claimant’s needs and abilities;
- (f) ascertaining whether a claimant is in gainful self-employment or meets the conditions in regulation 63 (start-up period).

#### **Work search requirement - interviews**

**94.** A claimant is to be treated as not having complied with a work search requirement to apply for a particular vacancy for paid work where the claimant fails to participate in an interview offered to the claimant in connection with the vacancy.

#### **Work search requirement - all reasonable action**

**95.—(1)** A claimant is to be treated as not having complied with a work search requirement to take all reasonable action for the purpose of obtaining paid work in any week unless—

- (a) either—
  - (i) the time which the claimant spends taking action for the purpose of obtaining paid work is at least the claimant’s expected number of hours per week minus any relevant deductions, or
  - (ii) the Secretary of State is satisfied that the claimant has taken all reasonable action for the purpose of obtaining paid work despite the number of hours that the claimant spends taking such action being lower than the expected number of hours per week; and
- (b) that action gives the claimant the best prospects of obtaining work.

(2) In this regulation “relevant deductions” means the total of any time agreed by the Secretary of State—

- (a) for the claimant to carry out paid work, voluntary work, a work preparation requirement, or voluntary work preparation in that week; or

(b) for the claimant to deal with temporary childcare responsibilities, a domestic emergency, funeral arrangements or other temporary circumstances.

(3) For the purpose of paragraph (2)(a) the time agreed by the Secretary of State for the claimant to carry out voluntary work must not exceed 50% of the claimant's expected number of hours per week.

(4) "Voluntary work preparation" means particular action taken by a claimant and agreed by the Secretary of State for the purpose of making it more likely that the claimant will obtain paid work, but which is not specified by the Secretary of State as a work preparation requirement under section 16 of the Act.

### **Work availability requirement - able and willing immediately to take up paid work**

**96.**—(1) Subject to paragraph (2) a claimant is to be treated as not having complied with a work availability requirement if the claimant is not able and willing immediately to attend an interview offered to the claimant in connection with obtaining paid work.

(2) But a claimant is to be treated as having complied with a work availability requirement despite not being able immediately to take up paid work, if paragraph (3), (4) or (5) applies.

(3) This paragraph applies where—

- (a) a claimant is a responsible carer or a relevant carer;
- (b) the Secretary of State is satisfied that, as a consequence the claimant needs a longer period of up to 1 month to take up paid work, or up to 48 hours to attend an interview in connection with obtaining work, taking into account alternative care arrangements; and
- (c) the claimant is able and willing to take up paid work, or attend an interview, on being given notice for that period.

(4) This paragraph applies where—

- (a) a claimant is carrying out voluntary work;
- (b) the Secretary of State is satisfied that, as a consequence, the claimant needs a longer period of up to 1 week to take up paid work, or up to 48 hours to attend an interview in connection with obtaining work; and
- (c) the claimant is able and willing to take up paid work, or attend an interview, on being given notice for that period.

(5) This paragraph applies where a claimant—

- (a) is employed under a contract of service;
- (b) is required by section 86 of the Employment Rights Act 1996(2), or by the contract of service, to give notice to terminate the contract;
- (c) is able and willing to take up paid work once the notice period has expired; and
- (d) is able and willing to attend an interview on being given 48 hours notice.

### **Work search requirement and work availability requirement - limitations**

**97.**—(1) Paragraphs (2) to (5) set out the limitations on a work search requirement and a work availability requirement.

(2) In the case of a claimant who is a relevant carer or a responsible carer or who has a physical or mental impairment, a work search and work availability requirement must be limited to the number of hours that is determined to be the claimant's expected number of hours per week in accordance with regulation 88.

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(2) 1996 c.18.

(3) A work search and work availability requirement must be limited to work that is in a location which would normally take the claimant—

- (a) a maximum of 90 minutes to travel from home to the location; and
- (b) a maximum of 90 minutes to travel from the location to home.

