

**EXPLANATORY MEMORANDUM TO
THE UNIVERSAL CREDIT REGULATIONS 2013**

2013 No.

**THE UNIVERSAL CREDIT (TRANSITIONAL PROVISIONS)
REGULATIONS 2013**

2013 No.

THE JOBSEEKER'S ALLOWANCE REGULATIONS 2013

2013 No.

THE EMPLOYMENT AND SUPPORT ALLOWANCE REGULATIONS 2013

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1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instruments**
 - 2.1 These affirmative instruments support the introduction of Universal Credit.
 - 2.2 The Universal Credit Regulations 2013 make provision for determining entitlement to, and calculation of, an award of Universal Credit.
 - 2.3 The Jobseeker's Allowance Regulations and Employment and Support Allowance Regulations make provision for these benefits to be only payable based on a person's National Insurance contribution record and no longer through the alternative route of means testing. The rules for contributory entitlement are carried forward largely unchanged, but the regulations do make provision for new conditionality and sanctions regimes in these two benefits, so they are aligned with those for Universal Credit.
 - 2.4 The Universal Credit (Transitional Provisions) Regulations 2013 provide that the introduction of Universal Credit and the changes to Jobseeker's Allowance and Employment and Support Allowance from 29 April 2013 is limited to certain categories of claimant in "Pathfinder" areas.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.

4. Legislative Context

4.1 The Welfare Reform Act 2012 provides for the introduction in Great Britain of a new working age income-related social security benefit, Universal Credit, and the abolition of income-based Jobseeker's Allowance, income-related Employment and Support Allowance, Income Support, Housing Benefit, and Child and Working Tax Credits. These instruments implement a number of provisions of that Act for Universal Credit, Jobseeker's Allowance and Employment and Support Allowance.

4.2 Part 1 of the Act sets out the legislative framework for determining who is entitled to Universal Credit and how it is calculated. It also provides for the conditionality and sanctions regime under which claimants are to be subject to work-related requirements and may have their award reduced for failure to comply with those requirements.

4.3 The Universal Credit Regulations provide much of the detail in relation to the matters covered in Part 1 of the Act. Those Regulations also include provision for a Benefit Cap under Part 5 of the Act which reduces the amount of an award of Universal Credit in cases where it is applicable.

4.4 Part 1 of the Act also provides for the abolition of the income-related benefits that are to be replaced by Universal Credit.

4.5 Amendments to the Jobseeker Act 1995 and the Welfare Reform Act 2007 to enable the conversion of Jobseeker's Allowance and Employment and Support Allowance into contribution-based benefits only are found in Part 2 of the Act. Part 2 of the Act also provides the statutory framework for the conditionality and sanctions regime in relation to those benefits. The detailed provisions for entitlement to the benefits and the conditionality and sanctions regimes applicable to each benefit are set out in the Jobseekers Allowance Regulations 2013 and the Employment and Support Allowance Regulations 2013.

4.6 The provision for the new conditionality regimes build on the changes to the existing Jobseeker's Allowance and Employment and Support Allowance sanctions and conditionality regimes. The Jobseeker's Allowance changes were introduced on 22 October and the Employment and Support Allowance changes on 3 December 2012 as a first step towards aligning with the Universal Credit sanctions model(a).

4.7 The Committee's attention is also drawn to the attached Annexes A and B respectively, near final drafts of two instruments subject to negative resolution procedures that support the affirmative instruments described in the body of this memorandum:

(a) The Jobseeker's Allowance changes are introduced through the Jobseeker's Allowance (Sanctions) (Amendment) Regulations 2012 (SI 2012/2568) and the Employment and Support Allowance changes are introduced through the Employment and Support Allowance (Sanctions) (Amendment) Regulations 2012 (SI 2012/2756).

- The Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013; and
- The Rent Officers (Universal Credit Functions) Order 2013.

4.8 In addition, the Committee’s attention is drawn to the separate Explanatory Memorandum to the following instrument, which provides for decision making and appeals and related matters in relation to Universal Credit and the new contribution-based Jobseeker’s Allowance and Employment and Support Allowance:

- The Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013.

5. Territorial Extent and Application

5.1 These instruments apply to Great Britain. The Department for Social Development in Northern Ireland will be producing its own legislation for Northern Ireland.

6. European Convention on Human Rights

6.1 The Minister for Welfare Reform has made the following statement regarding Human Rights:

“In my view the provisions of the

- Universal Credit Regulations 2013;
- Universal Credit (Transitional Provisions) Regulations 2013;
- Jobseeker’s Allowance Regulations 2013; and
- Employment and Support Allowance Regulations 2013

are compatible with the Convention Rights. There is, however, an issue in relation to paragraphs 10, 25 and 36 of Schedule 4 to the Universal Credit Regulations 2013 as a result of the judgment of the Court of Appeal in the case of *Burnip and others* 2012 EWCA Civ 629. The Secretary of State for Work and Pensions is appealing to the Supreme Court against that judgment.”

6.2 This is explained in detail in Annex C below.

7. Policy background

The Universal Credit Regulations 2013

7.1 The current benefit system has become a significant barrier to work as a result of its inherent structural weaknesses. First, it can discourage individuals from work as a result of a swift withdrawal of benefits when taking a job, or working a few extra hours a week. Too many people have simply felt

that work does not pay. Second, with the number of benefits available, the system has become incoherent and confusing. Stepping into the world of work appear too risky for the very people who have most to gain, because they may not know where they stand. Third, the complexity of the system has cost the taxpayer more than £5.5 billion every year in money wrongly paid out through fraud and error.

7.2 Universal Credit will help to remove the complexities of the current system. Instead of income-related Jobseeker's Allowance, Housing Benefit, Child Tax Credit, Income Support, Working Tax Credit, and income-related Employment and Support Allowance as separate benefits, there will be a single means-tested benefit for people both in and out of work. Claims to Universal Credit will be made by single claimants or jointly by couples.

7.3 Universal Credit aims to encourage and support people to move into and stay in work. It has a maximum award for the household calculated by reference to an age-related standard allowance to which additional elements, for example for dependent children, housing costs and other needs, are added as appropriate. Deductions from the maximum award will then be made in respect of any earnings or other relevant income. People with capital assets in excess of £16,000 will not be entitled to Universal Credit.

7.4 The following section describes key aspects of Universal Credit, highlighting significant differences from arrangements in the existing benefits and tax credits system.

Entitlement

7.5 The basic conditions of entitlement to Universal Credit require the claimant to:

- be between 18 and under Pension Credit age;
- be resident in Great Britain;
- not be in education; and
- have accepted a Claimant Commitment (see section 7.10 below).

7.6 The Regulations make provision for exceptions to these basic entitlement conditions, including circumstances in which young people aged 16-17 may claim Universal Credit, or a claimant be in full-time education or temporarily absent from Great Britain.

7.7 The Regulations also deal with the situation where one member of the couple meets the basic conditions of entitlement but the other does not.

7.8 Claims to Universal Credit will mainly be made on-line, though there will be telephone and face to face services for the minority of people who are unable to manage their claims on-line.

Monthly award

7.9 At present, existing income-related benefits are assessed weekly and paid weekly, fortnightly or four weekly. A key difference with Universal Credit is that it will be assessed and paid monthly. This approach is intended to reflect the world of work where around 75% of people receive their wages monthly. Paying in this manner will encourage and support claimants to budget on a monthly basis, which will help smooth the transition into monthly paid work. The monthly approach, together with the collection of earnings details via the new Real Time Information system being implemented by Her Majesty's Revenue and Customs, will help ensure that benefit assessments are accurate and reflect the current needs of the household.

The Claimant Commitment

7.10 In the current system, benefit claimants are often not clear about their responsibilities. To qualify for Universal Credit, all claimants will be required to agree to a Claimant Commitment, which will record all activities they are required to undertake, including, where appropriate, doing all that can reasonably be expected of them to find work or prepare for work. In exceptional circumstances, where a claimant is unable to accept a Claimant Commitment, for example where they lack capacity to do so, the requirement to accept the Commitment may be removed.

7.11 The Claimant Commitment will be personalised to the individual claimant. For example, for those who are expected to search for work, the Claimant Commitment will set out the work-related requirements a claimant must meet in order to receive their Universal Credit, and the consequences of failing to meet those requirements. The Claimant Commitment will be regularly revised to reflect a claimant's circumstances.

7.12 If a claimant disagrees with the work search or availability requirements imposed they can ask for these to be reconsidered. If a claimant refuses to accept their Claimant Commitment then they will not be entitled to Universal Credit. As Universal Credit is a household benefit, if either eligible adult in a couple refuses to accept their Claimant Commitment, the claim for the other eligible adult will also end. Where a claimant does refuse to accept their Claimant Commitment, a short 'cooling off' period will be allowed to give them the opportunity to reconsider their decision and the impact on the household claim.

7.13 The claimant commitment and associated sanctions will also apply to contributory Employment and Support Allowance and Jobseeker's Allowance.

Standard Allowance

7.14 The standard allowance for ordinary daily living expenses will be similar to existing income-related benefits. However, it will be a monthly, not weekly, amount. The structure of the allowances will be simpler with a single rate for people aged under 25.

Child Elements

7.15 The child element will be similar to existing Child Tax Credit provision. It will comprise of two rates: one rate for the first or only child or qualifying young person and then a lower rate for any further children or qualifying young persons.

7.16 A ‘disabled child addition’ will be payable for a dependent child who meets the definition of disability, with two rates payable depending upon the impact the disability has on their ability to lead active and independent lives.

Housing Costs

7.17 Support for housing costs for social sector tenants will be based upon their actual housing costs less any under-occupancy deduction. For private sector tenants, support will be the lower of actual costs or the Local Housing Allowance. For owner-occupiers, support will reflect a flat rate of interest applied to loans up to a set limit.

7.18 There are a number of changes aimed at simplifying some of the more complex elements of the current schemes and improving work incentives:

- the “shared accommodation rate” which restricts the amount of rent which can be allowed for certain tenants in the private rented sector will apply only to single childless tenants aged under 35. At the moment it can affect other people choosing to live in shared accommodation;
- in calculating support for rent, flat-rate deductions will be applied in respect of non-dependants living in the claimant’s household. This replaces the current system where different rates apply according to the non-dependant’s gross income. No such deductions will be made in owner–occupier cases;
- no rooms will be allocated for boarders or lodgers in calculating the appropriate size of accommodation for renters, but income from boarders and lodgers will be disregarded;
- the housing costs element can continue in payment for those expected to remain in prison for up to 6 months. This replaces the Housing Benefit rules which relate to 3 month absences for prisoners and 12 months for those on remand;
- owner-occupiers will continue to serve a waiting period before support for mortgage costs is provided, but, unlike the current arrangements, claimants will re-serve this waiting period where there is a break in their award. If the claimant or partner does any paid work, support for their owner-occupier costs will cease.

Childcare Costs Element

7.19 For many parents, childcare is essential to support their return to work and their progression in work. Within Universal Credit, support for childcare is provided in the form of an additional childcare element. The element is to be available to all lone parents and couples where both members are in work (with certain exceptions), and is not dependent on a claimant working a specific number of hours.

7.20 Where a child is in registered childcare, families will be able to recover 70% of actual childcare costs in Universal Credit up to a limit set in the Regulations.

Carer Element

7.21 Universal Credit will include a carer element where an eligible adult in the household provides regular and substantial care for a person with a long-term health condition or disability. The element is awarded where that person satisfies the conditions of entitlement of Carer's Allowance, or would do so but for their earnings exceeding the limit prescribed for receipt of an allowance. Only one person can be in receipt of the carer element as a result of caring for one severely disabled person.

Capability for Work

7.22 Universal Credit will simplify the existing disability-related premiums and additions into two elements: the limited capability for work element and the limited capability for work and work-related activity element. There will be a single assessment for these elements, called the Work Capability Assessment. This assessment already applies in Employment and Support Allowance. This applies to claimants who are either in or out of work.

7.23 Before these elements are payable, there will normally be a three month period during which the claimant will provide medical evidence and will be required to participate in a Work Capability Assessment. This does not apply:

- where the claimant is terminally ill;
- where the claimant already has a determination of limited capability for work or work-related activity on the basis of the Work Capability Assessment in relation to an award of Employment and Support Allowance
- where a previous limited capability for work or limited capability for work and work related activity determination applies and there has been a new award because the claimant ceases to be a member of a couple or becomes part of new couple;
- if a claimant's Universal Credit award ceases because their income is too high and within 6 months they are re-awarded Universal Credit.

Work-related Requirements

7.24 In Universal Credit, all claimants will be allocated to one of four work-related conditionality groups, according to their individual circumstances:

- No work-related requirements: where claimants already have or exceed a specified level of earnings or are unable to meet any work-related requirements because of particular circumstances or capability;
- Work-focused interviews only: for claimants who are expected to stay in touch with the labour market and begin thinking about a move into work, more work, or better paid work;
- Work preparation: some claimants who have limited capability for work (defined in Section 21 of the Act) will not be expected to look for or be available for work, but will be expected to prepare for a move into work, more work, or better paid work by, for example, participating in the Work Programme, attending training courses or skills assessment; and
- All work-related requirements: for claimants expected to move into work, more work or better paid work.

7.25 A claimant's work-related requirements will be set according to the claimant's conditionality group. For example, work search and availability requirements can only be imposed on claimants in the all work related requirements group. Any work related requirements will be tailored according to the claimant's capability and circumstances, and recorded on the Claimant Commitment, which will clearly set out what is expected. In addition to supporting the personalisation of the requirements, the legislation is intended to provide for flexibility in how work requirements are applied. For example, the Regulations do not specify how frequently claimants should attend interviews.

7.26 Claimants in the all work related requirements group may be temporarily exempt from work search and availability requirements in light of a temporary change of circumstances. For example, sickness, a bereavement, or temporary child care responsibilities.

7.27 At the launch of Universal Credit, the intention is that the full conditionality regime will apply to groups roughly equivalent to those subject to the current Jobseeker's Allowance conditionality regime. Therefore, it is not intended that those with earnings above a certain administrative threshold will be subject to an intensive conditionality regime. This administrative threshold is flexible to allow the Department for Work and Pensions to explore and test various options for those with higher levels of earnings (up to the conditionality earnings threshold as described in Regulation 90 of the Universal Credit Regulations 2013).

Treatment of Earnings: The Work Allowance and Tapers

7.28 A key aim of Universal Credit is to make clear to people that they will be better off in work. A straightforward system of work allowances and a single taper rate will allow people in work to see clearly how much support

they are able to receive and make sure that people considering a job can understand the financial advantages of work.

7.29 The Universal Credit work allowance is an earned income allowance, which works in a similar way to the personal tax allowance: people's earnings up to a certain level will be ignored when calculating how much Universal Credit a person should receive. There will be different work allowances for different types of household, to reflect their different needs and to support the aim that work pays. The work allowances for people with and without housing costs are set out in the Regulations for the following groups:

- single people and couples without children;
- lone parents with one or more children;
- couples with one or more children; and
- disabled single people or couples.

7.30 The single taper or benefit withdrawal rate is set at 65 per cent. The taper will be applied to earnings net of tax, National Insurance and pension contributions. In simple terms, the taper means that 35 pence in every pound earned will be kept by the claimant, meaning that claimants will be £35 better off for every extra £100 of net earnings.

Self-employment

7.31 Universal Credit will provide support for people who are self-employed only where self-employment is the best route for them to become financially self-sufficient. Claimants who declare that they are self-employed will attend a Gateway interview, so that an adviser can assess the plans and documentation they have in place to determine whether the activity they are undertaking is developed, organised and carried out in expectation of profit.

7.32 In most circumstances, where a claimant is treated as gainfully self-employed, they will be subject to the 'Minimum Income Floor', which sets a minimum level of assumed income from self-employment.

7.33 The Minimum Income Floor is designed to provide a fair incentive for the self-employed to increase their earnings and productivity and realise their financial potential. The earnings expectations of self-employed claimants under Universal Credit mirror those that would be expected of claimants, with similar circumstances, in employed work. For example, the level of the Minimum Income Floor for claimants expected to be able to work full-time will be equivalent to 35 hours per week at the National Minimum Wage.

7.34 If claimants are within one year of starting out in self-employed activity, they will be eligible for a 'Start-Up Period'. This is a one year period within which the Minimum Income Floor will not be applied. Following consultation with stakeholders and the Social Security Advisory Committee, eligibility for a 'Start-Up Period' has been extended to allow a further period

every five years where the claimant has ceased the previous activity and started a new business.

Unearned Income

7.35 The Universal Credit Regulations prescribe types of income other than earnings that will be taken fully into account in calculating an award of Universal Credit. Income that is not listed in the Regulations is disregarded. This is different to existing income-related benefits legislation which prescribes the income to be disregarded.

The Benefit Cap

7.36 The Benefit Cap which is being implemented initially by Local Authorities through Housing Benefit from April 2013, as provided for in the Benefit Cap (Housing Benefit) Regulations 2012(a), will be applied under these Regulations for households who claim Universal Credit or at the point their claim is transferred to Universal Credit.

7.37 The cap in Universal Credit will mirror that being introduced through Housing Benefit with the main differences being:

- The cap will be applied on a monthly basis and set at £2167 for lone parents and couples and £1517 for single people. These are the monthly equivalents of the £500 and £350 a week caps being established through Housing Benefit.
- The exemption for being in-work will be no longer based on entitlement to Working Tax Credit but be dependent instead on a household meeting an earnings threshold of, on introduction, £430 a month. This amount is based on 16 hours work at the National Minimum Wage.

Sanctions

7.38 Sanctions, which reduce the amount of the Universal Credit award for a fixed or variable period, play an important role in encouraging claimants to comply with requirements to move into or prepare for work. Research shows that compliance with requirements for, for example, active job search increases the chances that claimants find work quickly than they would otherwise(b).

7.39 The sanctions regime will incorporate a range of safeguards for claimants, including:

- Reasonable requirements: the requirements placed on claimants will be reasonable, taking into account their capability and

(a) SI 2012/2994

(b) DWP Research Report 2008, 'More support, higher expectations; the role of conditionality in improving employment outcomes'

circumstances, such as health conditions, disability and caring responsibilities. Ensuring that the requirements placed on claimants are reasonable will help to prevent sanctions being applied inappropriately.

- Good reason: sanctions will not be applied if a claimant can show good reason for non compliance.
- Sanction cap: the total sanction period that can be applied to a claimant at any one time is to be capped at three years.
- Appeal rights.

7.40 The Universal Credit sanctions regime will feature four levels of sanction according to the claimant's conditionality group and type of compliance failure.

7.41 Higher-level sanctions may be imposed on claimants subject to all work-related requirements for failure to meet the most important requirements for that conditionality group. This is where a claimant, for no good reason, fails to undertake Mandatory Work Activity; apply for a particular vacancy; take up an offer of paid work; or, by reason of misconduct, or voluntarily loses paid work or pay.

7.42 Higher-level sanctions will be for a fixed period:

- 91 days for a first failure (14 days for 16/17 year olds);
- 182 days for a second failure committed within 365 days of the previous failure (28 days for 16/17 year olds); and
- 1095 days (3 years) for a third or subsequent failure committed within 365 days of a previous failure that resulted in a 182 or 1095 day sanction.

7.43 Where a failure relates to cessation or non-take-up of work or losing pay or paid work and occurred before the claim for Universal Credit, the fixed period will be reduced by the period between the failure and the date of claim and, if appropriate, the duration of the employment that has been foregone.

7.44 Medium-level sanctions may be imposed on claimants subject to all work-related requirements who for no good reason fail to meet other important labour market requirements for that conditionality group: to take all reasonable work search action; and to be able and willing to take up work immediately (or more paid work or better paid work). These sanctions will be for a fixed period of 28 days (7 days for 16/17 year olds) for a first failure or 91 days (14 days for 16/17 year olds) for a second and subsequent failure within 365 days of the previous failure.

7.45 Low-level sanctions may be imposed on claimants in the work preparation conditionality group, as well as those subject to all work-related requirements. Failures at this sanction level include not complying with a work focused interview requirement and failures to comply with a work search requirement to take a particular action or to comply with a requirement to, for example, come for an interview or provide information.

7.46 Low-level sanctions are open-ended and continue until a compliance condition is met. The compliance condition is either meeting the original requirement or an alternative agreed with an adviser. Once the compliance condition is met, for claimants over 18 there will be an additional fixed period of 7 days for a first failure, 14 days for a second failure at the same level within 365 days of a first and 28 days for a third or subsequent failure within 365 days of a previous failure which resulted in a 14 or 28 day sanction. The reduction period for 16/17 year olds will be the open-ended component for first failures and the open ended component plus a fixed 7 day period for second and subsequent failures within 365 days of the previous failure.

7.47 Lowest-level sanctions will apply to claimants subject to work-focused interview requirements only. They will be open ended until the claimant meets the compliance condition.

7.48 Claimants subject to higher, medium and low-level sanctions will be sanctioned an amount equivalent to 100% (or 50% if a joint claimant) of their standard allowance amount for Universal Credit. Claimants subject to lowest level sanctions and 16/17 year olds will be sanctioned an amount equivalent to 40% (or 20% if a joint claimant) of their standard allowance. A sanction may be reduced from 100% if a claimant's circumstances change such that they move to the no work-related requirements conditionality group: to 40% if they now have responsibility for children or nil, if they have limited capability for work and work-related activity.

Hardship Payments

7.49 Claimants subject to a sanction can apply for hardship payments. To receive these, they must meet a number of conditions, including that they have complied with their labour market conditions (if applicable) and can show their household is unable to meet their immediate basic and essential accommodation, food, heating or hygiene needs. The claimant (or both joint claimants) must also accept that payments will be recoverable from future non-sanctioned benefit payments. Recovery of payments will cease where the claimant has been in paid work with an income at or above the level reasonably expected of them for a period of (or periods that add up to) 26 weeks.

7.50 A hardship payment is paid at a daily rate of 60% of the sanction reduction. It is paid for the number of days from the date the claimant meets the conditions to be in hardship to the day before their next Universal Credit payment is due. A claimant must re-apply for a hardship payment each assessment period to demonstrate their continuing need for support, that they are making reasonable efforts to reduce non-essential costs and seeking any alternative sources of support.

The Jobseeker's Allowance Regulations 2013

7.51 Jobseeker's Allowance is payable to people who are out of work and seeking employment. Under the current Jobseeker's Allowance Regulations 1996(a), there are two elements of Jobseeker's Allowance: a contribution-based element and an income-based element. The first of those elements is for claimants who have paid sufficient National Insurance contributions. The second is for those who have not paid enough National Insurance contributions and/ or have low or no other income.

7.52 The 2013 Regulations will work alongside Universal Credit and make provision for an award of Jobseeker's Allowance based only on National Insurance contributions. The Regulations do not include references to the income-based element of Jobseeker's Allowance. This is because claimants who are out of work, seeking employment and who want an income-based benefit will claim Universal Credit rather than income-based Jobseeker's Allowance. As a result, Jobseeker's Allowance will only be payable to claimants with sufficient National Insurance contributions.

7.53 With the exception of the conditionality and sanctions regime, the rules for the new Jobseeker's Allowance will be very similar to the existing rules for contribution-based Jobseeker's Allowance, made under the 1996 Regulations.

7.54 Jobseeker's Allowance for claimants under these Regulations will be paid either alone or along with Universal Credit. As Universal Credit is rolled out from April 2013, the income-related element of Jobseeker's Allowance will be phased out.

7.55 The work-related requirements set out in the Universal Credit Regulations will apply to awards of Jobseeker's Allowance where both benefits are in payment; the work-related requirements in this instrument only apply where there is no Universal Credit award. The work-related requirements and sanctions in this instrument are similar to those in Universal Credit with differences reflecting the different circumstances of people who claim Jobseeker's Allowance, for example, there are no "lowest level" sanctions.

7.56 Jobseeker's Allowance claimants are expected to be available for full time work immediately (depending upon their commitments and capabilities) and to demonstrate that they are normally spending 35 hours per week to find work. These requirements can be adjusted in a wide range of circumstances, for example, if the claimant is a carer or disabled or has recently been a victim of domestic violence. The requirements are intended to be flexible in recognition of the difficulties some claimants may face.

