
DRAFT STATUTORY INSTRUMENTS

2013 No.

The Universal Credit Regulations 2013

PART 7

THE BENEFIT CAP

Exceptions - entitlement or receipt of certain benefits

- 83.**—(1) The benefit cap does not apply in relation to any assessment period where—
- (a) the LCWRA element is included in the award of universal credit or the claimant is receiving an employment and support allowance that includes the support component;
 - (b) a claimant is receiving industrial injuries benefit;
 - (c) a claimant is receiving attendance allowance;
 - (d) a claimant is receiving a war pension;
 - (e) a claimant is receiving a payment under article 15(1)(c) or article 29(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011⁽¹⁾;
 - (f) a claimant, or a child or qualifying young person for whom a claimant is responsible, is receiving disability living allowance;
 - (g) a claimant, or a qualifying young person for whom a claimant is responsible, is receiving personal independence payment;
 - (h) a claimant, or a child or qualifying young person for whom a claimant is responsible, is entitled to a payment listed in sub-paragraph (b), (c), (d), or (e) but—
 - (i) is not receiving it by virtue of regulation 6 (hospitalisation) or regulation 7 (persons in care homes) of the Social Security (Attendance Allowance) Regulations 1991⁽²⁾,
 - (ii) it is being withheld by virtue of article 53 of the Naval, Military and Air Forces etc (Disablement and Death) Service Pensions Order 2006⁽³⁾ (maintenance in hospital or an institution),
 - (iii) is not receiving it by virtue of regulation 8 (hospitalisation) or regulation 9 (persons in care homes) of the Social Security (Disability Living Allowance) Regulations 1991⁽⁴⁾, or
 - (iv) in the case of personal independence payment, is not receiving it by virtue of regulations under section 85 (care home residents) or 86 (hospital in-patients) of the Act.
- (2) For the purposes of this regulation, “war pension” means—
- (a) any pension or allowance payable under any of the instruments listed in section 639(2) of ITEPA—

⁽¹⁾ S.I. 2011/517.

⁽²⁾ S.I. 1991/2740. Relevant amendments made by S.I. 1992/2869, 1999/1326 and 2007/2875.

⁽³⁾ S.I. 2006/606.

⁽⁴⁾ S.I. 1991/2890. Relevant amendments made by S.I. 1992/2869, 1999/1326, 2000/1401, 2007/2875 and 2010/1172.

- (i) to a widow, widower or a surviving civil partner, or
 - (ii) in respect of disablement;
- (b) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
- (c) a payment which is made under any of—
- (i) the Order in Council of 19th December 1881,
 - (ii) the Royal Warrant of 27th October 1884, or
 - (iii) the Order by His Majesty of 14th January 1922,
- to a widow, widower or surviving civil partner of a person whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown and whose service in such capacity terminated before 31st March 1973;
- (d) a pension paid by the government of a country outside the United Kingdom which is analogous to any of the pensions, allowances or payments mentioned in paragraphs (a) to (c).