(4) Where a claimant has previously carried out work of a particular nature, or at a particular level of remuneration, a work search requirement and a work availability requirement must be limited to work of a similar nature, or level of remuneration, for such period as the Secretary of State considers appropriate, but only if the Secretary of State is satisfied that the claimant will have reasonable prospects of obtaining paid work in spite of such limitation.

(5) The limitation in paragraph (4) is to apply for no more than 3 months beginning with—

- (a) the date of claim; or
- (b) if later, the date on which the claimant ceases paid work after falling within section 19 of the Act by virtue of regulation 90 (claimants subject to no work-related requirements - the earnings thresholds).

(6) Where a claimant has a physical or mental impairment that has a substantial adverse effect on the claimant's ability to carry out work of a particular nature, or in particular locations, a work search or work availability requirement must not relate to work of such a nature or in such locations.

### **Victims of domestic violence**

**98.**—(1) Where a claimant has recently been a victim of domestic violence, and the circumstances set out in paragraph (3) apply—

- (a) a work-related requirement imposed on that claimant ceases to have effect for a period of 13 consecutive weeks starting on the date of the notification referred to in paragraph (3) (a); and
- (b) the Secretary of State must not impose any other work-related requirement on that claimant during that period.

(2) A person has recently been a victim of domestic violence if a period of 6 months has not expired since the violence was inflicted or threatened.

(3) The circumstances are that—

- (a) the claimant notifies the Secretary of State, in such manner as the Secretary of State specifies, that domestic violence has been inflicted on or threatened against the claimant by the claimant's partner or former partner or by a family member during the period of 6 months ending on the date of the notification;
- (b) this regulation has not applied to the claimant for a period of 12 months before the date of the notification;
- (c) on the date of the notification the claimant is not living at the same address as the person who inflicted or threatened the domestic violence; and
- (d) as soon as possible, and no later than 1 month, after the date of the notification the claimant provides evidence from a person acting in an official capacity which demonstrates that—
  - (i) the claimant's circumstances are consistent with those of a person who has had domestic violence inflicted or threatened against them during the period of 6 months ending on the date of the notification, and
  - (ii) the claimant has made contact with the person acting in an official capacity in relation to such an incident, which occurred during that period.

(4) In this regulation—

“domestic violence” means abuse of a kind specified on page 11, of section 2.2. of ‘Responding to domestic abuse: a handbook for health professionals’ published by the Department of Health in December 2005<sup>(3)</sup>;

“family member”, in relation to a claimant, means the claimant’s grandparent, grandchild, parent, step-parent, parent-in-law, son, step-son, son-in-law, daughter, step-daughter, daughter-in-law, brother, step-brother, brother-in-law, sister, step-sister, sister-in-law and, if any of those persons is member of a couple, the other member of the couple;

“health care professional” means a person who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002<sup>(4)</sup>;

“person acting in an official capacity” means a health care professional, a police officer, a registered social worker, the claimant’s employer, a representative of the claimant’s trade union, or any public, voluntary or charitable body which has had direct contact with the claimant in connection with domestic violence;

“registered social worker” means a person registered as a social worker in a register maintained by—

- (a) The General Social Care Council;
- (b) The Care Council for Wales;
- (c) The Scottish Social Services Council; or
- (d) The Northern Ireland Social Care Council.

### **Circumstances in which requirements must not be imposed**

**99.**—(1) Where paragraph (3), (4), (5) or (6) applies—

- (a) the Secretary of State must not impose a work search requirement on a claimant; and
- (b) “able and willing immediately to take up work” under a work availability requirement means able and willing to take up paid work, or attend an interview, immediately once the circumstances set out in paragraph (3), (4), (5) or (6) no longer apply.

(2) A work search requirement previously applying to the claimant ceases to have effect from the date on which the circumstances set out in paragraph (3), (4), (5) or (6) begin to apply.