7.57 The Regulations provide new claimant responsibilities, sanctions for failure to comply with the conditionality regime and disapplication of sanctions in Jobseeker's Allowance where sanctions are applied to a claimant

(a) SI 1996/207

who is also awarded Universal Credit. The Jobseeker's Allowance sanctions regime features three levels of sanctions (high, medium and low level) which broadly work in the same way as the equivalent sanctions for the Universal Credit all work related requirements group. The requirements placed on Jobseeker's Allowance claimants are broadly equivalent to those placed on claimants in the Universal Credit all work-related requirements group. In cases of dual entitlement to Jobseeker's Allowance and Universal Credit the sanction will be applied to Universal Credit.

The Employment and Support Allowance Regulations 2013

7.58 Employment and Support Allowance is payable to those who claim benefit on the basis that they have, or are treated as having, a health condition or disability which affects their ability to work.

7.59 Under the Employment and Support Allowance Regulations 2008 Employment and Support Allowance has, like Jobseeker's Allowance, two elements: a contributory element and an income-related element. The first of those elements is for claimants who have paid sufficient National Insurance contributions; the second is for those who have low or no other income. Universal Credit replaces the income-related element of Employment and Support Allowance, and this element will be phased out as Universal Credit is rolled out, leaving Employment and Support Allowance payable only to claimants who have paid sufficient National Insurance contributions.

7.60 The Employment and Support Allowance Regulations 2013 will work alongside those for Universal Credit. The Regulations omit any reference to income-related provisions, as claimants who want an income-based benefit will claim Universal Credit. Awards made under the Regulations will be paid either alone or together with Universal Credit.

7.61 With the exception of the conditionality and sanctions regime, the rules for the new Employment and Support Allowance will be very similar to the existing rules for the contributory element of Employment and Support Allowance under the 2008 Regulations.

7.62 The Regulations provide new claimant responsibilities, sanctions for failure to comply with the conditionality regime and disapplication of sanctions in Employment and Support Allowance where sanctions are applied to a claimant who is also claiming Universal Credit. The Employment and Support Allowance sanctions regime is based on the Universal Credit sanctions model, though there are some significant differences that reflect the circumstances of people who claim Employment and Support Allowance. For example, it features only two levels of sanctions, *low* and *lowest*, so does not include medium or higher level sanctions. The two levels of sanctions broadly work in the same way as the equivalent sanctions for Universal Credit claimants in the work preparation and work focused interview requirement groups. The names 'low' and 'lowest' given to sanction levels in Employment

and Support Allowance reflect their fit within the wider sanction regime that has been aligned across Universal Credit, Employment and Support Allowance and Jobseeker's Allowance. This will allow claimants to move more easily between the different benefits and to understand the conditionality and sanctions provisions that apply to them across the aligned regimes. .

7.63 The requirements placed on Employment and Support Allowance claimants are also based on the Universal Credit model, though there are again some significant differences. For example, claimants can be required to prepare for work and attend work focused interviews, but are not required to look for work or be available for work where as in Universal Credit, within limits, claimants may be required to look for or be available for work that they are capable of. The requirements to prepare for work and attend interviews are broadly equivalent to those requirements placed on claimants in the Universal Credit work preparation and work focused interview only groups.

The Universal Credit (Transitional Provisions) Regulations 2013

7.64 These Regulations make provision for the introduction of Universal Credit on a 'Pathfinder' basis from 29 April 2013. The intention is that Universal Credit will be introduced in a limited geographical area and to a limited range of claimants. This will facilitate an evaluation of the Universal Credit business processes and information technology functionality in a live environment before it is rolled out nationally from October 2013. The specific postcodes in which the Pathfinder will operate will be set out in an Order commencing the relevant provisions of the Welfare Reform Act.

7.65 The changes to Jobseeker's Allowance and Employment and Support Allowance will be introduced in parallel to the roll-out of Universal Credit. Claimants who meet the Pathfinder criteria will be excluded from claiming income-based Jobseeker's Allowance or income-related Employment and Support Allowance, but may make a claim for the new, contributory, versions of these benefits. This provision will be made in an Order commencing the relevant provisions of the Welfare Reform Act.

7.66 These Regulations provide that a claimant who is entitled to Universal Credit will not be able to claim income support, housing benefit or tax credits.

7.67 The Regulations set out detailed criteria which must be met in order for a person to be entitled to claim Universal Credit during the Pathfinder. In summary, claimants must be:

- British Citizens who are habitually resident in the United Kingdom;
- aged between 18 years and 60 years and 6 months;
- resident in the Pathfinder locations (but not owner-occupiers or in temporary accommodation);
- single; and
- available for work or in work with low earnings (but not have earnings from self-employment).

Claimants must not:

- be receiving existing benefits;
- have capital above £6,000; or
- have children.

7.68 Where incorrect personal information is supplied by a claimant when making their claim, the Regulations provide that, unless payments of Universal Credit have already begun, the claimant will be informed that they are not entitled to claim Universal Credit. If the claimant then claims an existing benefit, their claim will be treated as made on the date of the erroneous Universal Credit claim.

7.69 Where a Universal Credit claimant subsequently forms a couple with another person, an award of Universal Credit may be made to the couple jointly. If the new partner was previously claiming existing benefits, those awards will come to an end. However, the Regulations make provision to ensure that the claimant is not penalised when they move to Universal Credit. These include:

- time spent on existing benefits can be carried over so that it can count towards the qualification period for receiving support for mortgage interest payments within Universal Credit. If a claimant is already receiving such support, the Regulations provide for it to continue;
- time spent in the assessment phase for an award of Employment and Support Allowance will be taken into account to adjust the length of the Universal Credit assessment phase; and
- decisions resulting from a Work Capability Assessment relating to Employment and Support Allowance will be taken into account in determining whether the claimant is eligible for the Limited Capability for Work, or Limited Capability for Work-Related Activity element within a Universal Credit award.

7.70 The Regulations allow Universal Credit claimants who were previously receiving existing benefits to request a recoverable advance payment of Universal Credit during their first assessment period. A request for an advance payment may also be made when a person who is entitled to Universal Credit forms a couple with a person who was previously entitled to an existing benefit. The intention is to ease the transition from existing benefits that are paid weekly, fortnightly or four weekly, to monthly payments of Universal Credit.

7.71 Where an award of Universal Credit is made to a claimant who was previously entitled to an existing benefit, any current sanctions and fraud penalties that have been applied to existing benefit awards will be transferred to the award of Universal Credit. Previous sanctions will also be taken into account when determining the appropriate sanction for any subsequent sanctionable failure by the claimant. This is to ensure that where claimants (or in the case of fraud penalties their partners as well) have not complied with the conditions of an existing benefit and had a sanction or penalty applied, then that sanction or penalty is not diminished by a move to Universal Credit.

7.72 The Benefit Cap will not apply to awards of Universal Credit during the Pathfinder.

7.73 Where a claimant was previously entitled to tax credits in the same tax year as they are awarded Universal Credit, the Regulations modify the tax credits legislation which will apply to them. Provisions of the Tax Credits Act 2002 are modified to ensure that an overpayment of tax credits can be treated as an overpayment of Universal Credit, enabling recovery of the overpayment from the Universal Credit award. In addition, the provisions that specify the time limits for the imposition of tax credits penalties made under Sections 31 or 32 of the Tax Credits Act are amended to take account of the fact that, as a result of other changes to tax credits legislation made by these Regulations, a tax credits award may be made for a part tax year, rather than the whole tax year.

7.74 Other modifications to the Tax Credits Act, and to regulations made under that Act, allow for tax credits awards to be finalised before the end of the tax year. Finalising tax credits awards in-year will ensure that Universal Credit claimants do not have to wait until the end of the tax year for any earlier entitlement to tax credits to be calculated. This means that any over- or underpayments are identified and dealt with much sooner in these cases than by continuing to finalise awards after the end of the tax year.

7.75 The intention is that in-year finalisation of tax credits awards will be the default approach in every case. However, the Regulations allow the Commissioners of Her Majesty's Revenue and Customs to continue to finalise tax credits awards after the end of the tax year, if they are of the opinion that it is not reasonably practicable to apply the modified legislation to any particular case or category of case. This flexibility has been built in as a sensible contingency to guard against unforeseen operational difficulties with the in-year finalisation process.

7.76 Whilst it is inevitably difficult to predict the types of problem that might arise, it is envisaged that the Commissioners' discretion might, for example, be exercised where there is an unforeseen system or process failure. Similarly, it could be exercised in the event that it proved difficult to verify income in a case or class of case where income is particularly complex, such as, for example, those including particular combinations of self-employed and other income.

Consolidation

7.77 These instruments are the product of an exercise to rewrite around 1,000 pages of existing regulations. In relation to the Universal Credit Regulations, the approach has been, wherever possible, to replace detailed provisions with general principles supported by guidance. This should reduce the need for frequent amendment of the regulations.

7.78 The Employment and Support Allowance Regulations and the Jobseeker's Allowance Regulations are themselves both a consolidation and rewrite of the existing regulations. Opportunities have been taken wherever appropriate to make simplifications and improvements.

8. Consultation outcome

8.1 The draft Universal Credit Regulations were not subject to statutory referral to the Social Security Advisory Committee, as it was planned that they be made within six months of the commencement of the relevant enabling power. However, in recognition of the importance of the changes encompassed by these measures, the Secretary of State for Work and Pensions invited the Committee to consider them in a similar way to regulations that are subject to formal scrutiny under the Social Security Administration Act 1992.

8.2 The Employment and Support Allowance Regulations 2013 and the Jobseeker's Allowance Regulations 2013 were both subject to statutory formal consideration by the Social Security Advisory Committee^(a). The Committee raised a number of points during their consideration. All these points were considered and changes were made where appropriate. For example, the Committee questioned regulation 46 of the Employment and Support Allowance Regulations, which said that the purposes of a work-focused interview "include" the five things in the list. The Committee questioned whether this meant there were other purposes of such an interview which were not included in the list. The intention is that the list includes all the purposes of an interview. Regulation 46 was therefore amended to remove the word "include".

8.3 Both the Employment and Support Allowance Regulations and the Jobseeker's Allowance Regulations were included as part of the Committee's wider Universal Credit consultation exercise, as the sanctions and conditionality rules for both benefits were being brought broadly into line with Universal Credit. Therefore, the views expressed during the consultation period, regarding the proposals for the Universal Credit conditionality and sanctions regime, also applied to the reform of Employment and Support Allowance and Jobseeker's Allowance. Those views were considered for both those benefits. For example, removing reference to "long term" to take into account a range of physical and mental impairments that a claimant may have when considering any limitations that may be placed on a Jobseeker's Allowance claimant's work related requirements

8.4 The Committee consulted with a broad range of organisations and individuals, between 15 June 2012 and 27 July 2012. In particular, the Committee examined the coherence of the package of regulations in terms of implementation, and whether there were gaps or unintended consequences that need to be addressed.

(a) <http://ssac.independent.gov.uk/pdf/minutes/minutes-13-14-06-12.pdf>

8.5 On 23 August 2012 the Committee delivered its report on the Universal Credit and related Regulations to the Secretary of State for Work and Pensions. The report and the Secretary of State's response will be published today.

8.6 In August 2012, the Work and Pensions Select Committee launched an inquiry into the implementation of Universal Credit. The Secretary of State for Work and Pensions and the Minister for Welfare Reform attended a hearing on 17 September 2012. The Government is currently considering its response to the Committee's findings and will respond in the New Year.

8.7 More generally, extensive stakeholder engagement has taken place throughout the development of the Universal Credit Regulations. The Department for Work and Pensions has held workshops with customer representative organisations and Devolved Administrations to outline detail within the draft Regulations and provide the opportunity for them to seek clarification. Individual policy areas have worked closely with the Third Sector and other Government departments to learn from their experiences of working with our claimants groups and to ensure alignment of policy.

9. Guidance

9.1 Work is underway to draft guidance to provide effective support for advisers and decision makers in administering Universal Credit, including for claimants on new Jobseeker's Allowance or Employment and Support Allowance).

9.2 In October 2012, a series of workshops were held with stakeholders to provide the opportunity for them to inform the development of this guidance. The Department for Work and Pensions will continue with this engagement throughout the development of guidance and will be sharing drafts of key parts of guidance with them and the Social Security Advisory Committee for their consideration. Comments will be invited to ensure that guidance is clear and easy for advisers to understand and delivers the policy intent for Universal Credit.

9.3 In line with standard practice, the Decision Makers Guide will be published on the Department for Work and Pensions website.

10. Impact

10.1 There is no impact on business or civil society organisations.

10.2 There are no significant costs to the public sector.

10.3 Impact Assessments have not been separately prepared for these Regulations. However, an assessment has been made of the impact of the introduction of Universal Credit and has been published on the Department for

Work and Pensions website^(a). This also covers information concerning the Department's obligations regarding its Equality Duty.

11. Regulating small business

11.1 These Regulations do not apply to small business regulation.

12. Monitoring & review

12.1 The Department is firmly committed to evaluating and monitoring the impact and effects of Universal Credit and the new Jobseeker's Allowance and Employment and Support Allowance.

12.2 Universal Credit marks a fundamental change to the way in which people engage with the benefit system and access in-work financial support. Universal Credit design, implementation and delivery will span a number of years. Evaluation plans will therefore reflect both the long timescale and complexity of the reform. This has involved developing a wide-ranging evaluation strategy which will employ a number of different approaches over the lifetime of the policy, including ongoing monitoring, 'live running reviews' of implementation and delivery, and longer term analysis of the outcomes and impacts for different groups of claimants, from implementation through to 2017 and beyond. A high level evaluation strategy is being published by the Department for Work and Pensions on 10 December 2012.

12.3 Central to the effective transition to Universal Credit is the Pathfinder activity. The prime focus of the Pathfinder evaluation is to examine implementation and operational delivery issues from the perspectives of staff, claimants and delivery partners. It will specifically examine:

- service delivery;
- operational processes;
- partnership arrangements; and
- customer experience.

12.4 This evidence will ensure the operational delivery of Universal Credit in Pathfinder is secure and, if required, improvements put in place before Universal Credit is rolled out on a national basis.

12.5 An external expert advisory group has been convened to offer advice and technical expertise on aspects of the evaluation strategy. It includes leading international experts in the fields of evaluation, financial capability, economics, experimentation and trialling, amongst other areas.

^(a) <http://www.dwp.gov.uk/policy/welfare-reform/legislation-and-key-documents/welfare-reform-act-2012/impact-assessments-and-equality/>

13. Contact

13.1 David Tottey at the Department for Work and Pensions can answer any queries regarding the instrument. Tel: 020 7449 7150 or email: david.tottey@dpw.gsi.gov.uk

2013 No.

SOCIAL SECURITY

**The Universal Credit, Personal Independence Payment,
Jobseeker's Allowance and Employment and Support Allowance
(Claims and Payments) Regulations 2013**

Made ***

Laid before Parliament ***

Coming into force in accordance with regulation 1(2) and (3)

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In accordance with section 172(1)(a) of the Social Security Administration Act 1992, the Secretary of State has referred the proposals for these Regulations to the Social Security Advisory Committee.

[In accordance with section 176(2)(b) of the Social Security Administration Act 1992 and in so far as these Regulations relate to housing benefit and council tax benefit, the Secretary of State has

(a) 1992 c.5.

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obtained the agreement of organisations appearing to him to be representative of the authorities concerned that proposals in respect of these Regulations should not be referred to them.]

PART 1

General

Citation and commencement

1.—(1) These Regulations may be cited as the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013.

(2) For the purpose of personal independence payment these Regulations come into force on 8th April 2013.

(3) For the purposes of universal credit, jobseeker’s allowance and employment and support allowance these Regulations come into force on 29th April 2013.

Interpretation

2. In these Regulations—

“the 1991 Act” means the Child Support Act 1991(**a**);

“the 2012 Act” means the Welfare Reform Act 2012(**b**);

“the Administration Act” means the Social Security Administration Act 1992;

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992(**c**);

“the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 2013(**d**);

“the Universal Credit Regulations” means the Universal Credit Regulations 2013(**e**);

“appropriate office” means—

(a) an office of the Department for Work and Pensions or any other place designated by the Secretary of State in relation to any case or class of case as a place to, or at which, any claim, notice, document, evidence or other information may be sent, delivered or received for the purposes of these Regulations and includes a postal address specified by the Secretary of State for that purpose; or

(b) in the case of a person who is authorised or required by these Regulations to use an electronic communication for any purpose, an address to which such communications may be sent in accordance with Schedule 2;

“assessment period” has the meaning given by regulation 21 of the Universal Credit Regulations;

“attendance allowance” means an allowance payable by virtue of section 64 of the Contributions and Benefits Act;

“benefit”, except in regulation 60 and Schedules 5 and 6, means universal credit, personal independence payment, a jobseeker’s allowance or an employment and support allowance;

“child” has the meaning given by section 40 of the 2012 Act (interpretation);

“claimant” in relation to—

(a) 1991 c.48.

(b) 2012 c.5.

(c) 1992 c.4.

(d) S.I. 2013/xxxx.

(e) S.I. 2013/xxxx.

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- (a) universal credit, has the meaning given by section 40 of the 2012 Act (interpretation);
- (b) personal independence payment, means any person who is a claimant for the purposes of regulations made under Part 4 (personal independence payment) of that Act;
- (c) a jobseeker's allowance, has the meaning given by section 35(1) of the Jobseekers Act 1995 (interpretation)(a); and
- (d) an employment and support allowance, has the meaning given by section 24(1) of the Welfare Reform 2007 Act (interpretation)(b);

“couple” has the meaning given by section 39 of the 2012 Act;

“disability living allowance” means an allowance payable by virtue of section 71 of the Contributions and Benefits Act 1992;

“earned income” has the meaning given by regulation 52 of the Universal Credit Regulations;

“electronic communication” has the meaning given by section 15(1) of the Electronic Communications Act 2000(c);

“employment and support allowance” means an allowance under Part 1 of the Welfare Reform Act 2007(d) as amended by Schedule 3 and Part 1 of Schedule 14 to the 2012 Act (removing references to an income-related allowance);

“jobseeker's allowance” means an allowance under the Jobseekers Act 1995 as amended by Part 1 of Schedule 14 to the 2012 Act (removing references to an income-based allowance);

“limited capability for work” has the meaning given by section 1(4) of the Welfare Reform Act 2007;

“local authority” has the meaning given by section 191 of the Administration Act(e);

“maternity allowance” means an allowance payable by virtue of section 35 of the Contributions and Benefits Act 1992;

“official computer system” means a computer system maintained by or on behalf of the Secretary of State to—

- (a) send or receive any claim or information; or
- (b) process or store any claim or information;

“partner” means one of a couple;

“personal independence payment” means the allowance under Part 4 of the 2012 Act;

“qualifying young person” has the meaning given by regulation 5 of the Universal Credit Regulations;

“regular and substantial caring responsibilities for a severely disabled person” has the meaning given by regulation 30 of the Universal Credit Regulations;

“universal credit” means the benefit under Part 1 of the 2012 Act;

“writing” includes writing produced by means of electronic communications used in accordance with Schedule 2.

Use of electronic communications

3. Schedule 2 makes provision as to the use of electronic communications.

(a) 1995 c. 18.

(b) 2007 c. 5.

(c) 2000 c.7.

(d) 2007 c.5.

(e) The definition of “local authority” in section 191 of the Administration Act was amended by paragraph 94 of Schedule 16 to the Local Government (Wales) Act 1994 (c.19) and by paragraph 175(5)(b) of Schedule 13 to the Local Government etc. (Scotland) Act 1994 (c.39).

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Consequential amendments

4. Schedule 3 makes amendments to other regulations which are consequential upon these Regulations.

Disapplication of section 1(1A) of the Administration Act

5. Section 1(1A)(a) of the Administration Act (requirements in respect of a national insurance number) is not to apply to a child or a qualifying young person in respect of whom universal credit is claimed.

PART 2

Claims

Claims not required for entitlement to universal credit in certain cases

6.—(1) It is not to be a condition of entitlement to universal credit that a claim be made for it where all the following conditions are met—

- (a) a decision is made as a result of the change of circumstances, whether as originally made or as revised, that the person is not entitled to universal credit in a case where but for the receipt of earned income, that person would have continued to be entitled to an amount of universal credit;
- (b) at the date of notification to an appropriate office of the change of circumstances referred to in sub-paragraph (a), the person was in receipt of earned income;
- (c) not more than six months have elapsed since the last day of entitlement to universal credit;
- (d) the person provides such information as to their income at such times as the Secretary of State may require and the Secretary of State is satisfied that the claimant has provided such information as may be required by the Secretary of State to determine whether an award may be made and if so, the amount;
- (e) since the last day of entitlement to universal credit the person's circumstances have changed such that, if the person were entitled to universal credit, the amount payable would not be less than the minimum amount in regulation 17 of the Universal Credit Regulations.

(2) It is not to be a condition of entitlement to universal credit that a claim be made for it where all the following conditions are met—

- (a) the person made a claim for universal credit and a decision is made, whether as originally made or as revised, that the person is not entitled to universal credit in a case where but for the receipt of earned income, that person would have been entitled to an amount of universal credit;
- (b) at the time the decision referred to in sub-paragraph (a) was made, that person was in receipt of earned income;
- (c) not more than six months have elapsed since the date of that claim;
- (d) the person provides such information as to their income at such times as the Secretary of State may require and the Secretary of State is satisfied that the claimant has provided such information as may be required by the Secretary of State to determine whether an award may be made and if so, the amount;

(a) Section 1(1A) of the Administration Act was inserted by section 19 of the Social Security Administration (Fraud) Act 1997 (c.47).

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- (e) the person's circumstances change such that, if the person were entitled to universal credit, the amount payable would not be less than the minimum amount in regulation 17 of the Universal Credit Regulations.

Claims not required for entitlement to an employment and support allowance in certain cases

7. It is not to be a condition of entitlement to an employment and support allowance that a claim be made for it where the following conditions are met—

- (a) the claimant has made, and is pursuing, an appeal against a decision of the Secretary of State that embodies a determination that the claimant does not have limited capability for work, and
- (b) the appeal relates to a decision to terminate or not to award an employment and support allowance for which a claim was made.

Making a claim for universal credit

8.—(1) Except as provided in paragraph (2), a claim for universal credit must be made by means of an electronic communication in accordance with the provisions set out in Schedule 2 and completed in accordance with any instructions given by the Secretary of State for that purpose.

(2) A claim for universal credit may be made by telephone call to the telephone number specified by the Secretary of State if the claim falls within a class of case for which the Secretary of State accepts telephone claims or where, in any other case, the Secretary of State is willing to do so.

(3) A claim for universal credit made by means of an electronic communication in accordance with the provisions set out in Schedule 2 is defective if it is not completed in accordance with any instructions of the Secretary of State.

(4) A claim made by telephone in accordance with paragraph (2) is properly completed if the Secretary of State is provided during that call with all the information required to determine the claim and the claim is defective if not so completed.

(5) If a claim for universal credit is defective the Secretary of State must inform the claimant of the defect and of the relevant provisions of regulation 10 relating to the date of claim.

(6) The Secretary of State must treat the claim as properly made in the first instance if—

- (a) in the case of a claim made by telephone, the person corrects the defect; or
- (b) in the case of an electronic claim, a claim completed in accordance with any instructions of the Secretary of State is received at an appropriate office,

within one month, or such longer period as the Secretary of State considers reasonable, from the date on which the claimant is first informed of the defect.

Claims for universal credit by members of a couple

9.—(1) Where a person is a member of a couple and may make a claim as a single person by virtue of regulation 3(3) (couples) of the Universal Credit Regulations, but instead makes a claim for universal credit jointly, that claim is to be treated as a claim made by that person as a single person.

(2) Where a claim for universal credit is made jointly by a member (“M1”) of a polygamous marriage with another member of the polygamous marriage (“M2”), that claim is to be treated as a claim made by M1 as a single person where—

- (a) M1 is not a party to an earlier marriage in the polygamous marriage, and
- (b) that party to an earlier marriage is living in the same household as M1 and M2.

(3) In paragraph (2) “polygamous marriage” means a marriage during which a party to it is married to more than one person and which took place under the laws of a country which permits polygamy.

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(4) The Secretary of State may treat a claim made by members of a couple as single persons as a claim made jointly by the couple where it is determined by the Secretary of State that they are a couple.

(5) Where the Secretary of State considers that one member of a couple is unable to make a joint claim with the other member of that couple, the other member of the couple may make a claim jointly for both of them.

