



# Welfare Reform Act 2012

## 2012 CHAPTER 5

### PART 1

#### UNIVERSAL CREDIT

### CHAPTER 3

#### SUPPLEMENTARY AND GENERAL

#### *Supplementary and consequential*

**30 Supplementary regulation-making powers**

Schedule 1 contains supplementary regulation-making powers.

**31 Supplementary and consequential amendments**

Schedule 2 contains supplementary and consequential amendments.

**32 Power to make supplementary and consequential provision etc**

- (1) The appropriate authority may by regulations make such consequential, supplementary, incidental or transitional provision in relation to any provision of this Part as the authority considers appropriate.
- (2) The appropriate authority is the Secretary of State, subject to subsection (3).
- (3) The appropriate authority is the Welsh Ministers for—
  - (a) provision which would be within the legislative competence of the National Assembly for Wales were it contained in an Act of the Assembly;
  - (b) provision which could be made by the Welsh Ministers under any other power conferred on them.

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- (4) Regulations under this section may amend, repeal or revoke any primary or secondary legislation (whenever passed or made).

*Universal credit and other benefits*

**33 Abolition of benefits**

- (1) The following benefits are abolished—
- (a) income-based jobseeker’s allowance under the Jobseekers Act 1995;
  - (b) income-related employment and support allowance under Part 1 of the Welfare Reform Act 2007;
  - (c) income support under section 124 of the Social Security Contributions and Benefits Act 1992;
  - (d) housing benefit under section 130 of that Act;
  - (e) council tax benefit under section 131 of that Act;
  - (f) child tax credit and working tax credit under the Tax Credits Act 2002.
- (2) In subsection (1)—
- (a) “income-based jobseeker’s allowance” has the same meaning as in the Jobseekers Act 1995;
  - (b) “income-related employment and support allowance” means an employment and support allowance entitlement to which is based on section 1(2)(b) of the Welfare Reform Act 2007.
- (3) Schedule 3 contains consequential amendments.

**34 Universal credit and state pension credit**

Schedule 4 provides for a housing element of state pension credit in consequence of the abolition of housing benefit by section 33.

**35 Universal credit and working-age benefits**

Schedule 5 makes further provision relating to universal credit, jobseeker’s allowance and employment and support allowance.

**36 Migration to universal credit**

Schedule 6 contains provision about the replacement of benefits by universal credit.

*General*

**37 Capability for work or work-related activity**

- (1) For the purposes of this Part a claimant has limited capability for work if—
- (a) the claimant’s capability for work is limited by their physical or mental condition, and
  - (b) the limitation is such that it is not reasonable to require the claimant to work.

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- (2) For the purposes of this Part a claimant has limited capability for work-related activity if—
  - (a) the claimant’s capability for work-related activity is limited by their physical or mental condition, and
  - (b) the limitation is such that it is not reasonable to require the claimant to undertake work-related activity.
- (3) The question whether a claimant has limited capability for work or work-related activity for the purposes of this Part is to be determined in accordance with regulations.
- (4) Regulations under this section must, subject as follows, provide for determination of that question on the basis of an assessment (or repeated assessments) of the claimant.
- (5) Regulations under this section may for the purposes of an assessment—
  - (a) require a claimant to provide information or evidence (and may require it to be provided in a prescribed manner or form);
  - (b) require a claimant to attend and submit to a medical examination at a place, date and time determined under the regulations.
- (6) Regulations under this section may make provision for a claimant to be treated as having or not having limited capability for work or work-related activity.
- (7) Regulations under subsection (6) may provide for a claimant who fails to comply with a requirement imposed under subsection (5) without a good reason to be treated as not having limited capability for work or work-related activity.
- (8) Regulations under subsection (6) may provide for a claimant to be treated as having limited capability for work until—
  - (a) it has been determined whether or not that is the case, or
  - (b) the claimant is under any other provision of regulations under subsection (6) treated as not having it.
- (9) Regulations under this section may provide for determination of the question of whether a claimant has limited capability for work or work-related activity even where the claimant is for the time being treated under regulations under subsection (6) as having limited capability for work or work-related activity.

### **38 Information**

Information supplied under Chapter 2 of this Part or section 37 is to be taken for all purposes to be information relating to social security.

### **39 Couples**

- (1) In this Part “couple” means—
  - (a) a man and woman who are married to each other and are members of the same household;
  - (b) a man and woman who are not married to each other but are living together as husband and wife;
  - (c) two people of the same sex who are civil partners of each other and are members of the same household;

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- (d) two people of the same sex who are not civil partners of each other but are living together as civil partners.
- (2) For the purposes of this section, two people of the same sex are to be treated as living together as if they were civil partners if, and only if, they would be treated as living together as husband and wife were they of opposite sexes.
- (3) For the purposes of this section regulations may prescribe—
  - (a) circumstances in which the fact that two persons are husband and wife or are civil partners is to be disregarded;
  - (b) circumstances in which a man and a woman are to be treated as living together as husband and wife;
  - (c) circumstances in which people are to be treated as being or not being members of the same household.