(3) This paragraph applies where—

- (a) the claimant is attending a court or tribunal as a party to any proceedings or as a witness;
- (b) the claimant is a prisoner;
- (c) regulation 11(3) (temporary absence from Great Britain for treatment or convalescence) applies to the claimant;
- (d) any of the following persons has died within the past 6 months—
  - (i) where the claimant was a member of a couple, the other member,
  - (ii) a child or qualifying young person for whom the claimant or, where the claimant is a member of a couple, the other member, was responsible, or
  - (iii) a child, where the claimant was the child’s parent;
- (e) the claimant is, and has been for no more than 6 months, receiving and participating in a structured recovery-orientated course of alcohol or drug dependency treatment;

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<sup>(3)</sup> The handbook is available on the Department of Health website [www.dh.gov.uk](http://www.dh.gov.uk) at [en/Publicationsandstatistics/PublicationsPolicyAndGuidance/DH-4126161](http://en/Publicationsandstatistics/PublicationsPolicyAndGuidance/DH-4126161) and from Department of Health Publications PO Box 777, London SE1 6XH.

<sup>(4)</sup> 2002 c.17.



- (f) the claimant is, and has been for no more than 3 months, a person for whom arrangements have been made by a protection provider under section 82 of the Serious Organised Crime and Police Act 2005<sup>(5)</sup>; or
  - (g) the claimant is engaged in an activity of a kind approved by the Secretary of State as being in the nature of a public duty.
- (4) This paragraph applies where the claimant —
- (a) is unfit for work—
    - (i) for a period of no more than 14 consecutive days after the date that the evidence referred to in sub-paragraph (b) is provided, and
    - (ii) for no more than 2 such periods in any period of 12 months; and
  - (b) provides to the Secretary of State the following evidence—
    - (i) for the first 7 days when they are unfit for work, a declaration made by the claimant in such manner and form as the Secretary of State approves that the claimant is unfit for work, and
    - (ii) for any further days when they are unfit for work, if requested by the Secretary of State, a statement given by a doctor in accordance with the rules set out in Part 1 of Schedule 1 to the Medical Evidence Regulations which provides that the person is not fit for work.
- (5) This paragraph applies where the Secretary of State is satisfied that it would be unreasonable to require the claimant to comply with a work search requirement or a work availability requirement, including if such a requirement were limited in accordance with section 17(4) or 18(3) of the Act, because the claimant—
- (a) is carrying out a work preparation requirement or voluntary work preparation (as defined in regulation 95(4));
  - (b) has temporary child care responsibilities or is dealing with a domestic emergency, funeral arrangements or other temporary circumstances; or
  - (c) is unfit for work for longer than the period of 14 days specified in paragraph (4)(a) or for more than 2 such periods in any period of 12 months and, where requested by the Secretary of State, provides the evidence mentioned in paragraph (4)(b)(ii).
- (6) This paragraph applies where the claimant’s weekly earnings or, if the claimant is a member of a couple, the couple’s combined weekly earnings are at a level where the Secretary of State is satisfied that a work search requirement or work availability requirement should not be imposed at the present time.
- (7) In this regulation “tribunal” means any tribunal listed in Schedule 1 to the Tribunals and Inquiries Act 1992<sup>(6)</sup>.

## CHAPTER 2

### SANCTIONS

#### Introduction

**100.**—(1) This Chapter contains provisions about the reduction in the amount of an award of universal credit in the event of a failure by a claimant which is sanctionable under section 26 or 27 of the Act (“a sanctionable failure”).

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<sup>(5)</sup> 2005 c.15.  
<sup>(6)</sup> 1992 c.53.

(2) How the period of the reduction for each sanctionable failure is to be determined is dealt with in regulations 101 to 105.

(3) When the reduction begins or ceases to have effect is dealt with in regulations 106 to 109.

(4) How the amount of a reduction is calculated for an assessment period in which the reduction has effect is set out in regulations 110 and 111.

(5) Regulations 112 to 114 provide for some miscellaneous matters (movement of sanctions from a jobseeker's allowance or an employment and support allowance, cases in which no reduction is made for a sanctionable failure and prescription of work placement scheme for the purposes of section 26(2)(a) of the Act).