(6) Where an award of universal credit to joint claimants is terminated because they cease to be a couple, the person who first notifies the Secretary of State that they have ceased to be a couple is not to be exempt from the requirement to make a claim and the other person is to be so exempt.

(7) Where awards of universal credit to two single claimants are terminated because they form a couple who are joint claimants, it is not to be a condition of entitlement to universal credit that the couple make a claim for it and universal credit may be awarded to them jointly.

(8) A couple who are joint claimants are to be treated as making a claim for universal credit where—

- (a) an award of universal credit to one of them as a single claimant has been terminated; and
- (b) that claimant has formed a couple with the other person who did not previously have an award of universal credit as a single person.

(9) In relation to an award which may be made by virtue of paragraph (6) or (7) without a claim being required, a claimant and every person by whom or on whose behalf, sums by way of universal credit are receivable must supply in such manner and at such times as the Secretary of State may determine such information or evidence as the Secretary of State may require in connection with the formation or dissolution of a couple.

Date of claim for universal credit

10.—(1) Where a claim for universal credit is made, the date on which the claim is made is—

- (a) subject to sub-paragraph (b), in the case of a claim made by means of an electronic communication in accordance with regulation 8(1), the date on which the claim is received at an appropriate office;
- (b) in the case of a claim made by means of an electronic communication in accordance with regulation 8(1), where the claimant receives assistance at home or at an appropriate office from the Secretary of State, or a person providing services to the Secretary of State, which is provided for the purpose of enabling that person to make a claim, the date of first notification of a need for such assistance;
- (c) subject to sub-paragraph (d), in the case of a claim made by telephone in accordance with regulation 8(2), the date on which that claim is properly completed in accordance with regulation 8(4), or
- (d) where the Secretary of State is unable to accept a claim made by telephone in accordance with regulation 8(2) on the date of first notification of intention to make the claim, the date of first notification, provided a claim properly completed in accordance with regulation 8(4) is made within one month of that date,

or the first day in respect of which the claim is made if later than the above.

(2) In the case of a claim which is defective by virtue of regulation 8, the date of claim is to be the first date on which the defective claim is received or made but is treated as properly made in the first instance in accordance with regulation 8(6).

Making a claim for personal independence payment

11.—(1) A claim for personal independence payment must be made—

- (a) in writing on a form authorised by the Secretary of State for that purpose and completed in accordance with the instructions on the form;
- (b) by telephone call to the telephone number specified by the Secretary of State; or

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(c) by receipt by the claimant of a telephone call from the Secretary of State made for the purpose of enabling a claim for personal independence payment to be made, unless in any case or class of case the Secretary of State decides only to accept a claim made in one of the ways specified in paragraphs (a), (b) or (c).

(2) In the case of a claim made in writing the claim must be sent to or received at the appropriate office.

(3) A claim for personal independence payment made in writing is defective if it is not completed in accordance with any instructions of the Secretary of State.

(4) A claim made by telephone in accordance with paragraph (1) is properly completed if the Secretary of State is provided during that call with all the information required to determine the claim and the claim is defective if not so completed.

(5) If a claim for personal independence payment is defective the Secretary of State must inform the claimant of the defect and of the relevant provisions of regulation 12 relating to the date of claim.

(6) The Secretary of State must treat the claim as properly made in the first instance if a claim completed in accordance with any instructions of the Secretary of State is received within one month, or such longer period as the Secretary of State may consider reasonable, from the date on which the claimant is first informed of the defect.

(7) Paragraph (8) applies where—

- (a) a person (“P1”) makes a claim for personal independence payment on behalf of another person (“P2”) whom P1 asserts to be a person unable for the time being to act; and
- (b) the Secretary of State makes a decision not to appoint P1 under regulation 57.

(8) The Secretary of State must treat the claim made by P1 as properly made by P2 in the first instance if a further claim made by P2 is received within one month, or such longer period as the Secretary of State may consider reasonable, from the date the Secretary of State notified the decision not to appoint P1 under regulation 57.

Date of claim for personal independence payment

12.—(1) Subject to paragraph (4), where a claim for personal independence payment is made in accordance with regulation 11 the date on which the claim is made is—

- (a) in the case of a claim in writing made by means of an electronic communication in accordance with the provisions set out in Schedule 2, the date on which the claim is received at the appropriate office;
- (b) in the case of a claim made by telephone, the date on which a claim made by telephone is properly completed; or
- (c) where a person first notifies an intention to make a claim and provided that a claim made in writing produced other than by means of an electronic communication is properly completed and received at the appropriate office designated by the Secretary of State in that claimant's case within one month or such longer period as the Secretary of State considers reasonable of the date of first notification, the date of first notification,

or the first day in respect of which the claim is made if later than the above.

(2) In the case of a claim which is defective by virtue of regulation 11(3) or (4)—

- (a) subject to sub-paragraph (b) and paragraph (4), the date of claim is to be the first date on which the defective claim is received or made but is treated as properly made in the first instance in accordance with regulation 11(6);
- (b) the date of claim is to be the date of first notification of an intention to make a claim where a claim made by a person to whom paragraph (1)(c) applies is defective but is treated as properly made in the first instance in accordance with regulation 11(6).

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(3) In the case of a claim which is treated as properly made by the claimant in accordance with regulation 11(8), the date on which the claim is made is the date on which it was received in the first instance.

(4) Where a further claim made by a person (“P2”) in the circumstances set out in regulation 11(8) is defective and that further claim is treated as properly made in the first instance in accordance with regulation 11(6), the date of claim is to be the date on which the claim made by the person (“P1”) whom the Secretary of State decided not to appoint under regulation 57 was received in the first instance.

(5) In a case where the Secretary of State decides not to award personal independence payment following a claim for it being made on behalf of another expressly on the ground of terminal illness (which has the meaning given by section 82(4) of the 2012 Act), the date of claim is to be—

- (a) the date that claim was made if a further claim for personal independence payment, made in accordance with regulation 11, is received within one month, or such longer period as the Secretary of State may consider reasonable, from the date the Secretary of State notified the decision not to award personal independence payment on the ground of terminal illness; or
- (b) the date that claim was made where the further claim is defective but is treated as properly made in the first instance in accordance with regulation 11(6).

Making a claim for an employment and support allowance by telephone

13.—(1) Except where the Secretary of State directs in any case or class of case that a claim must be made in writing, a claim for an employment and support allowance may be made by telephone call to the telephone number specified by the Secretary of State.

(2) Where the Secretary of State, in any particular case, directs that the person making the claim approves a written statement of the person’s circumstances provided for the purpose by the Secretary of State, a telephone claim is not a valid claim unless the person complies with the direction.

(3) A claim made by telephone in accordance with paragraph (1) is properly completed if the Secretary of State is provided during that call with all the information required to determine the claim and the claim is defective if not so completed.

(4) Where a telephone claim is defective, the Secretary of State must advise the person making it of the defect and of the effect on the date of claim of the provisions of regulation 14.

(5) If the person corrects the defect so that the claim then satisfies the requirements of paragraph (3) and does so within one month, or such longer period as the Secretary of State considers reasonable, of the date the Secretary of State first drew attention to the defect, the Secretary of State must treat the claim as if it had been properly made in the first instance.

Date of claim for an employment and support allowance where claim made by telephone

14. In the case of a telephone claim, the date on which the claim is made is to be the first date on which—

- (a) a claim made by telephone is properly completed;
- (b) a person first notifies the Secretary of State of an intention to make a claim, provided that a claim made by telephone is properly completed within one month or such longer period as the Secretary of State considers reasonable of first notification; or
- (c) a defective claim is received but is treated as properly made in the first instance in accordance with regulation 13(5),

or the first day in respect of which the claim is made if later than the above.

Making a claim for an employment and support allowance in writing

15.—(1) A claim for an employment and support allowance may be made to the Secretary of State in writing on a form authorised by the Secretary of State for that purpose and must be completed in accordance with the instructions on the form.

(2) A written claim for an employment and support allowance, which is made on the form approved for the time being, is properly completed if completed in accordance with the instructions on the form and defective if not so completed.

(3) If a written claim is defective when first received, the Secretary of State must advise the person making it of the defect and of the effect on the date of claim of the provisions of regulation 16.

(4) If the person corrects the defect so that the claim then satisfies the requirements of paragraph (2) and does so within one month, or such longer period as the Secretary of State considers reasonable, of the date the Secretary of State first drew attention to the defect, the Secretary of State must treat the claim as if it had been properly made in the first instance.

Date of claim for an employment and support allowance where claim made in writing

16. In the case of a written claim for an employment and support allowance, the date on which the claim is made is to be the first date on which—

- (a) a properly completed claim is received in an appropriate office;
- (b) a person first notifies an intention to make a claim, provided that a properly completed claim form is received in an appropriate office within one month or such longer period as the Secretary of State considers reasonable of first notification; or
- (c) a defective claim is received but is treated as properly made in the first instance in accordance with regulation 15(4),

or the first day in respect of which the claim is made if later than the above.

Claims for an employment and support allowance where no entitlement to statutory sick pay

17.—(1) Paragraph (2) applies to a claim for an employment and support allowance for a period of limited capability for work in relation to which the claimant gave the claimant's employer a notice of incapacity under regulation 7 of the Statutory Sick Pay (General) Regulations 1982(a), and for which the claimant has been informed in writing by the employer that there is no entitlement to statutory sick pay.

(2) A claim to which this paragraph applies is to be treated as made on the date accepted by the claimant's employer as the first day of incapacity, provided that the claimant makes the claim within the period of 3 months beginning with the day on which the claimant is informed in writing by the employer that the claimant was not entitled to statutory sick pay.

Special provisions where it is certified that a woman is expected to be confined or where she has been confined

18.—(1) Where, in a certificate issued or having effect as issued under the Social Security (Medical Evidence) Regulations 1976(b), it has been certified that it is to be expected that a woman will be confined, and she makes a claim for maternity allowance in expectation of that confinement any such claim may, unless the Secretary of State otherwise directs, be treated as a claim for an employment and support allowance, made in respect of any days in the period beginning with either—

- (a) the beginning of the sixth week before the expected week of confinement; or
- (b) the actual date of confinement,

(a) S.I. 1982/894. Relevant amending instruments are S.I. 1984/385 and 1996/777.

(b) S.I.1976/615.

whichever is the earlier, and ending in either case on the 14th day after the actual date of confinement.

(2) Where, in a certificate issued under the Social Security (Medical Evidence) Regulations 1976 it has been certified that a woman has been confined and she claims maternity allowance within three months of the date of her confinement, her claim may be treated in the alternative or in addition as a claim for an employment and support allowance, for the period beginning with the date of her confinement and ending 14 days after that date.

Making a claim for a jobseeker's allowance: attendance at an appropriate office

19. A person wishing to make a claim for a jobseeker's allowance, unless the Secretary of State otherwise directs, is required to attend, for the purpose of making a claim for that allowance, in person at an appropriate office or such other place, and at such time, as the Secretary of State may specify in that person's case.

Date of claim where a person claiming a jobseeker's allowance is required to attend at an appropriate office

20.—(1) Subject to regulation 29(6), where a person is required to attend in accordance with regulation 19, if the person subsequently attends for the purpose of making a claim for a jobseeker's allowance at the place and time specified by the Secretary of State and, if so requested, provides a properly completed claim form at or before the time when the person is required to attend, the claim is to be treated as made on whichever is the later of the date of first notification of intention to make that claim or the first day in respect of which the claim is made.

(2) Where a person who is required to attend in accordance with regulation 19 without good cause fails to attend at either the place or time specified in that person's case, or does not, if so requested, provide a properly completed claim form at or before the time when the person is required to attend, the claim is to be treated as made on the first day on which the person does attend at the specified place or time or does provide a properly completed claim form, or if later the first day in respect of which the claim is made.

(3) The Secretary of State may direct that the time for providing a properly completed claim form may be extended to a date no later than the date one month after the date of first notification of intention to make that claim.

Making a claim for a jobseeker's allowance in writing

21.—(1) Except where a person is required to attend in accordance with regulation 19, a claim for a jobseeker's allowance may be made in writing on a form authorised by the Secretary of State for that purpose and may be delivered or sent to the Secretary of State at an appropriate office.

(2) A claim made in accordance with paragraph (1) must be completed in accordance with the instructions on the form.

(3) A written claim for a jobseeker's allowance made under this regulation or regulation 20, which is made on the form approved for the time being, is properly completed if completed in accordance with the instructions on the form and defective if not so completed.

(4) If a written claim made under this regulation is defective when first received, the Secretary of State must advise the person making it of the defect and of the effect on the date of claim of the provisions of regulation 22.

(5) If that person corrects the defect so that the claim then satisfies the requirements of paragraph (3) and does so within one month, or such longer period as the Secretary of State considers reasonable, from the date the Secretary of State first drew attention to the defect, the claim must be treated as having been properly made in the first instance.

Date of claim for a jobseeker's allowance where claim made in writing

22. Subject to regulation 29(6), in the case of a written claim for a jobseeker's allowance made under regulation 21, the date on which the claim is made or treated as made is to be the first date on which—

- (a) a properly completed claim is received in an appropriate office;
- (b) a person first notifies an intention to make a claim, provided that a properly completed claim form is received in an appropriate office within one month or such longer period as the Secretary of State considers reasonable of first notification; or
- (c) a defective claim is received but is treated as properly made in the first instance in accordance with regulation 21(5),

or the first day in respect of which the claim is made if later than the above.

Making a claim for a jobseeker's allowance by telephone

23.—(1) Except where a person is required to attend in accordance with regulation 19, or where the Secretary of State in any case directs that the claim must be made in writing in accordance with regulation 21, a claim for a jobseeker's allowance may be made by telephone call to the telephone number specified by the Secretary of State where such a claim falls within a class of case for which the Secretary of State accepts telephone claims or in any other case where the Secretary of State is willing to do so.

(2) A claim made by telephone in accordance with paragraph (1) is properly completed if the Secretary of State is provided during that call with all the information required to determine the claim and the claim is defective if not so completed.

(3) Where a telephone claim is defective, the Secretary of State must advise the person making it of the defect and of the effect on the date of claim of the provisions of regulation 24.

(4) If the person corrects the defect so that the claim then satisfies the requirements of paragraph (2) and does so within one month, or such longer period as the Secretary of State considers reasonable, of the date the Secretary of State first drew attention to the defect, the Secretary of State must treat the claim as if it had been properly made in the first instance.

Date of claim for a jobseeker's allowance where claim made by telephone

24. Subject to regulation 29(6), in the case of a telephone claim made under regulation 23, the date on which the claim is made or treated as made is to be the first date on which—

- (a) a claim made by telephone is properly completed;
- (b) a person first notifies an intention to make a claim, provided that a claim made by telephone is properly completed within one month or such longer period as the Secretary of State considers reasonable of first notification; or
- (c) a defective claim is received but is treated as properly made in the first instance in accordance with regulation 23(4),

or the first day in respect of which the claim is made if later than the above.

Interchange with claims for other benefits

25.—(1) The Secretary of State may treat a claim for an employment and support allowance by a woman in addition or in the alternative as a claim for maternity allowance.

(2) The Secretary of State may treat a claim for a maternity allowance in addition or in the alternative as a claim for an employment and support allowance.

(3) Where it appears that a person who has made a claim for personal independence payment is not entitled to it but may be entitled to disability living allowance or attendance allowance, the Secretary of State may treat any such claim alternatively, or in addition, as a claim for either disability living allowance or attendance allowance as the case may be.

(4) Where it appears that a person who has made a claim for disability living allowance or attendance allowance is not entitled to it but may be entitled to personal independence payment, the Secretary of State may treat any such claim alternatively, or in addition, as a claim for personal independence payment.

(5) In determining whether the Secretary of State should treat a claim as made alternatively or in addition to another claim (the original claim) under this regulation the Secretary of State must treat the alternative or additional claim, whenever made, as having been made at the same time as the original claim.

Time within which a claim for universal credit is to be made

26.—(1) Subject to the following provisions of this regulation, a claim for universal credit must be made on the first day of the period in respect of which the claim is made.

(2) Where the claim for universal credit is not made within the time specified in paragraph (1), the Secretary of State is to extend the time for claiming universal credit, subject to a maximum extension of one month, to the date on which the claim is made, if—

- (a) any one or more of the circumstances specified in paragraph (3) applies or has applied to the claimant; and
- (b) as a result of that circumstance or those circumstances the claimant could not reasonably have been expected to make the claim earlier.

(3) The circumstances referred to in paragraph (2) are—

- (a) the claimant was previously in receipt of a jobseeker's allowance or an employment and support allowance and notification of expiry of entitlement to that benefit was not sent to the claimant before the date that the claimant's entitlement expired;
- (b) the claimant has a disability;
- (c) the Claimant has supplied the Secretary of State with medical evidence that satisfies the Secretary of State that the claimant had an illness that prevented the claimant from making a claim;
- (d) the claimant was unable to make a claim in writing by means of an electronic communication used in accordance with Schedule 2 because the official computer system was inoperative;
- (e) where an award of universal credit is terminated in accordance with regulation 9(6) and the person who first notifies the Secretary of State makes a further claim to universal credit as a single person;
- (f) where—
 - (i) the Secretary of State decides not to award universal credit to members of a couple jointly because one of the couple does not meet the basic condition in section 4(1)(e) of the 2012 Act;
 - (ii) they cease to be a couple; and
 - (iii) the person who did meet the basic condition in section 4(1)(e) makes a further claim as a single person;
- (g) where—
 - (i) an award of universal credit to joint claimants is terminated because one of the couple does not meet the basic condition in section 4(1)(e) of the 2012 Act;
 - (ii) they cease to be a couple; and
 - (iii) the person who did meet the basic condition in section 4(1)(e) makes a further claim as a single person.

(4) In the case of a claim for universal credit made by each of joint claimants, the prescribed time for claiming is not to be extended under paragraph (2) unless both claimants satisfy that paragraph.

Time within which a claim for personal independence payment is to be made

27. A claim for personal independence payment must be made on the first day of the period in respect of which the claim is made.

Time within which a claim for an employment and support allowance is to be made

28. A claim for an employment and support allowance must be made on the first day of the period in respect of which the claim is made or within the period of three months immediately following that day.

Time within which a claim for a jobseeker's allowance is to be made

29.—(1) Subject to paragraphs (2) and (4), a claim for a jobseeker's allowance must be made on the first day of the period in respect of which the claim is made.

(2) In a case where the claim is not made within the time specified in paragraph (1), the Secretary of State is to extend the time for claiming a jobseeker's allowance, subject to a maximum extension of three months, to the date on which the claim is made, where—

- (a) any one or more of the circumstances specified in paragraph (3) applies or has applied to the claimant; and
- (b) as a result of that circumstance or those circumstances the claimant could not reasonably have been expected to make the claim earlier.

(3) The circumstances referred to in paragraph (2) are—

- (a) the claimant has difficulty communicating because—
 - (i) the claimant has learning, language or literacy difficulties; or
 - (ii) the claimant is deaf or blind,and it was not reasonably practicable for the claimant to obtain assistance from another person to make the claim;
- (b) the claimant was caring for a person who is ill or disabled, and it was not reasonably practicable for the claimant to obtain assistance from another person to make the claim;
- (c) the claimant was given information by an officer of the Department for Work and Pensions which led the claimant to believe that a claim for a jobseeker's allowance would not succeed;
- (d) the claimant was given written advice by a solicitor or other professional adviser, a medical practitioner, a local authority, or a person working in a Citizens Advice Bureau or a similar advice agency, which led the claimant to believe that a claim for a jobseeker's allowance would not succeed;
- (e) the claimant was required to deal with a domestic emergency affecting the claimant and it was not reasonably practicable for the claimant to obtain assistance from another person to make the claim; or
- (f) the claimant was prevented by adverse weather conditions from attending an appropriate office.

(4) In a case where the claim is not made within the time specified in paragraph (1), the prescribed time for claiming a jobseeker's allowance is to be extended, subject to a maximum extension of one month, to the date on which the claim is made, where—

- (a) any one or more of the circumstances specified in paragraph (5) applies or has applied to the claimant; and
- (b) as a result of that circumstance or those circumstances the claimant could not reasonably have been expected to make the claim earlier.

(5) The circumstances referred to in paragraph (4) are—

- (a) the appropriate office where the claimant would be expected to make a claim was closed and alternative arrangements were not available;

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- (b) the claimant was unable to attend the appropriate office due to difficulties with the claimant's normal mode of transport and there was no reasonable alternative available;
 - (c) there were adverse postal conditions;
 - (d) the claimant was previously in receipt of an employment and support allowance and notification of expiry of entitlement to that benefit was not sent to the claimant before the date that the entitlement expired;
 - (e) the claimant had ceased to be a member of a couple within the period of one month before the claim was made;
 - (f) during the period of one month before the claim was made a close relative of the claimant had died, and for this purpose "close relative" means partner, parent, son, daughter, brother or sister;
 - (g) the claimant was unable to make telephone contact with the appropriate office where the claimant would be expected to notify an intention of making a claim because the telephone lines to that office were busy or inoperative;
 - (h) the claimant was unable to make contact by means of an electronic communication used in accordance with Schedule 2 where the claimant would be expected to notify an intention of making a claim because the official computer system was inoperative.
- (6) In a case where the time for claiming a jobseeker's allowance is extended under paragraph (2) or (4), the claim is to be treated as made on the first day of the period in respect of which the claim is, by reason of the operation of those paragraphs, timeously made.

Amendment of claim

30.—(1) A person who has made a claim for benefit may amend it at any time before a determination has been made on the claim by notice in writing received at an appropriate office, by telephone call to a telephone number specified by the Secretary of State or in such other manner as the Secretary of State may decide or accept.

(2) Any claim amended in accordance with paragraph (1) may be treated as if it had been so amended in the first instance.

Withdrawal of claim

31.—(1) A person who has made a claim for benefit may withdraw it any time before a determination has been made on it by notice in writing received at an appropriate office, by telephone call to a telephone number specified by the Secretary of State or in such other manner as the Secretary of State may decide or accept.

(2) Any notice of withdrawal given in accordance with paragraph (1) has effect when it is received.

Advance claim for and award of universal credit

32.—(1) This regulation applies where—

- (a) although a person does not satisfy the conditions of entitlement to universal credit on the date on which a claim is made, the Secretary of State is of the opinion that unless there is a change of circumstances that person will satisfy those conditions for a period beginning on a day not more than one month after the date on which the claim is made; and
- (b) the case falls within a class for which Secretary of State accepts advance claims or is a case where Secretary of State is otherwise willing to do so.

(2) The Secretary of State is to treat the claim as if made on the first day of that period.

(3) The Secretary of State may award universal credit accordingly, subject to the requirement that the person satisfies the conditions for entitlement on the first day of that period.

Advance claim for and award of personal independence payment

33.—(1) Where, although a person does not satisfy the requirements for entitlement to personal independence payment on the date on which the claim is made, the Secretary of State is of the opinion that unless there is a change of circumstances the person will satisfy those requirements for a period beginning on a day (“the relevant day”) not more than 3 months after the date on which the decision on the claim is made, the Secretary of State may award personal independence payment from the relevant day subject to the condition that the person satisfies the requirements for entitlement on the relevant day.

(2) A person who has an award of personal independence payment may make a further claim for personal independence payment during the period of 6 months immediately before the existing award expires.

(3) Where a person makes a claim in accordance with paragraph (2) the Secretary of State may—

- (a) treat the claim as if made on the first day after the expiry of the existing award; and
- (b) award personal independence payment accordingly, subject to the condition that the person satisfies the requirements for entitlement on that first day after the expiry of the existing award.

Advance claim for and award of an employment and support allowance or a jobseeker’s allowance

34. Where, although a person does not satisfy the requirements of entitlement to an employment and support allowance or a jobseeker’s allowance on the date on which a claim is made, the Secretary of State is of the opinion that unless there is a change of circumstances that claimant will satisfy those requirements for a period beginning on a day (“the relevant day”) not more than three months after the date on which the claim is made, then the Secretary of State may—

- (a) treat the claim as if made for a period beginning with the relevant day; and
- (b) award an employment and support allowance or a jobseeker’s allowance accordingly, subject to the condition that the person satisfies the requirements for entitlement when those benefits become payable under an award.

Attendance in person

35. Except in a case where regulation 9 of the Social Security (Personal Independence Payment) Regulations 2013(a) applies, every person who makes a claim for benefit, other than a jobseeker’s allowance, or any person entitled to benefit, other than a jobseeker’s allowance, and any other person by whom, or on whose behalf, payments by way of such a benefit are receivable, must attend at such place and on such days and at such times as the Secretary of State may direct, for the purpose of supplying any information or evidence under regulations 37, 38, 39 and 41, if reasonably so required by the Secretary of State.

Duration of awards

36.—(1) A claim for universal credit is to be treated as made for an indefinite period and any award of universal credit on that claim is to be made for an indefinite period.

(2) The provisions of Schedule 4 are to have effect in relation to claims for a jobseeker’s allowance made during periods connected with public holidays.

(a) S.I. 2013/xxxx.

PART 3

Evidence, information and notification of changes of circumstances

Evidence and information in connection with a claim

37.—(1) Subject to regulation 8 of the Social Security (Personal Independence Payment) Regulations 2013, paragraphs (2) and (3) apply to a person who makes a claim for benefit, other than a jobseeker’s allowance, or on whose behalf a claim is made.

(2) The Secretary of State may require the person to supply information or evidence in connection with the claim, or any question arising out of it, as the Secretary of State considers appropriate.

(3) The person must supply the Secretary of State with the information or evidence in such manner as the Secretary of State determines within one month of first being required to do so or such longer period as the Secretary of State considers reasonable.

(4) Where joint claimants have made a claim for universal credit, information relating to that claim may be supplied by the Secretary of State to either or both members of the couple for any purpose connected with the claim.

(5) Where a person is a member of a couple and may make a claim as a single person by virtue of regulation 3(3) (couples) of the Universal Credit Regulations^(a) and entitlement to or the amount of any universal credit is or may be affected by the circumstances of their partner, the Secretary of State may require the partner to do any of the following, within one month of being required to do so or such longer period as the Secretary of State may consider reasonable—

- (a) to confirm the information given about the partner’s circumstances; or
- (b) to supply information or evidence in connection with the claim, or any question arising out of it, as the Secretary of State may require.

(6) The Secretary of State may require a landlord or a rent officer to supply information or evidence in connection with a claim for universal credit that may include in the calculation of an award an amount in respect of housing costs, and any information or evidence so requested must be supplied within one month of the request or such longer period as the Secretary of State considers reasonable.

(7) Every person providing relevant childcare as defined in regulation 35 of the Universal Credit Regulations, in a case where the calculation of a claimant’s award of universal credit may include an amount in respect of childcare costs under regulation 31 of those regulations, must supply such information or evidence in connection with the claim made by the claimant, or any question arising out of it, as may be required by the Secretary of State, and must do so within one month of being required to do so or such longer period as the Secretary of State may consider reasonable.

(8) In this regulation any reference to a person or joint claimants making a claim for a benefit, other than a jobseeker’s allowance, is to be interpreted as including a person or joint claimants in a case where it is not a condition of entitlement to benefit that a claim be made for it.

(9) In this regulation any reference to a claim for a benefit, other than a jobseeker’s allowance, is to be interpreted as including a potential award of benefit in a case where it is not a condition of entitlement to benefit that a claim be made for it.

Evidence and information in connection with an award

38.—(1) This regulation, apart from paragraph (7), applies to any person entitled to benefit, other than a jobseeker’s allowance, and any other person by whom, or on whose behalf, payments by way of such a benefit are receivable.

(2) Subject to regulation 8 of the Social Security (Personal Independence Payment) Regulations 2013, a person to whom this regulation applies must supply in such manner as the Secretary of State may determine and within the period applicable under regulation 45(4)(a) of the Universal

(a) S.I. 2013/xxxx.

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Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013(a) such information or evidence as the Secretary of State may require for determining whether a decision on the award of benefit should be revised under section 9 of the Social Security Act 1998(b) or superseded under section 10 of that Act.

(3) A person to whom this regulation applies must supply in such manner and at such times as the Secretary of State may determine such information or evidence as the Secretary of State may require in connection with payment of the benefit awarded.

(4) A person to whom this regulation applies must notify the Secretary of State of any change of circumstances which the person might reasonably be expected to know might affect—

- (a) the continuance of entitlement to benefit;
- (b) the amount of benefit awarded; or
- (c) the payment of benefit,

as soon as reasonably practicable after the change occurs.

(5) A notification of any change of circumstances under paragraph (4) must be given—

- (a) in writing or by telephone (unless the Secretary of State determines in any case that notice must be given in a particular way or to accept notice given otherwise than in writing or by telephone); or
- (b) in writing if in any class of case the Secretary of State requires written notice (unless the Secretary of State determines in any case to accept notice given otherwise than in writing),

and must be sent or delivered to, or received at, the appropriate office.

(6) Where universal credit has been awarded to joint claimants, information relating to that award may be supplied by the Secretary of State to either or both members of the couple for any purpose connected with that award.

(7) Every person providing relevant childcare as defined in regulation 35 of the Universal Credit Regulations, in a case where the claimant's award of universal credit includes an amount in respect of childcare costs under regulation 31 of those Regulations, must supply such information or evidence in connection with the award, or any question arising out of it, as the Secretary of State may require, and must do so within one month of being required to do so or such longer period as the Secretary of State may consider reasonable.

(8) Where the calculation of an award of universal credit includes, by virtue of regulation 29 of the Universal Credit Regulations, an amount in respect of the fact that a claimant has regular and substantial caring responsibilities for a severely disabled person, the Secretary of State may require a person to whom this regulation applies to furnish a declaration signed by such severely disabled person confirming the particulars respecting the severely disabled person which have been given by that person.

Alternative means of notifying changes of circumstances

39. In such cases and subject to such conditions as the Secretary of State may specify, the duty in regulation 38(4) to notify a change of circumstances may be discharged by notifying the Secretary of State as soon as reasonably practicable—

- (a) where the change of circumstances is a birth or death, through a local authority, or a county council in England, by personal attendance at an office specified by that authority or county council, provided the Secretary of State has agreed with that authority or county council for it to facilitate such notification; or
- (b) where the change of circumstances is a death, by telephone to a telephone number specified for that purpose by the Secretary of State.

(a) S.I. 2013/xxxx.
(b) 1998 c.14.

Information to be provided to rent officers

40.—(1) The Secretary of State must provide to the rent officer such information as the rent officer may reasonably require to carry out functions under section 122 of the Housing Act 1996(a).

(2) The information referred to in paragraph (1) may include information required to make a determination (within the meaning of article 2 of the Rent Officer (Universal Credit Functions) Order 2013)(b) and may include—

- (a) the name and address of a universal credit claimant in respect of whom the Secretary of State has applied for a determination;
- (b) the amount of any rent (within the meaning of paragraph 2 of Schedule 1 to the Universal Credit Regulations) (meaning of payments in respect of accommodation);
- (c) the amount of any service charge payments (within the meaning of paragraph 2 of Schedule 1 to the Universal Credit Regulations);
- (d) the number of bedrooms in the accommodation in respect of which a determination is made;
- (e) the name and address of a claimant’s landlord.

(3) A landlord must provide to the rent officer such information or evidence as the rent officer may reasonably require to make a determination in accordance with the Rent Officer (Universal Credit Functions) Order 2013 and which the rent officer is not able to obtain from the Secretary of State.

(4) The evidence referred to in paragraph (3) may include evidence as to whether a property is let at an Affordable Rent within the meaning of article 2 of the Rent Officer (Universal Credit Functions) Order 2013.

(5) In this regulation and regulation 37 “landlord” means any person to whom a claimant or partner is liable to make payments in respect of the occupation of the claimant’s accommodation.

Evidence and information required from pension fund holders

41.—(1) Where a claimant or the claimant’s partner is aged not less than 60 and is a member of, or a person deriving entitlement to a pension under a personal pension scheme, or is a party to, or a person deriving entitlement to a pension under a retirement annuity contract, such a person must, where the Secretary of State so requires, furnish the following information—

- (a) the name and address of the pension fund holder;
- (b) such other information including any reference or policy number as is needed to enable the personal pension scheme or retirement annuity contract to be identified.

(2) Where the pension fund holder receives from the Secretary of State a request for details concerning the personal pension scheme or retirement annuity contract relating to a person to whom paragraph (1) refers, the pension fund holder must provide the Secretary of State with any information to which the following paragraph refers.

(3) The information to which this paragraph refers is—

- (a) where the purchase of an annuity under a personal pension scheme has been deferred, the amount of any income which is being withdrawn from the personal pension scheme;
- (b) in the case of—
 - (i) a personal pension scheme where income withdrawal is available, the maximum amount of income which may be withdrawn from the scheme; or
 - (ii) a personal pension scheme where income withdrawal is not available, or a retirement annuity contract, the maximum amount of income which might be withdrawn from

(a) 1996 c. 52. Section 122(4) was amended by paragraph 60(1)(a) and (b) of Schedule 7 to the Local Government Act 2003 (c.26). Section 122(5) was amended by paragraph 12 of Schedule 5 to the Welfare Reform Act 2007 (c.5).
(b) S.I. 2013/xxxx.

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the fund if the fund were held under a personal pension scheme where income withdrawal was available,

calculated by or on behalf of the pension fund holder by means of tables prepared from time to time by the Government Actuary which are appropriate for this purpose.

(4) In this regulation any reference to a claimant is to be interpreted as including a person in a case where it is not a condition of entitlement to benefit that a claim be made for it.

(5) This regulation does not apply to a person claiming personal independence payment.

(6) In this regulation—

- (a) “pension fund holder” means with respect to a personal pension scheme or retirement annuity contract, the trustees, managers or scheme administrators of the scheme or contract concerned;
- (b) “personal pension scheme” has the meaning given by section 1 of the Pension Schemes Act 1993(a) in respect of employed earners and in the case of self-employed earners, includes a scheme approved by the Board of Inland Revenue under Chapter 4 of Part 14 of the Income and Corporation Taxes Act 1988;
- (c) “retirement annuity contract” means a contract or trust scheme approved under Chapter 3 of Part 14 of the Income and Corporation Taxes Act 1988.

Notification for purposes of sections 111A and 112 of the Administration Act

42. Regulations 43 to 44 below prescribe the person to whom, and manner in which, a change of circumstances must be notified for the purposes of sections 111A(1A) to (1G)(b) and 112(1A) to (1F)(c) of the Administration Act (offences relating to failure to notify a change of circumstances).

Notification of changes of circumstances affecting a jobseeker’s allowance or an employment and support allowance for purposes of sections 111A and 112 of the Administration Act

43.—(1) Subject to paragraphs (2) and (3), where the benefit affected by the change of circumstances is a jobseeker’s allowance or an employment and support allowance, notice must be given to the Secretary of State at the appropriate office—

- (a) in writing or by telephone (unless the Secretary of State determines in any case that notice must be in writing or may be given otherwise than in writing or by telephone); or
- (b) in writing if in any class of case the Secretary of State requires written notice (unless the Secretary of State determines in any case to accept notice given otherwise than in writing).

(2) Where the notice in writing referred to in paragraph (1) is given or sent by an electronic communication that notice must be given or sent in accordance with the provisions set out in Schedule 2 to these Regulations (electronic communications).

(3) In such cases and subject to such conditions as the Secretary of State may specify, the duty in regulation 38(4) of these regulations or regulation 31(4) of the Jobseeker’s Allowance Regulations to notify a change of circumstances may be discharged by notifying the Secretary of State as soon as reasonably practicable—

- (a) where the change of circumstances is a birth or death, through a local authority, or a county council in England, by personal attendance at an office specified by that authority or county council, provided the Secretary of State has agreed with that authority or county council for it to facilitate such notification; or

(a) 1993 c.48. Section 1 was amended by section 239 of the Pensions Act 2004 (c.35) and paragraph 1 of Part 3(2) of Schedule 27 to the Finance Act 2007 (c.11).

(b) Section 111A was inserted by section 13 of the Social Security Administration (Fraud) Act 1997 (c.47) and subsections (1A) to (1G) were inserted by section 16(1)(b) and (2) of the Social Security Fraud Act 2001 (c.11).

(c) Subsections (1A) to (1F) of section 112 were inserted by section 16(3) of the Social Security Fraud Act 2001.

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- (b) where the change of circumstances is a death, by telephone to a telephone number specified for that purpose by the Secretary of State.

Notification of changes of circumstances affecting personal independence payment or universal credit for purposes of sections 111A and 112 of the Administration Act

44.—(1) Subject to paragraphs (2) and (3), where the benefit affected by the change of circumstances is personal independence payment or universal credit, notice must be given to the Secretary of State (“S”) at the appropriate office—

- (a) in writing or by telephone (unless S determines in any case that notice must be in writing or may be given otherwise than in writing or by telephone); or
- (b) in writing if in any class of case S requires written notice (unless S determines in any case to accept notice given otherwise than in writing).

(2) Where the notice in writing referred to in paragraph (1) is given or sent by an electronic communication that notice must be given or sent in accordance with the provisions set out in Schedule 2 to these Regulations (electronic communications).

(3) In such cases and subject to such conditions as the Secretary of State may specify, the duty in regulation 38(4) to notify a change of circumstances may be discharged by notifying the Secretary of State as soon as reasonably practicable—

- (a) where the change of circumstances is a birth or death, through a local authority, or a county council in England, by personal attendance at an office specified by that authority or county council, provided the Secretary of State has agreed with that authority or county council for it to facilitate such notification; or
- (b) where the change of circumstances is a death, by telephone to a telephone number specified for that purpose by the Secretary of State.

PART 4

Payments

Time of Payment: general provision

45. Subject to the other provisions of this Part, benefit is to be paid in accordance with an award as soon as is reasonably practicable after the award has been made.

Direct credit transfer

46.—(1) The Secretary of State may arrange for benefit to be paid by way of direct credit transfer into a bank or other account—

- (a) in the name of the person entitled to benefit, the person’s partner, a person appointed under regulation 57(1), or a person referred to in regulation 57(2),
- (b) in the joint names of the person entitled to benefit and the person’s partner,
- (c) in the joint names of the person entitled to benefit and a person appointed under regulation 57(1) or a person referred to in regulation 57(2), or
- (d) in the name of such persons as are mentioned in regulation 57(2).

(2) A Jobseeker’s Allowance or an Employment and Support Allowance are to be paid in accordance with paragraph (1) within seven days of the last day of each successive period of entitlement.

Payment of universal credit

47.—(1) Universal credit is payable monthly in arrears in respect of each assessment period unless in any case or class of case the Secretary of State arranges otherwise.

(2) Where universal credit is to be paid in accordance with regulation 46, it is to be paid within seven days of the last day of the assessment period but if it is not possible to pay universal credit within that period of seven days, it is to be paid as soon as reasonably practicable thereafter.

(3) In respect of an award of universal credit which is the subject of an arrangement for payment under regulation 46, the Secretary of State may make a particular payment by credit transfer otherwise than is provided by paragraph (2), if it appears to the Secretary of State appropriate to do so for the purpose of—

- (a) paying any arrears of benefit, or
- (b) making a payment in respect of a terminal period of an award or for any similar purpose.

(4) Where the Secretary of State has arranged for universal credit to be paid in accordance with regulation 46, joint claimants may nominate a bank or other account into which that benefit is to be paid.

(5) Where joint claimants of universal credit have not nominated a bank or other account into which that benefit is to be paid, the Secretary of State may nominate a bank or other account.

(6) The Secretary of State may, in any case where the Secretary of State considers it is in the interests of—

- (a) the claimants;
- (b) a child or a qualifying young person for whom one or both of the claimants are responsible; or
- (c) a severely disabled person, where the calculation of an award of universal credit includes, by virtue of regulation 29 of the Universal Credit Regulations, an amount in respect of the fact that a claimant has regular and substantial caring responsibilities for that severely disabled person,

arrange that universal credit payable in respect of joint claimants be paid wholly to only one member of the couple or be split between the couple in such proportion as the Secretary of State considers appropriate.

(7) Where a superseding decision takes effect in accordance with paragraph 26 of Schedule 1 to the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013(a), the amount payable in respect of that last assessment period, is to be calculated as follows—

$$Nx \left(\frac{Ax12}{365} \right)$$

where N is the number of days in the period and A is the amount calculated in relation to that period as if it were an assessment period of one month.

Payment of personal independence payment

48.—(1) Subject to the following provisions of this regulation and regulation 50, personal independence payment is to be paid at intervals of four weeks in arrears.

(2) In the case of any person to whom section 82 of the 2012 Act(b)(terminal illness) applies, the Secretary of State may arrange that personal independence payment is to be paid at intervals of one week in advance.

(3) Where the amount of personal independence payment payable is less than £5.00 a week the Secretary of State may arrange that it is to be paid in arrears at such intervals as may be specified not exceeding 12 months.

(a) S.I. 2013/xxxx.
(b) 2012.c.5.

Days for payment of personal independence payment

49.—(1) Subject to the following provisions of this regulation, a personal independence payment is payable on the day of the week on which the Secretary of State makes a decision to award that benefit except that where that decision is made on a Saturday or a Sunday the benefit is to be paid on such day of the week as the Secretary of State may direct in any case.

(2) The Secretary of State may, in any case or class of case, arrange that personal independence payment or any part of it be paid on any day of the week.

(3) Where personal independence payment is in payment to any person and the day on which it is payable is changed, it is to be paid at a daily rate of 1/7th of the weekly rate in respect of any of the days for which payment would have been made but for that change.

(4) Where there is a change in the amount of any personal independence payment payable, or where entitlement to personal independence payment ends, and these events do not occur on the day of the week referred to in paragraph (1) or (2), personal independence payment is to be paid at a daily rate of 1/7th of the weekly rate.

Payment of personal independence payment at a daily rate between periods in hospital or other accommodation

50.—(1) Personal independence payment is to be paid in respect of any person, for any day falling within a period to which paragraph (2) applies, at the daily rate (which is to be equal to 1/7th of the weekly rate) and personal independence payment payable in pursuance of this regulation is to be paid weekly or as the Secretary of State may direct in any case.

(2) This paragraph applies to any period which is not a period of residence—

- (a) but which commences immediately following such a period; and
- (b) on the first day of which it is expected that, before the expiry of the period of 28 days beginning with that day, the person will commence another period of residence.

(3) Where paragraph (2) applies, the period referred to in that paragraph is to end—

- (a) at the expiry of the period of 28 days beginning with the first day of the period referred to in that paragraph; or
- (b) if earlier, on the day before the day which is the first day of a period of residence.

(4) In this regulation a “period of residence” means a period of residence where—

- (a) the person is a resident of a care home, as defined in section 85(3) of the 2012 Act, and no amount of personal independence payment which is attributable to the daily living component is payable in respect of the person by virtue of regulation 28(1) of the Social Security (Personal Independence Payment) Regulations 2013^(a); or
- (b) the person is undergoing medical or other treatment as an in-patient at a hospital or similar institution and no amount of personal independence payment which is attributable to the daily living component or the mobility component is payable in respect of the person by virtue of regulation 29 of the Social Security (Personal Independence Payment) Regulations 2013,

and such period is to be deemed to begin on the day after the day on which the person enters the care home, hospital or similar institution and to end on the day before the day on which the person leaves the care home, hospital or similar institution.

Payment of an employment and support allowance

51.—(1) Subject to paragraphs (3) to (8), an employment and support allowance paid in accordance with regulation 46 is to be paid fortnightly in arrears on the day of the week determined in accordance with paragraph (2).

(a) S.I. 2013/xxxx.

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(2) The day specified for the purposes of paragraph (1) is the day in column (2) which corresponds to the series of numbers in column (1) which includes the last two digits of the claimant's national insurance number—

(1)	(2)
00 to 19	Monday
20 to 39	Tuesday
40 to 59	Wednesday
60 to 79	Thursday
80 to 99	Friday

(3) The Secretary of State may, in any case or class of case, arrange that the claimant be paid otherwise than fortnightly.

(4) In respect of an award of an employment and support allowance which is the subject of an arrangement for payment under regulation 46, the Secretary of State may make a particular payment by credit transfer otherwise than is provided by paragraph (1), if it appears to the Secretary of State appropriate to do so for the purpose of—

- (a) paying any arrears of benefit, or
- (b) making a payment in respect of a terminal period of an award or for any similar purpose.

(5) The Secretary of State may, in any case or class of case, arrange that an employment and support allowance be paid on any day of the week and where it is in payment to any person and the day on which it is payable is changed, it is to be paid at a daily rate of 1/7th of the weekly rate in respect of any of the days for which payment would have been made but for that change.

(6) Where the weekly amount of an employment and support allowance is less than £1.00 it may be paid in arrears at intervals of not more than 13 weeks.

(7) Where the weekly amount of an employment and support allowance is less than 10 pence that allowance is not payable.

(8) Where an employment and support allowance is normally payable in arrears and the day on which that benefit is payable by reason of paragraph (2) is affected by office closure it may for that benefit week be paid wholly in advance or partly in advance and partly in arrears and on such day as the Secretary of State may direct.

(9) Where under paragraph (8) an employment and support allowance is paid either in advance or partly in advance and partly in arrears it is for any other purposes to be treated as if it were paid in arrears.

(10) For the purposes of paragraph (8) “benefit week” means a period of seven days beginning or ending with such day as the Secretary of State may direct.

(11) For the purposes of paragraph (8), “office closure” means a period during which an appropriate office is closed in connection with a public holiday.

(12) For the purposes of paragraph (11) “public holiday” means—

- (a) in England and Wales, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971(a);
- (b) in Scotland, a bank holiday under the Banking and Financial Dealings Act 1971 or a local holiday.

Payment of a jobseeker's allowance

52.—(1) Subject to paragraphs (2) to (4), a jobseeker's allowance paid in accordance with regulation 46 is to be paid fortnightly in arrears unless in any case or class of case the Secretary of State arranges otherwise.

(a) 1971 c.80.

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(2) In respect of an award of a jobseeker's allowance which is the subject of an arrangement for payment under regulation 46, the Secretary of State may make a particular payment by credit transfer otherwise than is provided by paragraph (1), if it appears to the Secretary of State appropriate to do so for the purpose of—

- (a) paying any arrears of benefit, or
- (b) making a payment in respect of a terminal period of an award or for any similar purpose.

(3) Where the amount of a jobseeker's allowance is less than £1.00 a week the Secretary of State may direct that it is to be paid at such intervals, not exceeding 13 weeks, as may be specified in the direction.

(4) Where a jobseeker's allowance is normally payable in arrears and the day on which that benefit is normally payable is affected by office closure it may for that benefit week be paid wholly in advance or partly in advance and partly in arrears and on such day as the Secretary of State may direct.

(5) Where under paragraph (4) a jobseeker's allowance is paid either in advance or partly in advance and partly in arrears it is for any other purposes to be treated as if it were paid in arrears.

(6) For the purposes of paragraph (4) "benefit week" means a period of seven days ending with a day determined in accordance with the definition of that term in regulation 2(2) (general interpretation) of the Jobseeker's Allowance Regulations.

(7) For the purposes of paragraph (4), "office closure" means a period during which an appropriate office is closed in connection with a public holiday.

(8) For the purposes of paragraph (7) "public holiday" means—

- (a) in England and Wales, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971;
- (b) in Scotland, a bank holiday under the Banking and Financial Dealings Act 1971 or a local holiday.

Fractional amounts of benefit

53. Where the amount of any benefit payable would, but for this regulation, include a fraction of a penny, that fraction is to be disregarded if it is less than half a penny and is otherwise to be treated as a penny.

Payment to persons under age 18

54. Where a benefit is paid to a person under the age of 18 a direct credit transfer under regulation 46 into any such person's account, or the receipt by the person of a payment made by some other means is sufficient discharge to the Secretary of State.

Extinguishment of right to payment if payment is not obtained within the prescribed period

55.—(1) The right to payment of any sum by way of benefit is to be extinguished where payment of that sum is not obtained within the period of 12 months from the date on which the right is treated as having arisen.

(2) For the purposes of this regulation the right to payment of any sum by way of benefit is to be treated as having arisen—

- (a) where notice is given or is sent that the sum contained in the notice is ready for collection, on the date of the notice or, if more than one such notice is given or sent, the date of the first such notice;
- (b) in relation to any such sum which the Secretary of State has arranged to be paid by means of direct credit transfer in accordance with regulation 46 into a bank or other account, on the due date for payment of the sum or in the case of universal credit on the date of payment of the sum; or

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(c) in relation to any such sum to which neither of (a) nor (b) applies, on such date as the Secretary of State determines.