### *Reduction periods*

#### **General principles for calculating reduction periods**

**101.**—(1) The number of days for which a reduction in the amount of an award is to have effect (“the reduction period”) is to be determined in relation to each sanctionable failure in accordance with regulations 102 to 105, but subject to paragraphs (3) and (4).

(2) Reduction periods are to run consecutively.

(3) If the reduction period calculated in relation to a sanctionable failure in accordance with regulations 102 to 105 would result in the total outstanding reduction period exceeding 1095 days, the reduction period in relation to that failure is to be adjusted so that the total outstanding reduction period does not exceed 1095 days.

(4) In determining the reduction period in relation to a sanctionable failure, a previous sanctionable failure is disregarded if it occurred in the 14 days immediately preceding the failure in question.

(5) In paragraph (3) “the total outstanding reduction period” is the total number of days for which no reduction in an award under section 26 or 27 of the Act has yet been applied.

#### **Higher-level sanction**

**102.**—(1) This regulation specifies the reduction period for a sanctionable failure under section 26 of the Act (“higher level sanction”).

(2) Where the sanctionable failure is not a pre-claim failure the reduction period is—

(a) where the claimant is aged 18 or over on the date of the sanctionable failure—

(i) 91 days, if paragraphs (ii) and (iii) do not apply,

(ii) 182 days, if there was another sanctionable failure giving rise to a higher-level sanction in the 365 days preceding the failure in question for which a 91 day reduction period applies, or

(iii) 1095 days, if there was another sanctionable failure giving rise to a higher-level sanction in that period of 365 days for which a 182 day or 1095 day reduction period applies; or

(b) where the claimant is aged 16 or 17 on the date of the sanctionable failure—

(i) 14 days, if paragraph (ii) does not apply, or

(ii) 28 days, if there was another sanctionable failure giving rise to a higher-level sanction in the 365 days preceding the failure in question for which a 14 day or 28 day reduction period applies.

(3) But where the other sanctionable failure referred to in paragraph (2) was a pre-claim failure it is disregarded in determining the reduction period in accordance with that paragraph.

(4) Where the sanctionable failure for which a reduction period is to be determined is a pre-claim failure, the period is the lesser of—

- (a) the period that would be applicable to the claimant under paragraph (2) if it were not a pre-claim failure; or
- (b) where the sanctionable failure relates to paid work that was due to last for a limited period, the period beginning with the day after the date of the sanctionable failure and ending with the date on which the limited period would have ended,

minus the number of days beginning with the day after the date of the sanctionable failure and ending on the day before the date of claim.

(5) In this regulation “pre-claim failure” means a failure sanctionable under section 26(4) of the Act.

### **Medium-level sanction**

**103.**—(1) This regulation specifies the reduction period for a sanctionable failure under section 27 of the Act (other sanctions) where it is a failure by the claimant to comply with—

- (a) a work search requirement under section 17(1)(a) (to take all reasonable action to obtain paid work etc.); or
- (b) a work availability requirement under section 18(1).

(2) The reduction period is—

- (a) where the claimant is aged 18 or over on the date of the sanctionable failure—
  - (i) 28 days, if paragraph (ii) does not apply, or
  - (ii) 91 days, if there was another sanctionable failure of a kind mentioned in paragraph (1) in the 365 days preceding the failure in question for which a 28 day or 91 day reduction period applies; or
- (b) where the claimant is aged 16 or 17 years on the date of the sanctionable failure—
  - (i) 7 days, if paragraph (ii) does not apply, or
  - (ii) 14 days, if there was another sanctionable failure of a kind mentioned in paragraph (1) in the 365 days preceding the failure in question, for which a 7 day or 14 day reduction period applies.

### **Low-level sanction**

**104.**—(1) This regulation specifies the reduction period for a sanctionable failure under section 27 of the Act (other sanctions) where —

- (a) the claimant falls within section 21 (claimants subject to work preparation requirement) or 22 (claimants subject to all work-related requirements) of the Act on the date of that failure; and
- (b) it is a failure to comply with—
  - (i) a work-focused interview requirement under section 15(1),
  - (ii) a work preparation requirement under section 16(1),
  - (iii) a work search requirement under section 17(1)(b) (to take any particular action specified by the Secretary of State to obtain work etc.), or

(iv) a requirement under section 23(1), (3) or (4) (connected requirements: interviews and verification of compliance).