(3) The giving or sending of a notice under paragraph (2)(a), is effective for the purposes of that paragraph, even where the sum contained in that notice is more or less than the sum which the person concerned has the right to receive.

(4) Where a question arises whether the right to payment of any sum by way of benefit has been extinguished by the operation of this regulation and the Secretary of State is satisfied that—

(a) the Secretary of State first received written notice requesting payment of that sum after the expiration of 12 months from the date on which the right is treated as having arisen; and

(b) from a day within that period of 12 months and continuing until the day the written notice was given, there was good cause for not giving the notice; and

(c) no payment has been made under the provisions of regulation 46 (direct credit transfer), the period of 12 months is extended to the date on which the Secretary of State decides that question, and this regulation is to apply accordingly as though the right to payment had arisen on that date.

(5) This regulation applies to a person appointed under regulation 57(1) to act on behalf of a claimant or a person referred to in regulation 57(2) as it applies to a claimant.

Payments on death

56.—(1) On the death of a person who has made a claim for benefit, the Secretary of State may appoint such person as the Secretary of State thinks fit to proceed with the claim and any related issue of revision, supersession or appeal under the Social Security Act 1998(a).

(2) Subject to paragraphs (6) and (7), any sum payable by way of benefit which is payable under an award on a claim proceeded with under paragraph (1) may be paid or distributed by the Secretary of State to or amongst persons over the age of 16 claiming as personal representatives, legatees, next of kin, or creditors of the deceased and the provisions of regulation 55 (extinguishment of right to payment if payment is not obtained within the prescribed period) are to apply to any such payment or distribution.

(3) Subject to paragraph (2), any sum payable by way of benefit to the deceased, payment of which the deceased had not obtained at the date of the deceased's death, may, unless the right to payment was already extinguished at that date, be paid or distributed to or amongst any persons mentioned in paragraph (2), and regulation 55 is to apply to any such payment or distribution, except that, for the purpose of that regulation, the period of 12 months is to be calculated from the date on which the right to payment of any sum is treated as having arisen in relation to any such person and not from the date on which that right is treated as having arisen in relation to the deceased.

(4) A direct credit transfer under regulation 46 into an account in the name of any person mentioned in paragraph (2), or the receipt by such a person of a payment made by some other means, is a good discharge to the Secretary of State for any sum so paid.

(5) Where the Secretary of State is satisfied that any sum payable by way of benefit under paragraphs (2) or (3), or part of it, is needed for the well-being of any person under the age of 16, the Secretary of State may obtain a good discharge for it by paying the sum or part of it to a person over that age who satisfies the Secretary of State that that person will apply the sum so paid for the well-being of the person under the age of 16.

(6) Paragraphs (2) and (3) are not to apply in any case unless written application for the payment of any such sum is made to the Secretary of State within 12 months from the date of the deceased's death or within such longer period as the Secretary of State may allow in any case.

(7) The Secretary of State may dispense with strict proof of the title of any person claiming in accordance with the provisions of this regulation.

(a) 1998 c.14.

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(8) In paragraph (2) “next of kin” means—

- (a) in England and Wales, the persons who would take beneficially on an intestacy; and
- (b) in Scotland, the persons entitled to the moveable estate of the deceased on intestacy.

PART 5

Third Parties

Persons unable to act

57.—(1) Where a person (“P1”) is, or may be, entitled to benefit (whether or not a claim for benefit has been made by P1 or on P1’s behalf) but P1 is unable for the time being to act, the Secretary of State may, if all the conditions in paragraph (2) and the additional conditions in paragraph (3) are met, appoint a person (“P2”) to carry out the functions set out in paragraph (4).

(2) The conditions are that—

- (a) no deputy has been appointed by the Court of Protection under Part 1 of the Mental Capacity Act 2005^(a);
- (b) no receiver has been appointed under Part 7 of the Mental Health Act 1983^(b) who is treated as a deputy by virtue of the Mental Capacity Act 2005 with power to claim or receive benefit on P1’s behalf;
- (c) no attorney with a general power or a power to claim or receive benefit, has been appointed by P1 under the Powers of Attorney Act 1971^(c), the Enduring Powers of Attorney Act 1985^(d) or the Mental Capacity Act 2005 or otherwise, and
- (d) in Scotland, P1’s estate is not being administered by a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000 who has power to claim or receive benefit on P1’s behalf.

(3) The additional conditions are that—

- (a) P2 has made a written application to the Secretary of State to be appointed; and
- (b) if P2 is a natural person, P2 is over the age of 18.

(4) P2 may exercise on behalf of P1 any right to which P1 may be entitled and may receive and deal on behalf of P1 with any sums payable to P1.

(5) Anything required by these regulations to be done by or in relation to P1 may be done by or in relation to P2 or any person mentioned in paragraph (2).

(6) Where a person has been appointed under regulation 82(3) of the Housing Benefit Regulations 2006^(e) by a relevant authority within the meaning of those Regulations to act on behalf of another in relation to a benefit claim or award, the Secretary of State may, if the person agrees, treat that person as if the Secretary of State had appointed the person under paragraph (1).

(7) A direct credit transfer under regulation 46 into the account of P2 or any person mentioned in paragraph (2), or the receipt by such a person of a payment made by some other means, is a good discharge to the Secretary of State for any sum paid.

(8) An appointment under paragraph (1) comes to an end if—

- (a) the Secretary of State at any time revokes it;
- (b) P2 resigns P2’s office having given one month’s notice in writing to the Secretary of State of an intention to do so; or
- (c) the Secretary of State is notified that any condition in paragraph (2) is no longer met.

(a) 2005. c.9.
(b) 1983 c.20.
(c) 1971 c.27.
(d) 1985 c.29.
(e) S.I. 2006/213.

Payment to another person on the claimant's behalf

58.—(1) The Secretary of State may direct that universal credit be paid wholly or in part to another person on the claimant's behalf if this appears to the Secretary of State necessary to protect the interests of—

- (a) the claimant;
- (b) their partner;
- (c) a child or qualifying young person for whom the claimant or their partner or both are responsible; or
- (d) a severely disabled person, where the calculation of an award of universal credit includes, by virtue of regulation 29 of the Universal Credit Regulations, an amount in respect of the fact that a claimant has regular and substantial caring responsibilities for that severely disabled person.

(2) The Secretary of State may direct that personal independence payment be paid wholly to another person on the claimant's behalf if this appears to the Secretary of State necessary to protect the interests of the claimant.

Direct payment to lender of deductions in respect of interest on secured loans

59. Schedule 5 has effect where section 15A(1) of the Administration Act(a) (payment out of benefit of sums in respect of mortgage interest etc.) applies in relation to a case where a claimant is entitled to universal credit.

Deductions which may be made from benefit and paid to third parties

60. Except as provided for in regulation 59 and Schedule 5, deductions may be made from benefit and direct payments may be made to third parties on behalf of a claimant in accordance with the provisions of Schedule 6 and Schedule 7.

PART 6

Mobility Component of personal independence payment

Cases where mobility component of personal independence payment not payable

61.—(1) Subject to the following provisions of this regulation, personal independence payment by virtue of entitlement to the mobility component is not payable to any person who would otherwise be entitled to it during any period in respect of which that person has received, or is receiving, any payment—

- (a) by way of grant under section 5 of, and paragraph 10 of Schedule 1 to, the National Health Service Act 2006(b), section 5 of, and paragraph 10 of Schedule 1 to, the National Health Service (Wales) Act 2006(c) or section 46 of the National Health Service (Scotland) Act 1978(d) towards the costs of running a private car,
- (b) of mobility supplement under—
 - (i) the Naval, Military and Air Forces etc., (Disablement and Death) Service Pensions Order 2006(e),
 - (ii) the Personal Injuries (Civilians) Scheme 1983(f), or

(a) 1992 c.5.

(b) 2006 c.41. There are prospective amendments not yet in force to paragraph 10 of Schedule 1 to the 2006 Act made by the Health and Social Care Act 2012 (c.7).

(c) 2006 c.42.

(d) 1978 c.29.

(e) S.I. 2006/606.

(f) S.I. 1983/686.

(iii) the Order referred to in paragraph (i) by virtue of the War Pensions (Naval Auxiliary Personnel) Scheme 1964^(a), the Pensions (Polish Forces) Scheme 1964^(b), the War Pensions (Mercantile Marine) Scheme 1964^(c) or an Order of Her Majesty in relation to the Home Guard dated 21st or 22nd December 1964, or in relation to the Ulster Defence Regiment dated 4th January 1971, or

(c) out of public funds which the Secretary of State is satisfied is analogous to a payment under paragraphs (a) or (b).

(2) Paragraph (3) applies where a person in respect of whom personal independence payment is claimed for any period has received any such payment as is referred to in paragraph (1) for a period which, in whole or in part, covers the period for which personal independence payment is claimed.

(3) Such payment referred to in paragraph (1) is to be treated as an aggregate of equal weekly amounts in respect of each week in the period for which it is made and, where in respect of any such week a person is treated as having a weekly amount so calculated which is less than the weekly rate of mobility component of personal independence payment to which, apart from paragraph (1), they would be entitled, any personal independence payment to which that person may be entitled for that week is to be payable at a weekly rate reduced by the weekly amount so calculated.

Payment of personal independence payment on behalf of a claimant (Motability)

62.—(1) This regulation applies where—

- (a) personal independence payment is payable in respect of a claimant by virtue of entitlement to the mobility component at the enhanced rate; and
- (b) under arrangements made or negotiated by Motability, an agreement has been entered into by or on behalf of the claimant for the hire or hire-purchase of a vehicle.

(2) Where this regulation applies, the Secretary of State may arrange that any personal independence payment by virtue of entitlement to the mobility component at the enhanced rate be paid in whole or in part on behalf of the claimant in settlement of liability for payments due under the agreement in paragraph (1).

(3) Subject to regulations 63 and 64 in the case of the hire of a vehicle, an arrangement made by the Secretary of State under paragraph (2) terminates—

- (a) where the vehicle is returned to the owner at or before the expiration of the term of hire or any agreed extension of the term of hire, on expiry of the period of the term or extended term;
- (b) where the vehicle is retained by or on behalf of the claimant with the owner's consent after the expiration of the term of hire or any agreed extension of the term of hire, on expiry of the period of the term or extended term; or
- (c) where the vehicle is retained by or on behalf of the claimant otherwise than with the owner's consent after the expiration of the term of hire or any agreed extension of the term of hire, or its earlier termination, at the expiry of whichever is the longer of the following periods—
 - (i) the period ending with the return of the vehicle to the owner, or
 - (ii) the period of the term of hire or any agreed extension of the term of hire.

(4) Subject to regulations 63 and 64 in the case of a hire-purchase agreement, an arrangement made by the Secretary of State under paragraph (2) terminates—

- (a) on the purchase of the vehicle; or

(a) S.I. 1964/1985.
(b) S.I. 1964/2007.
(c) S.I. 1964/2058.

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- (b) where the vehicle is returned to, or is repossessed by, the owner under the terms of the agreement before the completion of the purchase, at the end of the original period of the agreement.

(5) In this regulation “Motability” means the company, set up under that name as a charity and originally incorporated under the Companies Act 1985(a) and subsequently incorporated by Royal Charter.

Power for the Secretary of State to terminate an arrangement (Motability)

63. The Secretary of State may terminate an arrangement under regulation 62(2) on such date as the Secretary of State decides—

- (a) if requested to do so by the owner of the vehicle to which the arrangement relates, or
- (b) if it appears to the Secretary of State that the arrangement is causing undue hardship to the claimant and that it should be terminated earlier than provided for by regulation 62(3) or (4).

Restriction on duration of arrangements by the Secretary of State (Motability)

64. The Secretary of State must terminate an arrangement under regulation 62(2), where the Secretary of State is satisfied that—

- (a) the vehicle to which the arrangement relates has been returned to the owner, and
- (b) the expenses of the owner arising out of the hire or hire-purchase agreement have been recovered following the return of the vehicle.

SCHEDULE 1

POWERS EXERCISED IN MAKING THESE REGULATIONS

1. The following provisions of the Administration Act—

- (a) section 1(1), (1C)(b);
- (b) section 5(1)(a), (b), (c), (d), (g), (i), (j), (k), (l), (m), (p) and (q), (1A), (2A), (2B), (2C) and (3B)(c);
- (c) section 7A(2)(b)(d);
- (d) section 15A(2)(e);
- (e) section 111A(1A)(d), (1B)(d), (1D)(c), (1E)(c)(f);
- (f) section 112(1A)(d), (1B)(d), (1C)(c), (1D)(c)(g);
- (g) section 189(1), (5), (5A), (5B) and (6)(h);
- (h) section 191(a).

(a) 1985 c.6.

(b) Section 1(1C) of the Administration Act was inserted by section 19 of the Social Security Administration (Fraud) Act 1997 (c.47).

(c) Section 5(1)(d) was amended by section 98(1) and (2) of the Welfare Reform Act 2012 (c.5) (“the 2012 Act”). Section 5(1)(g) was amended by section 98(1) and (4) of the 2012 Act. Section 5(1)(j) was amended by section 98(1) and (5) of the 2012 Act. Section 5(1A) was inserted by section 99(3) of the 2012 Act. Section 5(2A) to (2C) was inserted by section 35(2) of the Welfare Reform Act 2007 (c.5). Section 5(3B) was inserted by section 100 of the 2012 Act.

(d) Section 7A of the Administration Act was inserted by section 71 of the Welfare Reform and Pensions Act 1999 (c.30).

(e) Section 15A(2) was amended by paragraphs 8 and 9(1), (3) and (4) of Schedule 2 to the State Pension Credit Act 2002 (c.16).

(f) Section 111A of the Administration Act was inserted by section 13 of the Social Security Administration (Fraud) Act 1997 (c.47). Subsections (1A), (1B), (1D) and (1E) were inserted by section 16(1)(b) and (2) of the Social Security Fraud Act 2001 (c.11).

(g) Section 112(1A),(1B),(1C) and (1D) of the Administration Act was substituted by section 16(3) of the Social Security Fraud Act 2001 (c.11).

(h) Section 189(1) of the Administration Act was amended by paragraph 57(1) and (2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2). Section 189(5A) and (5B) was inserted by section 104(1) of the 2012 Act.

2. Paragraph 7A of Schedule 2 to the Abolition of Domestic Rates etc. (Scotland) Act 1987**(b)**.
3. Paragraph 6 of Schedule 4 to the Local Government Finance Act 1988**(c)**.
4. Section 24(2)(b), (c) and (d) and section 30 of the Criminal Justice Act 1991**(d)**.
5. Section 43(2) of the 1991 Act**(e)**.
6. Paragraphs 1 and 6(2)(b) of Schedule 4 and paragraph 6 of Schedule 8 to, the Local Government Finance Act 1992**(f)**.
7. Sections 32 and 92 of, and paragraph 3(1)(a), (b), (2)(a), (b) and (c) of Schedule 1 to the 2012 Act**(g)**.

SCHEDULE 2

Regulation 3

ELECTRONIC COMMUNICATIONS

PART 1

USE OF ELECTRONIC COMMUNICATIONS

Use of electronic communications by the Secretary of State

1. The Secretary of State may use an electronic communication in connection with claims for, and awards of, any benefit.

Conditions for the use of electronic communications by other persons

2.—(1) A person other than the Secretary of State may use an electronic communication in connection with the matters referred to in paragraph 1 if the conditions specified in subparagraphs (2) to (5) are satisfied.

(2) The first condition is that the person is for the time being permitted to use an electronic communication for the purpose in question by an authorisation given by means of a direction of the Secretary of State.

(3) The second condition is that the person uses an approved method of—

- (a) authenticating the identity of the sender of the communication where required to do so;
- (b) electronic communication;

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- (a) Section 191 is an interpretation provision and is cited for the meaning of the word “prescribe”.
 - (b) 1987 c.47. Paragraph 7A of Schedule 2 was inserted by paragraph 36(10) of Schedule 12 to the Local Government Finance Act 1988 (c.41). It was amended by paragraph 92 of Schedule 2 to the Social Security (Consequential Provisions) Act 1992 (c.6), by paragraph 15 of Schedule 7 to the Social Security Act 1998 (c.14) and by paragraph 10 of Schedule 2 to the Jobseekers Act 1995 (c.18).
 - (c) 1988 c.41. Paragraph 6 of Schedule 4 was amended by paragraph 100 of Schedule 2 to the Social Security (Consequential Provisions) Act 1992, by paragraph 17 of Schedule 7 to the Social Security Act 1998 and by paragraph 18 of Schedule 2 to the Jobseekers Act 1995.
 - (d) 1991 c.53. Section 24(2)(b) was amended by paragraph 55 of Schedule 7 to the Social Security Act 1998. Section 24(2)(d) was amended by paragraph 31(b) of Schedule 2 to the State Pension Credit Act 2002 (c.16) and by paragraph 8(a) of Schedule 3 to the Welfare Reform Act 2007.
 - (e) 1991 c.48. Section 43 was substituted by section 21 of the Child Support, Pensions and Social Security Act 2000 (c.19). Section 43(2) was substituted by section 139 of the 2012 Act.
 - (f) 1992 c.14. Paragraph 6(2)(b) of Schedule 4 was amended by paragraphs 32 and 33(1) and (3) of Schedule 2 to the State Pension Credit Act 2002, by paragraph 11(1) and (2)(a) of Schedule 3 to the Welfare Reform Act 2007 and by paragraphs 32 and 33(1) and (2)(b) of Schedule 2 to the 2012 Act. Paragraph 6 of Schedule 8 was amended by paragraph 176(18) of Schedule 13 to the Local Government etc. (Scotland) Act 1994 (c.39), by paragraph 76(1) and (2)(c) of Schedule 2 to the Jobseekers Act 1995, by paragraphs 32 and 35(1), (2) and (3) of Schedule 2 to the State Pension Credit Act 2002, by paragraph 11(1) and (3) of Schedule 3 to the Welfare Reform Act 2007 and by paragraphs 32 and 34 of Schedule 2 to the 2012 Act.
 - (g) 2012 c.5.

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- (c) authenticating any claim or information delivered by means of an electronic communication; and
- (d) subject to sub-paragraph (6), submitting any claim or information to the Secretary of State.

(4) The third condition is that any claim or information sent by means of an electronic communication is in an approved form.

(5) The fourth condition is that the person maintains such records as may be specified in a direction given by the Secretary of State.

(6) Where the person uses any method other than the method approved by the Secretary of State of submitting any claim or information, it is to be treated as not having been submitted.

(7) In this paragraph “approved” means approved by means of a direction given by the Secretary of State for the purposes of this Schedule.

Use of intermediaries

3. The Secretary of State may use intermediaries in connection with—

- (a) the delivery of any claim or information by means of an electronic communication; and
- (b) the authentication or security of anything transmitted by such means,

and may require other persons to use intermediaries in connection with those matters.

PART 2

EVIDENTIAL PROVISIONS

Effect of delivering information by electronic communications

4.—(1) Any claim or information which is delivered by means of an electronic communication is to be treated as having been delivered in the manner or form required by any provision of these Regulations on the day on which the conditions imposed—

- (a) by this Schedule; and
- (b) by or under an applicable enactment (except to the extent that the condition thereby imposed is incompatible with this Schedule),

are satisfied.

(2) The Secretary of State may, by a direction, determine that any claim or information is to be treated as delivered on a different day (whether earlier or later) from the day specified in sub-paragraph (1).

(3) Any claim or information is not to be taken to have been delivered to an official computer system by means of an electronic communication unless it is accepted by the system to which it is delivered.

Proof of delivery

5.—(1) The use of an approved method of electronic communication is to be presumed, unless the contrary is proved, to have resulted in delivery—

- (a) in the case of any claim or information falling to be delivered to the Secretary of State, if the delivery of that claim or information is recorded on an official computer system; or
- (b) in the case of any information that falls to be delivered by the Secretary of State, if the despatch of that information is recorded on an official computer system.

(2) The use of an approved method of electronic communication is to be presumed, unless the contrary is proved, not to have resulted in delivery—

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- (a) in the case of any claim or information falling to be delivered to the Secretary of State, if the delivery of that claim or information is not recorded on an official computer system; or
- (b) in the case of information that falls to be delivered by the Secretary of State, if the despatch of that information is not recorded on an official computer system.

(3) The time and date of receipt of any claim or information sent by an approved method of electronic communication is to be presumed, unless the contrary is proved, to be that recorded on an official computer system.

Proof of identity

6.—(1) The identity of—

- (a) the sender of any claim or information delivered by means of an electronic communication to an official computer system; or
- (b) the recipient of any claim or information delivered by means of an electronic communication from an official computer system,

is to be presumed, unless the contrary is proved, to be the person whose name is recorded as such on that official computer system.

(2) Any claim or information delivered by an approved method of electronic communication on behalf of another person (“P”) is to be deemed to have been delivered by P unless P proves that it was delivered without P’s knowledge or connivance.

Proof of content

7. The content of any claim or information sent by means of an electronic communication is to be presumed, unless the contrary is proved, to be that recorded on an official computer system.

SCHEDULE 3

Regulation 4

CONSEQUENTIAL AMENDMENTS

1.—(1) The Social Security (Claims and Payments) Regulations 1987^(a) are amended as follows.

(2) In the heading to regulation 1 (citation and commencement) for “and commencement”, substitute “, commencement and application”.

(3) For the regulation numbered “1”, substitute “1(1)”.

(4) After paragraph (1) as substituted, insert—

“(2) In so far as these Regulations apply to—

- (a) an employment and support allowance, they apply to that allowance under Part 1 of the Welfare Reform Act as it has effect apart from the amendments made by Schedule 3 and Part 1 of Schedule 14 to the Welfare Reform Act 2012 (removing references to an income-related allowance);
- (b) a jobseeker’s allowance, they apply to that allowance under the Jobseekers Act as it has effect apart from the amendments made by Part 1 of Schedule 14 to the Welfare Reform Act 2012 (removing references to an income-based allowance).

(3) These Regulations do not apply to universal credit (within the meaning of Part 1 of the Welfare Reform Act 2012) or personal independence payment (within the meaning of Part 4 of that Act).”.

(5) In regulation 2(1) (interpretation), omit the definition of “jobseeker’s allowance”.

(a) S.I. 1987/1968.

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2. In paragraph (6) of regulation 16 of the Social Security (Payments on Account, Overpayments and Recovery) Regulations 1988(a), omit the words from “and any increase” to the end of the paragraph.

3. In paragraph (5) of regulation 82 of the Housing Benefit Regulations 2006(b) after the words “for the purposes of the Act”, insert “or under regulation 57 of the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013”.

4.—(1) Regulation 9 (repayment of an integration loan) of the Integration Loans for Refugees and Others Regulations 2007(c) is amended as follows.

(2) In paragraph (1) after “(Northern Ireland) 1987”, insert “or is in receipt of universal credit as provided for in part 1 of the Welfare Reform Act 2012”.

(3) In paragraph (3)(b) after “(Northern Ireland) 1987”, insert “or, as the case may be, by way of deductions from universal credit in accordance with Schedule 6 to the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2012”.

5. In paragraph (1)(g) of regulation 6 (prescribed persons) of the Income Tax (Deposit-takers and Building Societies) (Interest Payments) Regulations 2008(d), after paragraph (ii) insert—

“or

(iii) paragraph (1) of regulation 57 of the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2012 (persons unable to act), whose appointment has not been revoked or ended, or who has not resigned, under paragraph (8) of that regulation.”.

SCHEDULE 4

Regulation 36(2)

SPECIAL PROVISIONS RELATING TO CLAIMS FOR A JOBSEEKER’S ALLOWANCE DURING PERIODS CONNECTED WITH PUBLIC HOLIDAYS

1. In this Schedule and regulation 36(2)—

(a) “public holiday” means—

(i) in England and Wales, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971(e),

(ii) in Scotland, a bank holiday under the Banking and Financial Dealings Act 1971 or a local holiday;

(b) “Christmas and New Year holidays” means—

(i) in England and Wales, the period beginning at the start of Christmas Day and terminating at the end of New Year’s Day, or if New Year’s Day is a Sunday at the end of 2nd January,

(ii) in Scotland, the period beginning at the start of Christmas Day and terminating at the end of 2nd January, or where New Year’s Day is a Saturday or a Sunday terminating at the end of 3rd January;

(c) “Easter Holidays” means the period beginning at the start of Good Friday and terminating at the end of Easter Monday;

(a) S.I. 1988/664.
(b) S.I. 2006/213.
(c) S.I. 2007/1598.
(d) S.I. 2008/2682.
(e) 1971. c.80.