(2) Where the claimant is aged 18 or over on the date of the sanctionable failure, the reduction period is the total of—

- (a) the number of days beginning with the date of the sanctionable failure and ending with—
- (i) the day before the date on which the claimant meets a compliance condition specified by the Secretary of State,
  - (ii) the day before the date on which the claimant falls within section 19 of the Act (claimant subject to no work-related requirements),
  - (iii) the day before the date on which the claimant is no longer required to take a particular action specified as a work preparation requirement by the Secretary of State under section 16, or
  - (iv) the date on which the award terminates (other than by reason of the claimant ceasing to be, or becoming, a member of a couple),

whichever is soonest; and

- (b) whichever of the following number of days is applicable in the claimant's case—
- (i) 7 days, if paragraphs (ii) and (iii) do not apply,
  - (ii) 14 days, if there was another sanctionable failure of a kind mentioned in paragraph (1) in the 365 days preceding the failure in question for which a 7 day reduction period applies, or
  - (iii) 28 days, if there was another sanctionable failure of a kind mentioned in paragraph (1) in the 365 days preceding the failure in question for which a 14 day or 28 day reduction period applies.

(3) Where the claimant is aged 16 or 17 years on the date of the sanctionable failure, the reduction period is—

- (a) the number of days beginning with the date of the sanctionable failure and ending with—
- (i) the day before the date on which the claimant meets a compliance condition specified by the Secretary of State,
  - (ii) the day before the date on which the claimant falls within section 19 of the Act (claimant subject to no work-related requirements),
  - (iii) the day before the date on which the claimant is no longer required to take a particular action specified as a work preparation requirement by the Secretary of State under section 16, or
  - (iv) date on which the award terminates (other than by reason of the claimant ceasing to be, or becoming, a member of a couple),

whichever is soonest; and

- (b) if there was another sanctionable failure giving rise to a low level sanction in the 365 days preceding the failure in question, the number of days in sub-paragraph (a) plus 7 days.

### **Lowest-level sanction**

**105.**—(1) This regulation specifies the reduction period for a sanctionable failure under section 27 of the Act (other sanctions) where it is a failure by a claimant who falls within section 20 of the Act (claimants subject to work-focused interview requirement only) to comply with a requirement under that section.

(2) The reduction period is the number of days beginning with the date of the sanctionable failure and ending with—

- (a) the day before the date on which the claimant meets a compliance condition specified by the Secretary of State;
- (b) the day before the date on which the claimant falls within section 19 of the Act (claimant subject to no work-related requirements); or
- (c) the day on which the award terminates (other than by reason of the claimant ceasing to be, or becoming, a member of a couple),

whichever is soonest.

*When reduction to have effect*

**Start of the reduction**

**106.** A reduction period determined in relation to a sanctionable failure takes effect from—

- (a) the first day of the assessment period in which the Secretary of State determines that the amount of the award is to be reduced under section 26 or 27 of the Act (but see also regulation 107(2));
- (b) if the amount of the award of universal credit for the assessment period referred to in paragraph (a) is not reduced in that period, the first day of the next assessment period; or
- (c) if the amount of the award for the assessment period referred to in paragraph (a) or (b) is already subject to a reduction because of a previous sanctionable failure, the first day in respect of which the amount of the award is no longer subject to that reduction.

**Reduction period to continue where award terminates**

**107.—**(1) If an award of universal credit terminates while there is an outstanding reduction period, the period continues to run as if a daily reduction were being applied and if the claimant becomes entitled to a new award (whether as single or joint claimant) before that period expires, that award is subject to a reduction for the remainder of the total outstanding reduction period.

(2) If an award of universal credit terminates before the Secretary of State determines that the amount of the award is to be reduced under section 26 or 27 of the Act in relation to a sanctionable failure and that determination is made after the claimant becomes entitled to a new award the reduction period in relation to that failure is to have effect for the purposes of paragraph (1) as if that determination had been made on the day before the previous award terminated.

**Suspension of a reduction where fraud penalty applies**

**108.—**(1) A reduction in the amount of an award under section 26 or 27 of the Act is to be suspended for any period during which the provisions of section 6B, 7 or 9 of the Social Security Fraud Act 2001(7) apply to the award.

(2) The reduction ceases to have effect on the day on which that period begins and begins again on the day after that period ends.

**When a reduction is to be terminated**

**109.—**(1) A reduction in the amount of an award under section 26 or 27 of the Act is to be terminated where—

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(7) 2001 c.11. Section 6B was inserted by section 24(1) of the Welfare Reform Act 2009.

- (a) since the date of the most recent sanctionable failure which gave rise to a reduction, the claimant has been in paid work for a period of, or for periods amounting in total to, at least 26 weeks; and
  - (b) the claimant's weekly earnings during that period or those periods were equal to or exceeded—
    - (i) the claimant's individual threshold, or
    - (ii) if paragraph (4) of regulation 90 applies (threshold for an apprentice) the amount applicable under that paragraph.
- (2) The termination of the reduction has effect—
- (a) where the date on which paragraph (1) is satisfied falls within a period of entitlement to universal credit, from the beginning of the assessment period in which that date falls; or
  - (b) where that date falls outside a period of entitlement to universal credit, from the beginning of the first assessment period in relation to any subsequent award.
- (3) A claimant who is treated as having earned income in accordance with regulation 62 (minimum income floor) in respect of an assessment period is to be taken to have weekly earnings equal to their individual threshold in respect of any week falling within that assessment period.

#### *Amount of reduction*

#### **Amount of reduction for each assessment period**

**110.** Where it has been determined that an award of universal credit is to be reduced under section 26 or 27 of the Act, the amount of the reduction for each assessment period in respect of which a reduction has effect is to be calculated as follows.

##### *Step 1*

Take the number of days—

- (a) (a) in the assessment period; or
- (b) (b) if lower, in the total outstanding reduction period,

and deduct any days in that assessment period for which the reduction is suspended in accordance with regulation 108.

##### *Step 2*

Multiply the number of days produced by step 1 by the daily reduction rate (see regulation 111).

##### *Step 3*

If necessary, adjust the amount produced by step 2 so that it does not exceed—

- (a) (a) the amount of the standard allowance applicable to the award; or
- (b) in the case of a joint claim where a determination under section 26 or 27 of the Act applies only in relation to one claimant, half the amount of that standard allowance.

##### *Step 4*

Deduct the amount produced by steps 2 and 3 from the amount of the award for the assessment period after any deduction has been made in accordance with Part 7 (the benefit cap).

### **Daily reduction rate**

**111.**—(1) The daily reduction rate for the purposes of regulation 110 is, unless paragraph (2), or (3) applies, an amount equal to the amount of the standard allowance that is applicable to the award multiplied by 12 and divided by 365.

(2) The daily reduction rate is 40% of the rate set out in paragraph (1) if, at the end of the assessment period—

- (a) the claimant is aged 16 or 17;
- (b) the claimant falls within section 19 of the Act (claimant subject to no work-related requirements) by virtue of—
  - (i) subsection (2)(c) of that section (responsible carer for a child under the age of 1), or
  - (ii) regulation 89(1)(c),(d) or (f) (adopter, claimant within 11 weeks before or 15 weeks after confinement or responsible foster parent of a child under the age of 1); or
- (c) the claimant falls within section 20 (claimant subject to work-focused interview only).

(3) The daily reduction rate is nil if, at the end of the assessment period, the claimant falls within section 19 of the Act by virtue of having limited capability for work and work-related activity.

(4) The amount of the rate in paragraphs (1) to (3) is to be rounded down to the nearest 10 pence.

(5) In the case of joint claimants—

- (a) each joint claimant is considered individually for the purpose of determining the rate applicable under paragraphs (1) to (3); and
- (b) half of any applicable rate is applied to each joint claimant accordingly.