(d) “office closure” means a period during which an appropriate office is closed in connection with a public holiday.

2. Where a claim for a jobseeker's allowance is made during any period set out in paragraph 3, the Secretary of State may treat that claim as a claim for a period, to be specified in a decision of the Secretary of State, not exceeding—

- (a) 35 days after the date of the claim where the claim is made during the period specified in sub-paragraph (a) of paragraph 3; or
- (b) 21 days after the date of claim where the claim is made during the period specified in either sub-paragraph (b) or (c) of paragraph 3.

3. For the purposes of paragraph 2 the periods are—

- (a) in the case of Christmas and New Year holidays, a period beginning with the start of the 35th day before the first day of office closure and terminating at the end of the last day of office closure;
- (b) in the case of Easter Holidays, a period beginning with the start of the 16th day before the first day of office closure and terminating at the end of the last day of office closure;
- (c) in the case of any other public holiday, a period beginning with the start of the 14th day before the first day of office closure and terminating at the end of the last day of office closure.

SCHEDULE 5

Regulation 59

DIRECT PAYMENT TO LENDER OF DEDUCTIONS IN RESPECT OF INTEREST ON SECURED LOANS

Interpretation

1.—(1) In this Schedule—

”housing costs element” means an amount in respect of housing costs which is included in a claimant’s award of universal credit under section 11(1) of the Welfare Reform Act 2012(a);

“qualifying lender” means (subject to paragraph 10)—

- (a) the bodies or persons listed in paragraphs (a) to (g) of section 15A(3)(b) of the Administration Act;
- (b) the Regulator of Social Housing;
- (c) the Greater London Authority; and
- (d) any body incorporated under the Companies Act 1985(c) the main objects of which include the making of loans secured by—
 - (i) a mortgage of or charge over land, or
 - (ii) (in Scotland) a heritable security;

“loan interest payments” has the meaning given by paragraph 5 of Schedule 1 to the Universal Credit Regulations(d);

“relevant claimant” has the meaning given in paragraph 2(1);

“specified benefits”, in relation to a relevant claimant, means the benefits specified in paragraph 2(2)—

(a) 2012 c.5.

(b) Section 15A(3)(a) was substituted by Article 330(1) and (2)(a) of S.I. 2001/3649. Section 15A(3)(c) was substituted by Article 330(1) and (2)(c) of S.I. 2001/3649. Section 15A(3)(d) was amended by paragraph 11 of Schedule 8 to the Local Government (Wales) Act 1994 (c.19). Section 15A(3)(ee) was inserted by paragraph 175(2) of Schedule 13 to the Local Government etc. (Scotland) Act 1994 (c.39).

(c) 1985 c.6.

(d) S.I. 2013/xxxx.

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- (a) to which the relevant claimant is entitled; or
- (b) where the relevant claimant is a member of a couple, to which the other member of the couple is entitled;

“standard rate” means the standard rate of interest determined under paragraph 12 of Schedule 5 to the Universal Credit Regulations.

(2) References in this Schedule to a relevant claimant who meets the payment condition or the liability condition are to a claimant who meets those conditions in accordance with regulation 25 of the Universal Credit Regulations (award to include housing costs element).

Relevant claimants and benefits from which payments are to be made

2.—(1) For the purposes of this Schedule, “relevant claimant” means a claimant—

- (a) who is entitled to universal credit;
- (b) whose maximum amount for the purposes of universal credit includes the housing costs element; and
- (c) whose amount of housing costs element is calculated by reference to loan interest payments (whether or not that amount is calculated by reference to any other description of payment).

(2) Direct payments of loan interest may be made under paragraph 3 from any of the following benefits—

- (a) universal credit; and
- (b) if the maximum amount to which the relevant claimant is entitled for the purposes of universal credit is insufficient for the purposes of this Schedule—
 - (i) a jobseeker’s allowance, or
 - (ii) an employment and support allowance.

Circumstances in which direct payments of loan interest to be made

3.—(1) If the circumstances set out in sub-paragraph (2) apply to a relevant claimant in respect of a loan, the Secretary of State is to pay part of the specified benefits directly to the qualifying lender to whom the loan interest payments in respect of the loan are payable.

(2) The circumstances are that—

- (a) a loan was made in respect of which loan interest payments are payable to a qualifying lender;
- (b) the relevant claimant (or either joint claimant) meets the payment condition and liability condition in respect of loan interest payments on the loan;
- (c) those payments are taken into account in calculating the amount of housing costs element to be included in the relevant claimant’s award of universal credit; and
- (d) the amount included in respect of those payments is calculated by reference to the standard rate.

(3) The part of the specified benefits which is to be paid under sub-paragraph (1) is the amount calculated under paragraphs 4 and 5 in respect of the relevant claimant.

Determining the amount to be paid to a qualifying lender

4.—(1) Where the circumstances set out in paragraph 3(2) apply to a relevant claimant in respect of one loan only, the amount that is to be paid under paragraph 3 directly to the qualifying lender is to be calculated as follows.

Step 1

Find the amount in respect of the loan interest payments which is calculated under paragraph 10 of Schedule 5 to the Universal Credit Regulations (amount in respect of interest on loans).

Step 2

Deduct from the amount resulting from step 1 a sum equivalent to so much of any amount payable in the circumstances described in sub-paragraph (2) as represents payments in respect of loan interest.

(2) This sub-paragraph applies where a payment is being made under a policy of insurance taken out by a relevant claimant to insure against the risk of not being able to maintain repayments of loan interest to a qualifying lender.

(3) The amount to be paid directly to the qualifying lender in respect of the relevant claimant is—

- (a) the amount resulting from sub-paragraph (1); or
- (b) where the aggregate amount of all of the specified benefits is less than the amount resulting from sub-paragraph (1), the aggregate amount of all those benefits less one penny.

Determining the amount to be paid to a qualifying lender: more than one loan

5.—(1) Where the circumstances set out in paragraph 3(2) apply to a relevant claimant in respect of more than one loan, the amount that is to be paid under paragraph 3 directly to each of the qualifying lenders to whom loan interest payments are payable is to be calculated as follows.

(2) Where loan interest payments on two or more loans are payable to the same qualifying lender, the amount to be paid directly to that lender is found by—

- (a) in respect of each of those loans, calculating an amount in accordance with Steps 1 and 2 of paragraph 4(1), and
- (b) adding those amounts together.

(3) Where loan interest payments are payable to more than one qualifying lender, the amount to be paid directly to each lender is found by—

- (a) where loan interest payments are payable to a qualifying lender in respect of one loan only, calculating an amount in accordance with Steps 1 and 2 of paragraph 4(1) in respect of the loan;
- (b) where loan interest payments are payable to a qualifying lender in respect of more than one loan, calculating an amount in accordance with sub-paragraph (2).

(4) The amount to be paid directly to the qualifying lender in respect of the relevant claimant is—

- (a) the amount resulting from sub-paragraph (2) or (3) in respect of that lender; or
- (b) where the aggregate amount of all of the specified benefits is less than the sum of the amounts resulting from sub-paragraph (2) or (3), the amount determined under sub-paragraph (5).

(5) For the purposes of sub-paragraph (4)(b)—

- (a) the overall total of the amounts to be paid directly to the qualifying lenders is the aggregate amount of all of the specified benefits less one pence; and
- (b) that amount is to be paid directly to qualifying lenders as follows—
 - (i) the qualifying lender in whose case the amount resulting from sub-paragraph (2) or (3) is the largest is to be paid first;
 - (ii) if anything remains, the qualifying lender in whose case the amount resulting from sub-paragraph (2) or (3) is next largest is to be paid next, and so on until nothing remains.

(6) In the application of sub-paragraph (5)(b) in any case where the amount resulting from sub-paragraph (2) or (3) is the same in respect of two or more qualifying lenders, the available amount is to be divided equally between them.

Qualifying lenders to apply direct payments in discharge of borrower's liability

6. Where a direct payment is made under paragraph 3 to a qualifying lender in respect of a relevant claimant, the lender must apply the amount of the payment towards discharging the liability to make loan interest payments in respect of which the direct payment was made.

Application by qualifying lenders of any amount which exceeds liability

7.—(1) This paragraph applies where, in respect of a relevant claimant—

- (a) any direct payment is made under paragraph 3 to a qualifying lender, and
- (b) the amount paid exceeds the amount of the loan interest payments payable.

(2) Unless sub-paragraph (3) applies, the qualifying lender must apply the amount of the excess as follows—

- (a) first, towards discharging the amount of any liability of the relevant claimant for arrears of loan interest payments in respect of the loan in question; and
- (b) if any amount of the excess is then remaining, towards discharging any liability of the relevant claimant to repay—
 - (i) the principal sum in respect of the loan, or
 - (ii) any other sum payable by the relevant claimant to that lender in respect of the loan.

(3) Where loan interest payments on two or more loans are payable to the same qualifying lender, the lender must apply the amount of the excess as follows—

- (a) first, towards discharging the amount any liability of the relevant claimant for arrears of loan interest payments in respect of the loan in respect of which the excess amount was paid; and
- (b) if any amount of the excess is then remaining, towards discharging any liability of the relevant claimant to repay—
 - (i) in respect of the loan referred to in paragraph (a), the principal sum or any other sum payable by the relevant claimant to that lender, or
 - (ii) in respect of any other loan, any sum payable by the relevant claimant to that lender where the liability to pay that sum has not already discharged under this Schedule.

Time and manner of payments

8. Direct payments under paragraph 3 are to be made in monthly instalments in arrears.

Fees payable by qualifying lenders

9.—(1) A fee is payable by a qualifying lender to the Secretary of State for the purpose of meeting the expenses of the Secretary of State in administering the making of direct payments to qualifying lenders under paragraph 3.

(2) The fee is £0.38 in respect of each occasion on which a direct payment is made to the qualifying lender.

Election not to be regarded as a qualifying lender

10.—(1) A body or person who would otherwise be within the definition of “qualifying lender” in paragraph 1(1)—

- (a) may elect not to be regarded as such by giving notice to the Secretary of State in writing; and
- (b) may revoke any such notice by giving a further notice in writing.

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(2) In respect of any financial year, a notice under sub-paragraph (1) which is given not later than the 1st February before the start of the financial year takes effect on 1st April following the giving of the notice.

(3) Where a body or person becomes a qualifying lender in the course of a financial year—

- (a) any notice of an election by the body or person under sub-paragraph (1)(a) must be given within 6 weeks (“the initial period”) of the date of their becoming a qualifying lender; and
- (b) no direct payments may be made under paragraph 3 to the body or person before the expiry of the initial period.

(4) But sub-paragraph (3)(b) does not apply in any case where—

- (a) the body or person gives the Secretary of State notice in writing that that provision should not apply, and
- (b) that notice is given before the start of the initial period or before that period expires.

(5) In relation to a notice under sub-paragraph (1)—

- (a) where the notice is given by an electronic communication, it must be given in accordance with the provisions set out in Schedule 2 (electronic communications);
- (b) where the notice is sent by post, it is to be treated as having been given on the day the notice was received.

Provision of information

11.—(1) A qualifying lender must, in respect of a relevant claimant, provide the Secretary of State with information as to—

- (a) the loan interest payments in respect of which the relevant claimant meets the payment condition and the liability condition;
- (b) the amount of the loan;
- (c) the purpose for which the loan was made;
- (d) the amount outstanding on the loan;
- (e) the amount of arrears of loan interest payments due in respect of the loan;
- (f) any change in the amount of the loan interest payable;
- (g) the redemption of the loan.

(2) The information referred to in sub-paragraph (1)(a) to (e) must be provided at the request of the Secretary of State where—

- (a) a claim is made for universal credit, or
- (b) the housing costs element is to be included in an award of universal credit otherwise than on the making of a claim,

and loan interest payments payable to the qualifying lender are taken into account in determining the amount of the relevant claimant’s housing costs element.

(3) The information referred to in sub-paragraph (1)(d) or (f) must be provided at such times as the Secretary of State may determine.

(4) The information referred to in sub-paragraph (1)(g) must be provided to the Secretary of State immediately once the qualifying lender has received notice that the loan is to be redeemed.

Recovery of sums wrongly paid

12.—(1) In the following circumstances, a qualifying lender must at the request of the Secretary of State repay any amount paid to the lender under paragraph 3 which ought not to have been paid.

(2) Those circumstances are that, in respect of a relevant claimant—

- (a) an amount calculated by reference to loan interest payments payable to the qualifying lender ceases to be included in the relevant claimant’s housing costs element; or

- (b) a specified benefit ceases to be paid to a relevant claimant; or
- (c) the loan in respect of which loan interest payments are payable has been redeemed; or
- (d) both of the conditions set out in sub-paragraphs (3) and (4) are met.

(3) The first condition is that the amount of the relevant claimant's housing costs element is reduced as a result of—

- (a) the standard rate having been reduced; or
- (b) the amount outstanding on the loan having been reduced.

(4) The second condition is that no corresponding reduction was made to the amount calculated in respect of the qualifying lender under paragraphs 4 and 5.

(5) A qualifying lender is not required to make a repayment in the circumstances described in sub-paragraph (2)(a) or (b) unless the Secretary of State's request is made before the end of the period of two months starting with the date on which the thing described in that provision ceased.

SCHEDULE 6

Regulation 60

DEDUCTIONS FROM BENEFIT AND DIRECT PAYMENT TO THIRD PARTIES

Interpretation

1. In this Schedule—

“assessment period” has the same meaning as in regulation 21 (assessment periods) of the Universal Credit Regulations(a);

“the applicable earnings disregard” means, in relation to any claimant, the amount of earned income to be disregarded in relation to the claimant under regulation 22 (deduction for income and amount of earned income disregarded) of the Universal Credit Regulations;

“child element” means, in relation to any claimant, any amount included in the claimant's award of universal credit under regulation 24 (the child element) of the Universal Credit Regulations;

“the Community Charges Regulations” means the Community Charges (Deductions from Income Support) (No. 2) Regulations 1990(b);

“the Community Charges (Scotland) Regulations” means the Community Charges (Deductions from Income Support) (Scotland) Regulations 1989(c);

“the Council Tax Regulations” means the Council Tax (Deductions from Income Support) Regulations 1993(d);

“the Fines Regulations” means the Fines (Deductions from Income Support) Regulations 1992(e);

“standard allowance” means, in relation to any claimant, any amount included in the claimant's award of universal credit under section 9(1) of the 2012 Act(f);

“water charges” means—

- (a) as respects England and Wales, any water and sewerage charges under Chapter 1 of Part 5 of the Water Industry Act 1991(g);

(a) S.I. 2013/xxxx.

(b) S.I. 1990/545.

(c) S.I. 1989/507.

(d) S.I. 1993/494.

(e) S.I. 1992/2182.

(f) 2012 c.5.

(g) 1991 c. 56.

(b) as respects Scotland, any such charges established by Scottish Water under a charges scheme made under section 29A of the Water Industry (Scotland) Act 2002^(a);

“5% of the standard allowance” means, in relation to any claimant, 5% of the standard allowance applicable in the claimant’s case, rounded up (in any case where that calculation produces a result which is not a multiple of 5 pence) to the next higher multiple of 5 pence.

General

2.—(1) The Secretary of State may deduct an amount from a claimant’s award of universal credit and pay that amount to a third party in accordance with the following provisions of this Schedule to discharge (in whole or part) a liability of the claimant to that third party.

(2) A payment made to a third party in accordance with this Schedule may be made at such intervals as the Secretary of State may direct.

Limitations applicable to deductions made under this Schedule

3.—(1) The Secretary of State may not deduct an amount from a claimant’s award of universal credit under this Schedule and pay that amount to a third party if, in relation to any assessment period, that would—

- (a) reduce the amount payable to the claimant to less than 1 penny; or
- (b) result in more than 3 deductions being made, in relation that that assessment period, under one or more of the provisions mentioned in sub-paragraph (2).

(2) The provisions are—

- (a) paragraph 6 of this Schedule;
- (b) paragraph 7 of this Schedule;
- (c) paragraph 8 of this Schedule;
- (d) paragraph 9 of this Schedule;
- (e) paragraph 10 of this Schedule;
- (f) paragraph 11 of this Schedule;
- (g) paragraph 12 of this Schedule;
- (h) regulation 3 (deductions from income support etc.) of the Community Charges Regulations;
- (i) regulation 3 (deduction from debtor’s income support etc.) of the Community Charges (Scotland) Regulations;
- (j) regulation 5 (deduction from debtor’s income support etc.) of the Council Tax Regulations^(b); and
- (k) regulation 4 (deductions from offender’s income support etc.) of the Fines Regulations^(c).

(3) The aggregate amount deducted from a claimant’s award of universal credit in relation to any assessment period and paid to a third party under paragraphs 8 (fuel costs) and 9 (water charges) of this Schedule must not, without the claimant’s consent, exceed a sum equal to 5 times 5% of the aggregate of the standard allowance and any child element.

Maximum amount

4.—(1) Except as provided for in sub-paragraph (4), the Secretary of State may not deduct an amount from a claimant’s award of universal credit under a provision mentioned in paragraph 5(2) of this Schedule if, in relation to any assessment period, that would result in the Secretary of State

(a) 2002 asp3.

(b) Relevant amending instruments are S.I. 1999/3178, 2002/3019 and 2008/1554.

(c) Relevant amending instruments are S.I. 1999/3178, 2002/3019, 2004/2889 and 2008/1554.

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deducting an amount in excess of 8 times 5% of the standard allowance (“the maximum amount”) from the claimant’s award under one or more relevant provisions.

(2) The relevant provisions are—

- (a) those mentioned in paragraph 5(2) of this Schedule;
- (b) section 26 (higher-level sanctions) of the 2012 Act;
- (c) section 27 (other sanctions) of the 2012 Act;
- (d) section 71ZG (recovery of payments on account) of the Administration Act(a);
- (e) section 6B the Social Security Fraud Act 2001(b);
- (f) section 7 of that Act(c); and
- (g) section 9 of the that Act (d).

(3) For the purposes of determining whether the maximum amount would be exceeded, no account is to be taken of any liability for continuing need mentioned in—

- (a) paragraph 8(5)(b) (fuel costs) of this Schedule; or
- (b) paragraph 9(6)(b) or (7)(b)(water charges) of this Schedule.

(4) Subject to paragraph 3 of this Schedule, the Secretary of State may deduct an amount from the claimant’s award under paragraph 6 (housing costs), paragraph 7 (rent and service charges included in rent) or paragraph 8 (fuel costs) of this Schedule and pay that amount to a third party where the deduction appears to the Secretary of State to be in the claimant’s best interests, even though the deduction would result in the maximum amount being exceeded.

Priority as between certain debts

5.—(1) This paragraph applies to a claimant (“C”) where, in relation to any assessment period,—

- (a) a deduction could otherwise be made from C’s award under more than one of the provisions mentioned in sub-paragraph (2); and
- (b) the amount of universal credit payable to C in relation to that assessment period is insufficient to enable the Secretary of State to meet all of the liabilities for which in C’s case deductions may be made under those provisions or the deduction, were it to be made, would mean that the maximum amount referred to in paragraph 4(1) would be exceeded.

(2) The provisions are—

- (a) paragraph 6 (housing costs) of this Schedule;
- (b) paragraph 7 (rent and service charges included in rent) of this Schedule;
- (c) paragraph 8 (fuel costs) of this Schedule;
- (d) regulation 3 of the Community Charges Regulations (deductions from income support etc.), regulation 3 of the Community Charges (Scotland) Regulations (deduction from debtor’s income support etc.) or (because no such payments are being made in C’s case) regulation 5 of the Council Tax Regulations (deduction from debtor’s income support etc);

(a) Section 71ZG was inserted by section 105(1) of the 2012 Act.

(b) Section 6B was inserted by section 24(1) of the Welfare Reform Act 2009 (c.24) and was amended by section 113 (8)(a), section 118(1) to (6) and section 119(1) and (2) of, and paragraphs 56 and 58(1) to (4) of Schedule 2, paragraphs 15 and 16 of Schedule 3 and part 1 of Schedule 14 to the 2012 Act.

(c) Section 7 was amended by paragraphs 44 and 45(1) and (2) of Schedule 2 to the State Pension Credit Act 2002 (c.16), section 49(1) of, and paragraph 23(1) and (2) of Schedule 3 to, the Welfare Reform Act 2007 (c.5), paragraphs 1 and 2(1), (2)(a), (3)(a) and (b) of Schedule 4 to the Welfare Reform Act 2009 and section 118(1) and (7) and section 119(1) and (3) to (11) of, and paragraphs 56 and 59(1) to (4) of Schedule 2, paragraphs 15 and 17 of Schedule 3 and part 1 of Schedule 14 to the 2012 Act.

(d) Section 9 was amended by paragraphs 44 and 46(1) to (3) of Schedule 2 to the State Pension Credit Act 2002, paragraph 23(1), (4) and (5) of Schedule 3 to the Welfare Reform Act 2007, paragraphs 1 and 4(1) to (3) of Schedule 4 to the Welfare Reform Act 2009, section 113(8)(b) and paragraphs 56 and 61(1) to (5) of Schedule 2 and parts 1 and 12 of Schedule 14 to the 2012 Act.

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- (e) regulation 4 (deductions from debtor's income support etc.) of the Fines Regulations where the amount of the deduction equals 5% of the standard allowance;
- (f) paragraph 9 (water charges) of this Schedule;
- (g) paragraph 10 (payments in place of child support maintenance) of this Schedule;
- (h) Schedule 7 (deductions from benefit in respect of child support maintenance and payment to persons with care) to these Regulations;
- (i) section 78(2) (recovery of social fund awards) of the Administration Act;
- (j) section 71ZH(1)(a) or (b) (recovery of hardship payments etc.) of the 2012 Act(a);
- (k) section 115A (penalty as alternative to prosecution) of the Administration Act(b) where an overpayment is recoverable from a person by, or due from a person to, the Secretary of State or an authority under or by virtue of section 71 (overpayments – general)(c), section 75 (overpayments of housing benefit)(d) or 71ZB (recovery of overpayments of certain benefits) of that Act(e);
- (l) section 71 (overpayments – general), section 71ZC (deduction from benefit)(f) or section 75(4) (overpayments of housing benefit) of the Administration Act or an overpayment of working tax credit or child tax credit, where in each case, the overpayment (or part of it) is the result of fraud;
- (m) section 115C(4) (incorrect statements etc.)(g) and section 115D(4) (failure to disclose information)(h) of the Administration Act;
- (n) section 71 (overpayments – general), section 71ZC (deduction from benefit) or section 75(4) (overpayments of housing benefit) of the Administration Act or an overpayment of working tax credit or child tax credit, where in each case, the overpayment (or part of it) is not the result of fraud;
- (o) paragraph 12 (integration loans) of this Schedule;
- (p) paragraph 11 (eligible loans) of this Schedule;
- (q) regulation 4 (deductions from debtors income support etc.) of the Fines Regulations where the amount of the deduction exceeds the minimum amount that may be deducted in accordance with those Regulations.

(3) Where this paragraph applies to a claimant, the Secretary of State must make a deduction under any of the provisions mentioned sub-paragraph (2) in accordance with sub-paragraphs (4) and (5).

(4) The Secretary of State must give priority to any such deductions in the order in which they are listed in sub-paragraph (2), with housing costs having the priority.

(5) Where two or more provisions mentioned in any single paragraph of paragraph (2) apply to the claimant, unless the Secretary of State directs otherwise, those deductions have equal priority with each other and the amount of such deductions are to be apportioned accordingly.