### *Miscellaneous*

### **Application of ESA or JSA sanctions to universal credit**

**112.** Schedule 11 has effect in relation to persons who are, or have been, entitled to an employment and support allowance or a jobseeker's allowance and who are, or become, entitled to universal credit.

### **Failures for which no reduction is applied**

**113.**—(1) No reduction is to be made under section 26 or 27 of the Act for a sanctionable failure where—

- (a) the sanctionable failure is listed in section 26(2)(b) or (c) (failure to apply for a particular vacancy for paid work, or failure to take up an offer of paid work) and the vacancy is because of a strike arising from a trade dispute;
- (b) the sanctionable failure is listed in section 26(2)(d) (claimant ceases paid work or loses pay), and the following circumstances apply—
  - (i) the claimant's work search and work availability requirements are subject to limitations imposed under section 17(4) and 18(3) in respect of work available for a certain number of hours,
  - (ii) the claimant takes up paid work, or is in paid work and takes up more paid work that is for a greater number of hours, and
  - (iii) the claimant voluntarily ceases that paid work, or more paid work, or loses pay, within a trial period;

- (c) the sanctionable failure is that the claimant voluntarily ceases paid work, or loses pay, because of a strike arising from a trade dispute;
  - (d) the sanctionable failure is that the claimant voluntarily ceases paid work as a member of the regular or reserve forces, or loses pay in that capacity;
  - (e) the sanctionable failure is listed in section 26(4) (failure to take up an offer of paid work, or to cease paid work or lose pay before making a claim), and the period of the reduction that would otherwise apply under regulation 102(4) is the same as, or shorter than, the number of days beginning with the day after the date of the sanctionable failure and ending with the date of claim;
  - (f) the sanctionable failure is that the claimant voluntarily ceases paid work in one of the following circumstances—
    - (i) the claimant has been dismissed because of redundancy after volunteering or agreeing to be dismissed,
    - (ii) the claimant has ceased work on an agreed date without being dismissed in pursuance of an agreement relating to voluntary redundancy, or
    - (iii) the claimant has been laid-off or kept on short-time to the extent specified in section 148 of the Employment Rights Act 1996, and has complied with the requirements of that section; or
  - (g) the sanctionable failure is that the claimant by reason of misconduct, or voluntarily and for no good reason, ceases paid work or loses pay, but the claimant’s weekly earnings (or, if the claimant is a member of a couple, their joint weekly earnings) have not fallen below the level which the Secretary of State considers sufficient for the purposes of regulation 99(6) (circumstances in which requirements must not be imposed).
- (2) In this regulation “regular or reserve forces” has the same meaning as in section 374 of the Armed Forces Act 2006<sup>(8)</sup>.

### **Sanctionable failures under section 26 - work placements**

**114.**—(1) Mandatory Work Activity is prescribed as a work placement for the purpose of section 26(2)(a) of the Act (failure to undertake a work placement of a prescribed description).

(2) “Mandatory Work Activity” is a scheme designed to provide work or work-related activity with a view to assisting claimants to improve their prospects of obtaining paid work.

## **CHAPTER 3**

### **HARDSHIP**

#### **Introduction**

**115.** This Chapter contains provisions under section 28 of the Act for the making of hardship payments where the amount of an award is reduced under section 26 or 27 of the Act.

#### **Conditions for hardship payments**

**116.**—(1) The Secretary of State must make a hardship payment to a single claimant or to joint claimants only where—

- (a) the claimant in respect of whose sanctionable failure the award has been reduced under section 26 or 27 of the Act is aged 18 or over;

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<sup>(8)</sup> 2006 c.52.