(6) For the purposes of sub-paragraph (2)(l) and (n), an overpayment is the result of fraud if, in relation to that overpayment or that part of it, the claimant—

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- (a) Section 71ZH was inserted by section 105(1) of the 2012 Act.
 - (b) Section 115A was inserted by section 15 of the Social Security Fraud Act 1997 (c.47) and amended by sections 1(1) and 14 to the Social Security Fraud Act 2001 (c.11), section 105(3), section 113(1) to (7), section 114(1) and section 115(1) and (2) of, and part 1 of Schedule 14 to, the 2012 Act.
 - (c) Section 71 was amended by section 32(1) of, and paragraph 48 of Schedule 2 to, the Jobseekers Act 1995 (c.18), section 1(2) and (4) of the Social Security (Overpayments) Act 1996 (c.51), paragraph 81(1) and (3) of Schedule 7 to the Social Security Act 1998 (c.14), paragraphs 8 and 10 of Schedule 2 to the State Pension Credit Act 2002 (c.16), paragraph 58(1) to (3) of Schedule 24 to the Civil Partnership Act 2004 (c.33), section 44(1) and (3) of, and paragraph 10(1) and (6) of Schedule 3, to the Welfare Reform Act 2007 (c.5), section 132(4) of the Health and Social Care Act 2008 (c.14), sections 105(2) and 106(1) of, and paragraphs 7 and 10 of Schedule 9 to, the 2012 Act. A relevant amending instrument is S.I. 2008/2833.
 - (d) Section 75 was amended by section 16 of, and Schedule 1 to, the Social Security Administration (Fraud) Act 1997 (c.47), section 71 of the Child Support, Pensions and Social Security Act 2000 (c.19) and section 106(3) of the 2012 Act.
 - (e) Section 71ZB was inserted by section 105(1) of the 2012 Act.
 - (f) Section 71ZC was inserted by section 105(1) of the 2012 Act.
 - (g) Section 115C was inserted by section 116(1) of the 2012 Act.
 - (h) Section 115D was inserted by section 116(1) of the 2012 Act.

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- (a) has been found guilty of an offence whether under statute or otherwise;
- (b) made an admission after caution of deception or fraud for the purpose of obtaining benefit under the Administration Act, or in the case of a tax credit, under the Tax Credits Act 2002(a); or
- (c) agreed to pay a penalty under section 115A of the Administration Act (penalty as an alternative to prosecution) and the agreement has not been withdrawn.

Housing costs

6.—(1) This paragraph applies where both of the following conditions are met.

(2) The first condition is that in any assessment period the claimant is in debt for any item of housing costs which is included in the claimant's award of universal credit under Schedule 5 (housing costs element for owner-occupiers) to the Universal Credit Regulations.

(3) The second condition is that the Secretary of State may not commence (or re-commence) making deductions in respect of any such debt unless the claimant's earned income (or in the case of joint claimants their combined earned income) in relation to the previous assessment period is less than the applicable earnings disregard.

(4) Where this paragraph applies, the Secretary of State may, in such cases and circumstances as the Secretary of State may determine, in relation to any assessment period deduct an amount from the claimant's award equal to 5% of the standard allowance in respect of any debt mentioned in paragraph (2) and pay that amount or those amounts to the person to whom any such debt is owed.

(5) The Secretary of State must stop making such deductions if, in relation to the three assessment periods immediately preceding the date on which the next deduction could otherwise be made, the claimant's earned income (or in the case of joint claimants their combined earned income) equals or exceeds the applicable earnings disregard.

(6) No amount may be deducted under this paragraph in respect of owner occupier payments within the meaning of paragraph 4 of Schedule 1 (meaning of payments in respect of accommodation) to the Universal Credit Regulations 2012 in any case where those payments—

- (a) are required to be paid directly to a qualifying lender under regulation 59; or
- (b) would have been required to be paid to a body which, or a person who, would otherwise have been a qualifying lender but for an election given under paragraph 10 of Schedule 5 to these Regulations.

(7) As between liability for items of housing costs to which this paragraph applies, liabilities in respect of owner occupier payments (within the meaning of paragraph 4(1) of Schedule 1 (meaning of payments in respect of accommodation) to the Universal Credit Regulations) are to have priority over all other items.

Rent and service charges included in rent

7.—(1) This paragraph applies where all of the following conditions are met.

(2) The first condition is that in any assessment period the claimant—

- (a) has an award of universal credit which includes an amount under Schedule 4 (housing costs element for renters) to the Universal Credit Regulations; or
- (b) occupies exempt accommodation and has an award of housing benefit under section 130 (housing benefit) of the Contributions and Benefits Act(b).

(3) The second condition is that in any assessment period the claimant is in debt for any—

- (a) rent payments;
- (b) service charges which are paid with or as part of the claimant's rent.

(a) 2002 c.21.

(b) 1992 c.4. Section 130 was amended by paragraph 3 of Schedule 9 to the Local Government Finance Act 1992 (c.14) and paragraph 1(1) and (3) of Schedule 5 to the Welfare Reform Act 2007 (c.5).

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(4) The third condition is that the claimant occupies the accommodation to which the debt relates.

(5) The fourth condition is that, before the Secretary of State may commence (or re-commence) making deductions in respect of such a debt, the claimant's earned income (or in the case of joint claimants their combined earned income) in relation to the previous assessment period is less than the applicable earnings disregard.

(6) Where this paragraph applies, the Secretary of State may, in such cases and circumstances as the Secretary of State may determine, deduct in relation to any assessment period an amount from the claimant's award equal to 5% of the standard allowance and pay that amount to the person to whom the debt is owed.

(7) The Secretary of State must stop making such deductions if, in relation to the three assessment periods immediately preceding the date on which the next deduction could otherwise be made, the claimant's earned income (or in the case of joint claimants their combined earned income) equals or exceeds the applicable earnings disregard.

(8) In this paragraph—

“exempt accommodation” has the same meaning as in regulation 1 (interpretation) of the Universal Credit Regulations;

“rent payments” includes any elements included in the claimant's rent which would not fall to be treated as rent under the Housing Benefit Regulations 2006(a) or as rent payments under the Universal Credit Regulations;

“service charges” includes any items in a charge for services in respect of the accommodation occupied by the claimant which would not fall to be treated as service charges under those Regulations.

Fuel costs

8.—(1) This paragraph applies where both of the following conditions are met.

(2) The first condition is that in any assessment period the claimant is in debt for any item of mains gas or mains electricity, including any charges for the reconnection of gas or disconnection or reconnection of electricity (“fuel item”).

(3) The second condition is that, before the Secretary of State may commence (or re-commence) making deductions in respect of such a debt, the claimant's earned income (or in the case of joint claimants their combined earned income) in relation to the previous assessment period is less than the applicable earnings disregard.

(4) Where this paragraph applies, but subject to sub-paragraph (6), the Secretary of State may, in such cases and circumstances as the Secretary of State may determine, deduct in relation to any assessment period the following amounts from the claimant's award and pay them to the person to whom the payment is due.

(5) The amount which may be deducted in respect of any fuel item is—

- (a) an amount equal to 5% of the standard allowance; and
- (b) an additional amount which the Secretary of State estimates is equal to the average monthly cost necessary to meet the claimant's continuing need for that fuel item, except where current consumption is paid for by other means such as a pre-payment meter.

(6) The Secretary of State must stop making such deductions if, in relation to the three assessment periods immediately preceding the date on which the next deduction could otherwise be made, the claimant's earned income (or in the case of joint claimants their combined earned income) equals or exceeds the applicable earnings disregard.

(7) As between liabilities for items of gas or electricity, the Secretary of State must give priority to whichever liability the Secretary of State considers it would, having regard to the circumstances and to any requests of the claimant, be appropriate to discharge.

(a) S.I. 2006/213.

Water charges

9.—(1) This paragraph applies where both of the following conditions are met.

(2) The first condition is that in any assessment period the claimant is in debt for water charges, including any charges for reconnection (“the original debt”).

(3) The second condition is that, before the Secretary of State may commence (or re-commence) making deductions in respect of such a debt, the claimant’s earned income (or in the case of joint claimants their combined earned income) in relation to the previous assessment period is less than the applicable earnings disregard.

(4) Where this paragraph applies, but subject to sub-paragraph (5), the Secretary of State may, in such cases and circumstances as the Secretary of State may determine, deduct an amount from the claimant’s award in accordance with sub-paragraphs (6) to (8) and pay it to a water undertaker to whom the payment is due or to the person or body authorised to collect water charges for that undertaker.

(5) The Secretary of State must stop making such deductions if, in relation to the three assessment periods immediately preceding the date on which the next deduction could otherwise be made, the claimant’s earned income (or in the case of joint claimants their combined earned income) equals or exceeds the applicable earnings disregard.

(6) Where water charges are determined by means of a water meter, the amount to be deducted under this paragraph in relation to any assessment period is to be—

- (a) an amount equal to 5% of the standard allowance towards discharging the original debt; and
- (b) an additional amount which the Secretary of State estimates to be the average monthly cost necessary to meet the claimant’s continuing need for water consumption.

(7) Where water charges are determined otherwise than by means of a water meter, the amount to be deducted in relation to any assessment period under this paragraph is to be—

- (a) the amount referred to in sub-paragraph (6)(a); and
- (b) an additional amount equal to the cost necessary to meet the continuing need for water consumption in that assessment period.

(8) Where the claimant is in debt to two water undertakers—

- (a) only one amount under sub-paragraph (6)(a) or (7)(a) may be deducted;
- (b) a deduction in respect of an original debt for sewerage may only be made after the whole debt in respect of an original debt for water has been paid; and
- (c) deductions in respect of continuing charges for both water and for sewerage may be made at the same time.

(9) In this paragraph, “water undertaker” means—

- (a) In relation to any area in England and Wales, a company holding an appointment as a water undertaker or a sewerage undertaker under the Water Industry Act 1991(a) ; or
- (b) in relation to any area in Scotland, Scottish Water.

Payments in place of payments of child support maintenance

10.—(1) This paragraph applies where the Secretary of State has determined that section 43 (contribution to maintenance by deduction from benefit) of the 1991 Act(b) and regulation 28 (contribution to maintenance by deduction from benefit) of the Child Support (Maintenance Assessments and Special Cases) Regulations 1992(c) apply in relation to the claimant.

(a) 1991 c.56.

(b) 1991 c.48. Section 43 was amended by paragraph 113 of Schedule 2 to the Social Security (Consequential Provisions) Act 1992 (c.6), paragraph 40 of Schedule 7 to the Social Security Act 1998 (c.14), section 21 of the Child Support, Pensions and Social Security Act 2000 (c.19) and section 139 of the 2012 Act.

(c) S.I. 1992/1815. Relevant amending instruments are S.I. 1996/1345, 1998/58, 2001/155 and 2008/1554.

(2) Where this paragraph applies, the Secretary of State must, if satisfied that there is sufficient universal credit in payment (but subject to paragraphs 1, 4 and 5 of this Schedule), determine that an amount is to be deducted from the claimant's award for transmission to the person or persons entitled to receive that amount under or by virtue of the 1991 Act.

(3) Not more than one deduction may be made under this paragraph in relation to any assessment period.

(4) The amount of universal credit which may be deducted in relation to any assessment period and paid to a third party under this paragraph is to be an amount equal to 5% of the standard allowance.

Eligible loans

11.—(1) This paragraph applies where both of the following conditions are met.

(2) The first condition is that in any assessment period the claimant is in arrears in respect of a loan agreement entered into (whether solely or jointly) with an eligible lender in respect of an eligible loan.

(3) The second condition is that, as at the date on which the Secretary of State receives an application for deductions to be made under this paragraph, no deductions are being made from any eligible benefit awarded to the claimant in respect of an amount recoverable under—

- (a) section 71 (overpayments – general) or 71ZB (recovery of overpayments of certain benefits) of the Administration Act 1992; or
- (b) section 78 (recovery of social fund awards)(a) of that Act.

(4) Where the claimant has an award of universal credit, the Secretary of State may, in such cases and circumstances as the Secretary of State may determine, deduct in relation to any assessment period an amount from the claimant's award equal to 5% of the standard allowance and pay that amount to the eligible lender towards discharging the amount owing under the loan agreement.

(5) In a case where the claimant has an award of universal credit but the amount payable to the claimant in relation to any assessment period is insufficient to enable such a deduction to be made, the Secretary of State may instead deduct a weekly amount equal to 5% of the personal allowance for a single claimant aged not less than 25 from any employment and support allowance or jobseeker's allowance awarded to the claimant and pay that amount to the eligible lender.

(6) In a case where the claimant does not have an award of universal credit, but has an award of an employment and support allowance or a jobseeker's allowance, the Secretary of State may deduct a weekly amount equal to 5% of the personal allowance for a single claimant aged not less than 25 from any such award and pay that amount to the eligible lender.

(7) The Secretary of State must not make deductions from a claimant's employment and support allowance or a jobseeker's allowance under this paragraph if that would reduce the amount payable to the claimant to less than 10 pence.

(8) In this paragraph—

“eligible benefit” means—

- (a) an employment and support allowance;
- (b) a jobseeker's allowance;
- (c) universal credit;

“eligible lender” means—

- (a) a body registered under section 1 of the Industrial and Provident Societies Act 1965(b) (societies which may be registered);

(a) Section 78 was amended by section 32(2) of, and paragraph 51 of Schedule 2 to, the Jobseekers Act 1995 (c.18), paragraph 61(2), (3) and (4)(a) and (b) of Schedule 24 to the Civil Partnership Act 2004 (c.33) and section 106(4) of, and paragraphs 3 and 9 of Schedule 2 to, the Welfare Reform Act 2012 (c.5).

(b) 1965 c.12. Relevant amending instruments are S.I. 2001/2617 and 2009/1941.

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- (b) a credit union within the meaning of section 1 of the Credit Unions Act 1979^(a) (registration under the Industrial and Provident Societies Act 1965);
- (c) a charitable institution within the meaning of section 58(1) of the Charities Act 1992^(b) (interpretation of Part 2);
- (d) a body entered on the Scottish Charity Register under section 3 of the Charities and Trustee Investment (Scotland) Act 2005^(c) (Scottish Charities Register);
- (e) a community interest company within the meaning of Part 2 of the Companies (Audit, Investigations and Community Enterprise) Act 2004^(d),

which, except for a credit union, is licensed under the Consumer Credit Act 1974^(e) and which the Secretary of State considers is an appropriate body to which payments on behalf of the claimant may be made in respect of loans made by that body;

“eligible loan” means a loan made by a lender, who is at the time the loan agreement is made an eligible lender, to a claimant except a loan which—

- (a) is secured by a charge or pledge;
- (b) is for the purpose of business or self-employment; or
- (c) was made by means of a credit card;

“loan agreement” means an agreement between the eligible lender and the claimant in respect of an eligible loan;

“5% of the personal allowance” means, in those cases where that percentage is not a multiple of 5 pence, the sum obtained by rounding that percentage to the next higher such multiple.

Integration loans

12.—(1) This paragraph applies where both of the following conditions are met.

(2) The first condition is that the claimant has an integration loan which is recoverable by deductions.

(3) The second condition is that, as at the date on which the Secretary of State receives an application for deductions to be made under this paragraph, no deductions are being made from the claimant’s universal credit in respect of an amount recoverable under—

- (a) section 71 (overpayments – general) or 71ZB (recovery of overpayments of certain benefits) of the Administration Act 1992; or
- (b) section 78 (recovery of social fund awards) of that Act.

(4) Where this paragraph applies, the amount payable by deductions in any assessment period is to be equal to 5% of the standard allowance.

(5) In this paragraph, “integration loan which is recoverable by deductions” means an integration loan which is made under the Integration Loans for Refugees and Others Regulations 2007^(f) and which is recoverable from the claimant by deductions from the claimant’s award of universal credit under regulation 9 of those Regulations.

(a) 1979 c.34. Relevant amending instruments are S.I. 2001/2617, 2002/1501, 2003/256 and 2011/2687.

(b) 1992 c.41. Section 58(1) was amended by section 25 of the Deregulation and Contracting Out Act 1994 (c.40), paragraphs 89 and 90(1) and (2) of Schedule 8 to the Charities Act 2006 (c.50) and paragraph 65(1) of Schedule 7 to the Charities Act 2011 (c.25).

(c) 2005 asp10.

(d) 2004 c.27.

(e) 1974 c.39.

(f) S.I. 2007/1598.

SCHEDULE 7

Regulation 60

DEDUCTIONS FROM BENEFIT IN RESPECT OF CHILD SUPPORT
MAINTENANCE AND PAYMENT TO PERSONS WITH CARE**Interpretation****1.** In this Schedule—

“beneficiary” means a person who has been awarded a specified benefit;

“maintenance”, except in paragraph 3, means child support maintenance which a non-resident parent is liable to pay under the 1991 Act^(a) at a flat rate (or would be so liable but for a variation having been agreed to) where that rate applies (or would have applied) because the non-resident parent falls within paragraph 4(1)(b) or (c) or 4(2) of Schedule 1 to the 1991 Act^(b), and includes such maintenance payable at a transitional rate in accordance with regulations made under section 29(3)(a) of the Child Support, Pensions and Social Security Act 2000^(c);

“person with care” has the same meaning as in section 3 (meaning of certain terms used in this Act) of the 1991 Act.

“specified benefit” means—

- (a) universal credit;
- (b) an employment and support allowance;
- (c) a jobseeker’s allowance.

Deductions

2.—(1) Subject to the following provisions of this paragraph and to paragraph 5 (flat rate maintenance), the Secretary of State may deduct from any specified benefit awarded to a beneficiary, an amount equal to the amount of maintenance which is payable by the beneficiary and pay the amount deducted to or among the person or persons with care in discharge (in whole or in part) of the liability to pay maintenance.

(2) A deduction may only be made from one specified benefit in respect of the same period.

(3) No amount may be deducted under this Schedule from any employment and support allowance or any jobseeker’s allowance awarded to the claimant if that would reduce the amount of the benefit payable to the claimant to less than 10 pence.

(4) No amount may be deducted from any universal credit awarded to the claimant under this Schedule if that would reduce the amount payable to the claimant to less than 1 penny.

Arrears

3.—(1) Except where universal credit is awarded to the beneficiary, the Secretary of State may deduct the sum of £1 per week from any employment and support allowance or jobseeker’s allowance which the beneficiary has been awarded and, subject to sub-paragraph (2), pay the amount deducted to or among the person or persons with care in discharge (in whole or in part) of the beneficiary’s liability to pay arrears of maintenance.

(2) Deductions made under sub-paragraph (1) may be retained by the Secretary of State in the circumstances set out in regulation 8 of the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations 1992.

(a) 1991 c.48.

(b) Paragraph 4 of Schedule 1 was substituted by Schedule 1 to the Child Support, Pensions and Social Security Act 2000 (c.19). It was amended by paragraphs 1 and 2 of Schedule 4 to the Child Maintenance and Other Payments Act 2008 (c.6) (which amendment is only in force for the purpose of making regulations).

(c) 2000 c.19.

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(3) In sub-paragraph (1) “maintenance” means child support maintenance as defined by section 3(6) of the 1991 Act—

- (a) before the amendment of the definition of such maintenance by section 1(2)(a) of the Child Support, Pensions and Social Security Act 2000;
- (b) after the amendment of the definition; or
- (c) both before and after the amendment of the definition,

and includes maintenance payable at a transitional rate in accordance with regulations made under section 29(3)(a) of that Act.

Apportionment

4. Where maintenance is payable to more than one person with care, the amount deducted must be apportioned between the persons with care in accordance with paragraphs 6, 7 and 8 of Schedule 1 to the 1991 Act(a).

Flat rate maintenance

5.—(1) This paragraph applies where the beneficiary and that person’s partner are each liable to pay maintenance at a flat rate in accordance with paragraph 4(2) of Schedule 1 to the 1991 Act and either of them has been awarded universal credit (whether as a single claimant or as joint claimants).

(2) Where this paragraph applies, an amount not exceeding an amount equal to the flat rate of maintenance may be deducted from such an award in respect of the total liability of both partners to pay maintenance, in the proportions described in regulation 4(3) of the Child Support (Maintenance Calculations and Special Cases) Regulations 2001(b) or regulation 44(3) of the Child Support Maintenance Calculation Regulations 2012(c) and must be paid in discharge (in whole or in part) of the respective liabilities to pay maintenance.

Notice

6. When the Secretary of State commences making deductions under this Schedule, the Secretary of State must notify the beneficiary in writing of the amount and frequency of the deduction and the benefit from which the deduction is made and must give further such notice when there is a change to any of the particulars specified in the notice.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply only to the following benefits and allowances—

universal credit,

personal independence payment, and

a jobseeker’s allowance and an employment and support allowance as provided for by Part 1 of Schedule 14 to the Welfare Reform Act 2012.

These Regulations contain provisions about the making of claims for and the payment of those benefits and allowances and the circumstances in which an amount of benefit may be paid directly to a third party.

(a) Part 1 of Schedule 1 was substituted by Schedule 1 to the Child Support, Pensions and Social Security Act 2000 (c.19). Paragraph 8 of Schedule 1 was amended by paragraphs 1 and 7 of Schedule 4 to the Child Maintenance and Other Payments Act 2008 (c.6) (which amendment is only in force for the purpose of making regulations). A relevant amending instrument is S.I. 2012/2007.

(b) S.I. 2001/155.

(c) S.I. 2012/2677.

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Part 1 of the Regulations contains general provisions including definitions. Part 1, with Schedule 2 and Schedule 3, also contains provisions about the use of electronic communications and sets out the regulations which are consequentially amended by these Regulations. Regulation 5 removes from children and qualifying young persons the requirement to supply a National Insurance number when a claim to universal credit is made.

Part 2, with Schedule 4, contains provisions about claims for the benefits and allowances to which these regulations apply. In particular the cases in which claims are not required or are treated as made; the method of making a claim and the time limits for doing so; the date on which a claim is made; interchange with other claims; advance claims for and awards of benefit; defective claims; the amendment and withdrawal of claims and the duration of awards.

Part 3 contains provisions about the information required in connection with a claim for, or an award of, a benefit. It also includes provisions which relate to the manner in which a change of circumstances affecting universal credit, personal independence payment, an employment and support allowance or a jobseeker's allowance must be notified for the purposes of the offences in sections 111A and 112 of the Social Security Administration Act 1992.

Part 4 specifies the time when, and the method by which, the benefits and allowances to which these Regulations apply are to be paid. In particular it includes provisions which relate to payments of benefits to persons aged under 18, payments on death and the extinguishment of the right to payment.

Part 5, with Schedules 5 to 7, sets out the circumstances in which part or all of a benefit or allowance to which these regulations apply may be paid directly to someone other than the claimant. It also sets out the circumstances in which the Secretary of State may appoint a person to act on behalf of a claimant who is unable for the time being to act.

Part 6 sets out the circumstances in which the mobility component of personal independence payment is not payable. It also sets out circumstances in which the mobility component at the enhanced rate is payable on behalf of a claimant in respect of the hire or hire purchase of a vehicle under the Motability scheme.

A full impact assessment has not been produced for this instrument as it has no impact on the private sector or civil society organisations.

 STATUTORY INSTRUMENTS

2013 No.

HOUSING

The Rent Officers (Universal Credit Functions) Order 2013

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Secretary of State for Work and Pensions makes the following Order in exercise of the powers conferred by section 122 of the Housing Act 1996(a).

Citation and commencement

1. This Order may be cited as the Rent Officers (Universal Credit Functions) Order 2013 and comes into force on [1st] April 2013.

Interpretation

2. In this Order—

“Welfare Reform Act” means the Welfare Reform Act 2012(b);

“the Universal Credit Regulations” means the Universal Credit Regulations 2012(c);

“accommodation” means any residential accommodation whether or not consisting of the whole or part of a building and whether or not comprising separate and self-contained premises;

“applicable consumer prices index” in relation to any year means the consumer prices index of annual inflation as at September of that year published by the Office of National Statistics(d);

“assured tenancy”—

(a) in England and Wales, has the same meaning as in Part 1 of the Housing Act 1988(e), except that it includes a tenancy which would be an assured tenancy but for paragraph 2, 8 or 10 of Schedule 1 to that Act and a licence which would be an assured tenancy (within the extended meaning given in this definition) were it a tenancy; and

(b) in Scotland, has the same meaning as in Part 2 of the Housing (Scotland) Act 1988(f), except that it includes a tenancy which would be an assured tenancy but for paragraph 7

(a) 1996 c.52. Section 122 was amended by section 217 of, and paragraph 60 of Schedule 7 to, the Local Government Act 2003 (c. 26), by sections 40 and 67 of, and paragraph 12 of Schedule 5 and Schedule 8 to, the 2007 Act and by sections 3, 31, 34 and 147 of, and paragraph 36 of Schedule 2, paragraph 13 of Schedule 4 and Schedule 14 to, the Welfare Reform Act 2012.

(b) 2012 c.5.

(c) S.I. 2012/[].

(d) The Consumer Prices Index figure is published on the website of the Office for National Statistics (www.ons.gov.uk).