- (b) the single claimant or each joint claimant has met any compliance condition specified by the Secretary of State under regulation 104(2)(a)(i);
  - (c) the single claimant or either joint claimant completes and submits an application—
    - (i) approved for the purpose by the Secretary of State, or in such other form as the Secretary of State accepts as sufficient, and
    - (ii) in such manner as the Secretary of State determines;
  - (d) the single claimant or either joint claimant furnishes such information or evidence as the Secretary of State may require, in such manner as the Secretary of State determines;
  - (e) the single claimant or each joint claimant accepts that any hardship payments that are paid are recoverable;
  - (f) the Secretary of State is satisfied that the single claimant or each joint claimant has complied with all the work-related requirements that they were required to comply with in the 7 days preceding the day on which the claimant or joint claimants submitted an application in accordance with sub-paragraph (c); and
  - (g) the Secretary of State is satisfied that the single claimant or each joint claimant is in hardship.
- (2) For the purposes of paragraph (1)(g) a single claimant or joint claimants must be considered as being in hardship only where—
- (a) they cannot meet their immediate and most basic and essential needs, specified in paragraph (3), or the immediate and most basic and essential needs of a child or qualifying young person for whom the single claimant or either of the joint claimants is responsible, only because the amount of their award has been reduced—
    - (i) under section 26 or 27 of the Act, by the daily reduction rate set out in regulation 111, or
    - (ii) by the daily reduction rate prescribed in regulations made under section 6B(5A), 7(2A) or 9(2A) of the Social Security Fraud Act 2001<sup>(9)</sup> which is equivalent to the rate referred to in paragraph (i);
  - (b) they have made every effort to access alternative sources of support to meet, or partially meet, such needs; and
  - (c) they have made every effort to cease to incur any expenditure which does not relate to such needs.
- (3) The needs referred to in paragraph (2) are—
- (a) accommodation;
  - (b) heating;
  - (c) food;
  - (d) hygiene.

### **The period of hardship payments**

**117.** A hardship payment is made in respect of—

- (a) a period which—
  - (i) begins with the date of issue of the application under regulation 116(1)(c), or, if later, the date on which all the conditions in regulation 116(1) are met, and

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<sup>(9)</sup> 2001 c.11. Section 6B was inserted by section 24(1) of the Welfare Reform Act 2009 and subsection (5A) by paragraph 58(3) of Schedule 5 to the Welfare Reform Act 2012. Subsection (2A) of section 9 was inserted by paragraph 61(4) of Schedule 2 to that Act.

- (ii) ends with the day before the date on which the single claimant's, or the joint claimants', next full payment of universal credit for an assessment period is due to be made (or would be made but for a reduction under section 26 or 27); or
- (b) where the period calculated in accordance with paragraph (a) is 7 days or less, that period plus a further period ending with the day referred to in paragraph (a)(ii) or, if sooner, the last day in respect of which their award is reduced pursuant to regulation 111.

### **The amount of hardship payments**

**118.** The amount of a hardship payment for each day in respect of which such a payment is to be made is to be determined in accordance with the formula—

$$60\% \text{ of } \left( \frac{Ax12}{365} \right)$$

where A is equal to the amount of the reduction in the single claimant's or joint claimants' award calculated under regulation 110 for the assessment period preceding the assessment period in which an application is submitted under regulation 116(1)(c).

### **Recoverability of hardship payments**

**119.**—(1) Subject to paragraphs (2) and (3), hardship payments are recoverable in accordance with section 71ZH of the Social Security Administration Act 1992<sup>(10)</sup>.

(2) Paragraph (1) does not apply in relation to any assessment period in which the single claimant, or each joint claimant, falls within section 19 of the Act by virtue of regulation 90 (claimant subject to no work-related requirements - the earnings thresholds).

(3) Hardship payments cease to be recoverable where, since the last day on which the claimant's or the joint claimants' award was subject to a reduction under section 26 or 27 of the Act—

- (a) a single claimant has had weekly earnings that are equal to or exceed their individual threshold; or
- (b) joint claimants have had combined weekly earnings that are equal to or exceed the sum of their individual thresholds,

for a period of, or more than one period where the total of those periods amounts to, at least 26 weeks.

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(10) 1992 c.5. Section 71ZH was inserted by section 105(1) of the Welfare Reform Act 2012 (c.5).