(e) 1988 c. 50.

(f) 1988 c. 48.

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or 9 of Schedule 4 to that Act and any other form of occupancy which would be an assured tenancy (within the extended meaning given in this definition) were it a tenancy;

“broad rental market area” has the meaning specified in article 3;

“determination” means a determination made under article 3, 4 or 5;

“housing payment” means a relevant payment within the meaning of paragraph 3 of Schedule 4 to the Universal Credit Regulations;

“local authority” means—

- (a) in relation to England, the council of a district or London borough, the Common Council of the City of London or the Council of the Isles of Scilly;
- (b) in relation to Wales, the council of a county or county borough; and
- (c) in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994^(a);

“local housing allowance determination” means a determination made in accordance with article 4;

“partner” means the other member of a couple within the meaning of section 39 of the Welfare Reform Act;

“provider of social housing” has the meaning in paragraph 2 of Schedule 4 to the Universal Credit Regulations;

“relevant time” means the time the request for the determination is made or, if earlier, the date the tenancy ends;

“service charge payment” has the meaning in paragraph 7 of Schedule 1 to the Universal Credit Regulations;

“tenancy” includes—

- (d) in Scotland, any other right of occupancy; and
- (e) in any other case, a licence to occupy premises,

and references to rent, a tenant, a landlord or any other expression appropriate to a tenancy shall be construed accordingly;

“tenant” includes the tenant’s partner;

“working day” means any day other than a Saturday or a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971^(b) in the in any part of Great Britain.

Broad rental market area determinations

3.—(1) At such times as a rent officer considers appropriate, a rent officer shall, if the Secretary of State agrees—

- (a) determine one or more broad rental market areas; and
- (b) in respect of that broad rental market area, or those broad rental market areas, give to the Secretary of State a notice which identifies the local authority areas and the postcodes contained within the broad rental market area.

(2) A broad rental market area is an area within which a person could reasonably be expected to live having regard to facilities and services for the purposes of health, education, recreation, personal banking and shopping, taking account of the distance of travel, by public and private transport, to and from those facilities and services.

(3) A broad rental market area must contain—

- (a) residential premises of a variety of types, including such premises held on a variety of tenures; and

(a) 1994 c.39.
(b) 1971 c.80.

- (b) sufficient privately rented residential premises to ensure that, in the rent officer's opinion, the local housing allowance for the categories of accommodation in the area for which the rent officer is required to determine a local housing allowance is representative of the rents that a landlord might reasonably be expected to obtain in that area.

(4) Every part of Great Britain must fall within a broad rental market area and a broad rental market area must not overlap with another broad rental market area.

(5) Any broad rental market area determination made in accordance with paragraph (1) shall take effect—

- (a) on the day the determination is made for the purpose of enabling a rent officer to determine a local housing allowance for that area; and
- (b) for all other purposes on the next 1st April following the day on which the determination is made.

(6) For broad rental market area determinations that take effect on 1st April 2013, a rent officer must use the broad rental market area determinations determined in accordance with article 4B of and Schedule 3B to the Rent Officers (Housing Benefit Functions) Order 1997^(a) or the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997^(b) that apply on 1st April 2013.

Local housing allowance determinations

4.—(1) Each year, no more than 20 working days after the applicable consumer prices index is published, a rent officer shall—

- (a) for each broad rental market area determine, in accordance with Schedule 1, a local housing allowance for each of the categories of accommodation set out in paragraph 1 of Schedule 1; and
- (b) notify the Secretary of State of the local housing allowance determination made in accordance with sub-paragraph (a) for each broad rental market area.

(2) Any local housing allowance determination made in accordance with paragraph (1) shall take effect on the next 1st April following the day on which the determination is made.

(3) For local housing allowance determinations that take effect on 1st April 2013, a rent officer must use the broad rental market area determinations and local housing allowance determinations determined in accordance with article 4B of and Schedule 3B to the Rent Officers (Housing Benefit Functions) Order 1997 or the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997 that apply on 1st April 2013 converted to a monthly amount.

Housing payment determination

5. Where a rent officer receives a request from the Secretary of State for a determination in respect of housing payments for accommodation let by a provider of social housing, the rent officer must—

- (a) determine in accordance with Schedule 2 whether each of the housing payments specified by the Secretary of State is reasonable for that accommodation; and
- (b) where the rent officer determines that a housing payment is not reasonable, notify the Secretary of State of the amount of that housing payment reasonable for the accommodation.

Redeterminations

6.—(1) Where a rent officer has made a determination (“the original determination”) and paragraph (2) applies, a rent officer must make a further determination (“a redetermination”) and notify the Secretary of State of the redetermination.

(a) S.I. 1997/1984. Article 4B was inserted by S.I. 2003/2398 and amended by S.I. 2007/2871 2010/2836 and 2012/646. Schedule 3B was inserted by S.I. 2007/2871 and amended by S.I. 2010/2836 and 2012/646.

(b) S.I. 1997/1995. Article 4B was inserted by S.I. 2003/2398 and amended by S.I. 2007/2871 2010/2836 and 2012/646. Schedule 3B was inserted by S.I. 2007/2871 and amended by S.I. 2010/2836 and 2012/646.

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(2) This paragraph applies where—

(a) the original determination was made under article 3 or 4 and the rent officer considers that there is an error in relation to that determination; or

(b) the original determination was made under article 5 and—

(i) the Secretary of State requests that the rent officer makes a redetermination;

(ii) the Secretary of State informs the rent officer that the information supplied when requesting that determination was incorrect or incomplete; or

(iii) the rent officer considers that there is an error in relation to the original determination.

(3) Where a rent officer makes a redetermination the rent officer must use the provisions that applied to the original determination and use the same information that was used for the original determination except that, where the information used was incorrect or incomplete, the rent officer must use the correct or complete information.

(4) Where a rent officer makes a redetermination by virtue of paragraph (2)(b)(i), the rent officer must seek and have regard to the advice of at least one other rent officer in relation to that redetermination.

Information

7. Where the information supplied by the Secretary of State or a landlord under regulation 40 of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013^(a) is incomplete or incorrect, a rent officer must inform the Secretary of State or the landlord and request the Secretary of State or the landlord to supply the further information or to confirm whether the information already supplied is correct and, if it is not, to supply the correct information.

Means of giving notice

8. Any notice may be given in writing or by electronic means unless the Secretary of State requests that notice is given in writing.

Signed by authority of the Secretary of State for Work and Pensions.

Name

Parliamentary Under-Secretary of State,
Department for Work and Pensions

Date

SCHEDULE 8

Article 4

Local housing allowance determinations

Categories of accommodation

1. The categories of accommodation for which a rent officer is required to determine a local housing allowance in accordance with article 4 are—

(a) accommodation where the tenant has the exclusive use of only one bedroom and where the tenancy provides for him to share the use of one or more of—

(i) a kitchen;

(ii) a bathroom;

(iii) a toilet; or

(iv) a room suitable for living in;

(a) S.I. 2013/[].

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- (b) accommodation where the tenant has the exclusive use of only one bedroom and exclusive use of a kitchen, a bathroom, a toilet and a room suitable for living in;
- (c) accommodation where the tenant has the use of only two bedrooms;
- (d) accommodation where the tenant has the use of only three bedrooms;
- (e) accommodation where the tenant has the use of only four bedrooms.

Local housing allowance for category of accommodation in paragraph 1

2.—(1) Subject to paragraph 5 (anomalous local housing allowances), the rent officer must determine a local housing allowance for each category of accommodation in paragraph 1 in accordance with the following sub-paragraphs.

(2) Subject to sub-paragraph (3), the local housing allowance for a category of accommodation is—

- (a) the rent at the 30th percentile determined in accordance with paragraph 3 where that does not exceed the amount determined in accordance with paragraph 4; or
- (b) in any other case, the amount determined in accordance with paragraph 4.

(3) Where the local housing allowance would otherwise not be a whole number of pence, it must be rounded to the nearest whole penny by disregarding any amount less than half a penny and treating any amount of half a penny or more as a whole penny.

Rent at the 30th percentile

3.—(1) The rent officer must compile a list of rents.

(2) A list of rents means a list in ascending order of the monthly rents which, in the rent officer's opinion, are payable at the date of the determination for accommodation let under an assured tenancy which meets the criteria specified in sub-paragraph (4).

(3) The list must include any rents which are of the same amount.

(4) The criteria for including an assured tenancy on the list of rents in relation to each category of accommodation specified in paragraph 1 are—

- (a) that the accommodation let under the assured tenancy is in the broad rental market area for which the local housing allowance for that category of accommodation is being determined;
- (b) that the accommodation is in a reasonable state of repair; and
- (c) that the assured tenancy permits the tenant to use exclusively or share the use of, as the case may be, the same number and type of rooms as the category of accommodation in relation to which the list of rents is being compiled.

(5) Where the rent officer is not satisfied that the list of rents in respect of any category of accommodation would contain sufficient rents, payable at the date of the determination, for accommodation in the broad rental market area, to enable a local housing allowance to be determined which is representative of the rents that a landlord might reasonably be expected to obtain in that area, the rent officer may add to the list rents for accommodation in the same category in other areas in which a comparable market exists.

(6) Where rent is payable other than monthly the rent officer must use the figure which would be payable if the rent were to be payable monthly by calculating the rent for a year and dividing the total by 12.

(7) When compiling the list of rents for each category of accommodation, the rent officer must—

- (a) assume that no one had sought or is seeking the tenancy who would have been entitled to housing benefit under Part 7 of the Social Security Contributions and Benefits Act 1992(a) or universal credit under Part 1 of the Welfare Reform Act; and

(a) 1992 c.4.

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- (b) exclude the amount of any rent which, in the rent officer's opinion, is fairly attributable to the provision of services performed or facilities (including the use of furniture) provided for, or rights made available to, the tenant and which would not be a service charge payment.

(8) The rent at the 30th percentile in the list of rents (“R”) is determined as follows—

- (a) where the number of rents on the list is a multiple of 10, the formula is—

$$R = \frac{\text{the amount of the rent at P} + \text{the amount of the rent at P1}}{2}$$

where—

- (i) P is the position on the list found by multiplying the number of rents on the list by 3 and dividing by 10; and
 - (ii) P1 is the following position on the list;
- (b) where the number of rents on the list is not a multiple of 10, the formula is—

$$R = \text{the amount of the rent at P2}$$

where P2 is the position on the list found by multiplying the number of rents on the list by 3 and dividing by 10 and rounding the result upwards to the nearest whole number.

Amount determined by reference to the consumer prices index

4.—(1) The amount to be determined by the rent officer for the purposes of sub-paragraph (2) is as follows—

- (a) where the applicable consumer prices index is a positive number, the local housing allowance last determined for that category of accommodation multiplied by the factor “M”; or
- (b) where the applicable consumer prices index is a negative number or zero, the local housing allowance last determined for that category of accommodation.

(2) In this paragraph the factor “M” is determined as follows—

$$M = 1 + (\text{CPI}/100)$$

where “CPI” is the applicable consumer prices index in relation to the year in which the determination is made.

Anomalous local housing allowances

5. Where—

- (a) the rent officer has determined the local housing allowance for each of the categories of accommodation in paragraph 1 in accordance with the preceding paragraphs of this Schedule; and
- (b) the local housing allowance for a category of accommodation in paragraph 1(b) to (e) is lower than the local housing allowance for any of the categories of accommodation which precede it,

that local housing allowance shall be the same as the highest local housing allowance which precedes it.

SCHEDULE 9

Housing payments determination

1. The rent officer must determine whether, in the rent officer's opinion, each of the housing payments payable for the tenancy of the accommodation at the relevant time is reasonable.
2. If the rent officer determines under paragraph 1 that a housing payment is not reasonable, the rent officer must also determine the amount of the housing payment which the landlord might reasonably have been expected to obtain at the relevant time for that accommodation.
3. When making a determination under this Schedule, the rent officer must—
 - (a) have regard to the level of similar payments under tenancies for accommodation which—
 - (i) is let by the same type of landlord as the accommodation in respect of which the determination is being made;
 - (ii) is in the same local authority area or, where paragraph 4 applies, an adjoining local authority area;
 - (iii) has the same number of bedrooms as the accommodation in respect of which the determination is being made; and
 - (iv) is in a reasonable state of repair;
 - (b) exclude—
 - (i) the cost of any care, support or supervision provided to the tenant by the landlord or by someone on the landlord's behalf;
 - (ii) any payments for services performed or facilities (including the use of furniture) provided for, or rights made available to, the tenant which are not service charge payments; and
 - (c) where the accommodation is let at an Affordable Rent, assume that the rent is reasonable.
4. Where the rent officer is not satisfied that the local authority area contains sufficient accommodation to allow a determination of the housing payments which a landlord might reasonably have been expected to charge, the rent officer may have regard to the level of housing payments in one adjoining local authority or, if the rent officer considers it necessary, more than one adjoining local authorities.
5. For the purposes of this Schedule—
 - (a) a housing payment is reasonable where it is not higher than the payment which the landlord might reasonably have been expected to obtain for the tenancy at the relevant time;
 - (b) accommodation is let by the same type of landlord where—
 - (i) in a case where the landlord of the accommodation in respect of which the determination is being made is a local authority, the landlord of the other accommodation is also a local authority; and
 - (ii) in a case where the landlord of the accommodation in respect of which the determination is being made is a provider of social housing other than a local authority, the landlord of the other accommodation is also a provider of social housing other than a local authority;
 - (c) accommodation is let at an Affordable Rent where—
 - (i) the rent is regulated under a standard controlling rents set by the Regulator of Social Housing under section 194 of the Housing and Regeneration Act 2008^(a) which requires the initial rent to be set at no more than 80% of local market rent (including service charges); or
 - (ii) it is let by a local authority and, under arrangements between the local authority and the Homes and Communities Agency, the Greater London Authority or the Secretary of

(a) 2008 c.17. Section 194 was amended by S.I. 2010/844 and section 179 of and Schedule 17 to the Localism Act 2011 (c.20).

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State, the rent payable is set on the same basis as would be the case if the rent was regulated under a standard controlling rents set by the Regulator of Social Housing under section 194 of the Housing and Regeneration Act 2008 which requires the initial rent to be set at no more than 80% of local market rent (including service charges).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order confers functions on rent officers in connection with universal credit.

Articles 3 and 4 confer functions relating to the determination of local housing allowances, which will be used in calculating the amount of a person's housing costs for universal credit where the landlord is not a registered provider of social housing, registered social landlord or local authority.

Article 3 requires that the rent officer determines broad rental market areas. These are broad geographical areas containing sufficient properties to enable the rent officer to determine local housing allowances for various categories of dwelling. When setting areas the rent officer should have regard to facilities and services for the purposes of health, education, recreation, personal banking and shopping and take account of the distance of travel, by public and private transport, to and from those facilities and services.

Article 4 requires that the rent officer determines local housing allowance determinations each year for each broad rental market area. Schedule 1 sets out the method of calculating the local housing allowance. This will be the lower of the rent at the 30th percentile of available rents or the previous year's rate up-rated by reference to the Consumer Prices Index for September.

For the year beginning in April 2013, articles 3 and 4 make transitional provision to establish broad rental market areas and local housing allowances. These will be the broad rental market areas and local housing allowances determined for housing benefit purposes and will form the basis of local housing allowance determinations for subsequent years.

Article 5 applies where the Secretary of State has requested that the rent officer determines whether payments in respect of accommodation in the social rented sector are reasonable. The rent officer must determine the level of reasonable payments in accordance with Schedule 2. The rent officer must consider both rent and service charge payments and take into account the level of those payments in similar properties in the local authority area.

Article 6 makes provision for redeterminations of broad rental market area determinations and local housing allowance determinations where the rent officer has made an error. It also makes provision for redeterminations of housing payment determinations where the rent officer made an error, used inaccurate information, or where the Secretary of State has requested a redetermination.

Article 7 makes provision for circumstances where the rent officer has received incomplete or inaccurate information.

Article 8 makes provision for any notification by the rent officer to be made by electronic means, unless the recipient requests that it is made in writing.

A full impact assessment has not been produced for this instrument as it has no impact on the private sector or civil society organisations.

Appeal to Supreme Court against the Court of Appeal judgment in *Burnip and others*

1. This Annex explains in more detail the issue about human rights compatibility referred to in Section 6 of the Explanatory Memorandum.

Summary of the Court of Appeal judgment

2. The judgment of the Court of Appeal in the cases of Burnip, Trengove and Gorry [2012] EWCA Civ 629 was given on 15 May 2012. It concerned the "size criteria" used in working out Housing Benefit through the Local Housing Allowance for those in the private rented sector. The judgment can be found at <http://www.bailii.org/ew/cases/EWCA/Civ/2012/629.rtf>.
3. The size criteria are the rules which determine the number of bedrooms allowed for when determining the size of dwelling for which Housing Benefit may be paid. The size criteria make no allowance for situations where, as a result of serious disabilities, two children cannot be expected to share. Paragraphs 10, 25 and 36 of Schedule 4 to the draft Universal Credit Regulations contains provision which have the same effect – in that they make no allowance for situations where, as a result of serious disabilities, two children cannot be expected to share. Until April 2011, the rules also made no allowance for situations where an additional bedroom is required for a carer who, although not resident at the property, provides overnight care to a disabled person. (From April 2011 the Housing Benefit Regulations were amended to allow an additional room in this second category of case (and the Universal Credit Regulations also provide for an additional room in such cases), but the case continued to the Court of Appeal on the question of whether the rules before that date had been lawful.)
4. The Court of Appeal found that, by not allowing for an additional bedroom in such cases, the size criteria especially affected disabled people. This amounted to "indirect discrimination" - in other words, although the rules on their face treated people the same regardless of disability, in practice they had a particular effect on disabled people. The Court of Appeal found that this effect was not justified, and was therefore in breach of Article 14 of the European Convention on Human Rights (non-discrimination). In reaching this decision the Court of Appeal overruled earlier decisions of the Upper Tribunal in these cases.

Secretary of State's grounds for appealing to the Supreme Court

5. The view is taken that it is nonetheless compatible with the Convention rights to proceed to make the Universal Credit Regulations as set out above. This is because the Secretary of State considers that the Court of Appeal judgment is wrong, and is appealing to the Supreme Court. The appeal is being brought on three grounds.
6. First, the Secretary of State believes that, when considering whether the rules had a particular effect on disabled people, the Court of Appeal made the wrong

comparisons and wrongly chose comparators against whom it was inevitable that less favourable treatment would be shown. The Secretary of State argues that the correct comparison should be with the position of a person who has no disability but who is otherwise in an identical position to that which existed in these cases.

7. So, for example, a disabled person who requires an extra bedroom for an overnight non-resident carer to look after them as a result of their disability should be compared with a person with no disability who requires an extra bedroom for such a carer while they are recovering from an accident. And a family with children who cannot be expected to share because they have severe disabilities should be compared with a family with children who have no disability but cannot be expected to share for some other reason, for example behavioural problems.
8. Applying these comparisons it can be seen that, even in the situations where there is no disability, Housing Benefit for an additional bedroom would still not be permitted. Therefore, the Secretary of State argues that the size criteria rules do not have any prejudicial effect on people with disabilities. The Secretary of State argues that the case law of the European Court of Human Rights in Strasbourg requires the court to identify a true comparator even in cases like this which involve indirect discrimination.
9. Second, the Secretary of State argues that the Court of Appeal was wrong to apply the principle in a Strasbourg case called *Thlimmenos* (34369/97 [2000] ECHR 162, <http://www.bailii.org/eu/cases/ECHR/2000/162.html>) to cases like these where a person is seeking an extra amount of assistance from the state. The case of *Thlimmenos* decided that discrimination can also happen when a state without reasonable justification fails to treat differently people whose situations are significantly different. However there is no other case where this principle has been applied in such a way as to require a state to take positive steps to award more in benefits to a particular person, which may have an effect on other recipients of benefits. The Secretary of State argues that the principle in *Thlimmenos* should be confined to cases where a person is arguing that a rule which excludes them, for example from a certain profession, should be disappplied.
10. Third, the Secretary of State argues that the Court of Appeal was wrong to reject his reasoning as to why, even if the size criteria were said to have a particular impact on disabled people, those rules were justified and therefore lawful. The case of *Humphreys v HMRC* (a decision of the UK Supreme Court decided after the decision of the Court of Appeal in the present cases- [2012] UKSC 18, <http://www.bailii.org/uk/cases/UKSC/2012/18.html>) confirmed the principle that the courts will generally respect a state's policy in relation to awarding social security benefits unless it is clearly irrational (in the legal sense of being outside the range of options reasonably open to the government).
11. The Secretary of State argues that, when considering whether the rules were justified, the Court of Appeal should have looked at the system of support as a whole, including not only Housing Benefit but also the full range of other benefits available to disabled people *and* the possibility of their obtaining extra help for their rent through discretionary housing payments made by their local authority. The Secretary of State argues that, taking all these avenues together, the size

criteria rules are well within the range of options reasonably open to him when setting the rules for Housing Benefit and therefore for the housing costs element of Universal Credit..

12. Also decisions such as the decision to amend the size criteria rules from April 2011 to allow an extra room for a non-resident overnight carer involved a consideration of ways in which the extra cost of this measure could be offset by other reforms to Housing Benefit and other benefits. The Secretary of State argues that difficult decisions of this kind about the best way to allocate scarce public funds are best left to the elected government and should not be decided by the courts.

The position pending the outcome of the appeal

13. Until such time as the appeal is determined, the rights of disabled people are being properly protected, as explained below.
14. Shortly after the Court of Appeal's judgment the Secretary of State gave guidance to local authorities on how they should apply the Housing Benefit rules following the judgment. This guidance indicated that local authorities are legally bound to apply the Court of Appeal judgment when determining applications for Housing Benefit under the the private rented sector size criteria. Those who needed an extra room for a non-resident overnight carer were already able to get Housing Benefit for that due to the amendments made in April 2011. The judgment did not change that. Those whose children are said to be unable to share a bedroom because of severe disabilities would be able to claim Housing Benefit for an extra room from the date of the judgment.
15. The guidance indicated that it remained for local authorities to assess the individual circumstances of the claimant and their family and decide whether their disabilities were genuinely such that it was inappropriate for the children to be expected to share a room. This would involve considering not only the nature and severity of the disability but also the nature and frequency of care required during the night, and the extent and regularity of the disturbance to the sleep of the child who would normally be required to share the bedroom. This would come down to a matter of judgment on the facts. Local authorities should expect to be provided with sufficient medical evidence to satisfy themselves that these factors were sufficiently weighty in the individual case to make it inappropriate for the children to share a bedroom on a continual basis. Only in such circumstances would they be justified in making an exception to the normal application of the size criteria and granting Housing Benefit on the basis of an additional bedroom. The guidance also pointed out that, given the intention to appeal the judgment they may wish to consider suspending the part of the Housing Benefit award that relates to the additional room allowed as a result of that judgment pending any appeal by the Department. There are powers to suspend part of housing benefit under regulation 11(2)(b)(ii) of SI 2001/1002 (the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001) when an appeal is pending. Regulations 2001).
16. The Secretary of State is proposing to update this guidance shortly to confirm to local authorities that permission to appeal to the Supreme Court has been granted,

and that we do not expect the case to be decided for some time. The updated guidance also indicates that local authorities should allow an extra room for disabled children only where, as in the case that was considered by the Court of Appeal, the family is in fact living in a property that has the extra room to enable the children to sleep separately.

17. These Universal Credit Regulations do not include provision for an extra bedroom in cases where children sleep in separate bedrooms due to their serious disabilities. Guidance will confirm that relevant cases will need to be considered in line with the overriding legal precedence of the judgment. The Secretary of State is considering whether a suspension of the increased benefit is appropriate in these cases. Section 21 of the Social Security Act 1998, read together with regulation 44 of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013 allows for suspension when an appeal is pending
18. For these reasons the department is confident that Universal Credit claimants will be treated in a way that is compliant with the Court of Appeal judgment, and therefore compatible with section 6 of the Human Rights Act 1998 regardless of the outcome of the Secretary of State's appeal to the Supreme Court.

Future steps

19. In the event that the Secretary of State's appeal to the Supreme Court is unsuccessful and the Supreme Court upholds the judgment of the Court of Appeal, then of course that judgment will continue to be applied. The Universal Credit Regulations and Housing Benefit Regulations would be amended as soon as possible to ensure that they reflect the judgment.