## 40 Interpretation of Part 1

In this Part—

- “assessment period” has the meaning given by section 7(2);
- “child” means a person under the age of 16;
- “claim” means claim for universal credit;
- “claimant” means a single claimant or each of joint claimants;
- “couple” has the meaning given by section 39;
- “disabled” has such meaning as may be prescribed;
- “joint claimants” means members of a couple who jointly make a claim or in relation to whom an award of universal credit is made;
- “limited capability for work” and “limited capability for work-related activity” are to be construed in accordance with section 37(1) and (2);
- “prescribed” means specified or provided for in regulations;
- “primary legislation” means an Act, Act of the Scottish Parliament or Act or Measure of the National Assembly for Wales;
- “qualifying young person” has the meaning given in section 10(5);
- “regular and substantial caring responsibilities” has such meaning as may be prescribed;
- “responsible carer”, in relation to a child, has the meaning given in section 19(6);
- “secondary legislation” means an instrument made under primary legislation”;
- “severely disabled” has such meaning as may be prescribed;
- “single claimant” means a single person who makes a claim for universal credit or in relation to whom an award of universal credit is made as a single person;
- “single person” is to be construed in accordance with section 1(2)(a);
- “work” has such meaning as may be prescribed;
- “work availability requirement” has the meaning given by section 18(1);
- “work preparation requirement” has the meaning given by section 16(1);
- “work search requirement” has the meaning given by section 17(1);
- “work-focused interview requirement” has the meaning given by section 15(1);

“work-related activity”, in relation to a person, means activity which makes it more likely that the person will obtain or remain in work or be able to do so;  
“work-related requirement” has the meaning given by section 13(2).

### *Regulations*

#### **41 Pilot schemes**

- (1) Any power to make—
  - (a) regulations under this Part,
  - (b) regulations under the Social Security Administration Act 1992 relating to universal credit, or
  - (c) regulations under the Social Security Act 1998 relating to universal credit,may be exercised so as to make provision for piloting purposes.
- (2) In subsection (1), “piloting purposes”, in relation to any provision, means the purposes of testing—
  - (a) the extent to which the provision is likely to make universal credit simpler to understand or to administer,
  - (b) the extent to which the provision is likely to promote—
    - (i) people remaining in work, or
    - (ii) people obtaining or being able to obtain work (or more work or better-paid work), or
  - (c) the extent to which, and how, the provision is likely to affect the conduct of claimants or other people in any other way.
- (3) Regulations made by virtue of this section are in the remainder of this section referred to as a “pilot scheme”.
- (4) A pilot scheme may be limited in its application to—
  - (a) one or more areas;
  - (b) one or more classes of person;
  - (c) persons selected—
    - (i) by reference to prescribed criteria, or
    - (ii) on a sampling basis.
- (5) A pilot scheme may not have effect for a period exceeding three years, but—
  - (a) the Secretary of State may by order made by statutory instrument provide that the pilot scheme is to continue to have effect after the time when it would otherwise expire for a period not exceeding twelve months (and may make more than one such order);
  - (b) a pilot scheme may be replaced by a further pilot scheme making the same or similar provision.
- (6) A pilot scheme may include consequential or transitional provision in relation to its expiry.

#### **42 Regulations: general**

- (1) Regulations under this Part are to be made by the Secretary of State, unless otherwise provided.

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- (2) A power to make regulations under this Part may be exercised—
  - (a) so as to make different provision for different cases or purposes;
  - (b) in relation to all or only some of the cases or purposes for which it may be exercised.
- (3) Such a power includes—
  - (a) power to make incidental, supplementary, consequential or transitional provision or savings;
  - (b) power to provide for a person to exercise a discretion in dealing with any matter.
- (4) Each power conferred by this Part is without prejudice to the others.
- (5) Where regulations under this Part provide for an amount, the amount may be zero.
- (6) Where regulations under this Part provide for an amount for the purposes of an award (or a reduction from an award), the amount may be different in relation to different descriptions of person, and in particular may depend on—
  - (a) whether the person is a single person or a member of a couple;
  - (b) the age of the person.
- (7) Regulations under section 11(4) or 12(3) which provide for the determination or calculation of an amount may make different provision for different areas.

#### **43 Regulations: procedure**

- (1) Regulations under this Part are to be made by statutory instrument.
- (2) A statutory instrument containing regulations made by the Secretary of State under this Part is subject to the negative resolution procedure, subject as follows.
- (3) A statutory instrument containing the first regulations made by the Secretary of State under any of the following, alone or with other regulations, is subject to the affirmative resolution procedure—
  - (a) section 4(7) (acceptance of claimant commitment);
  - (b) section 5(1)(a) and (2)(a) (capital limits);
  - (c) section 8(3) (income to be deducted in award calculation);
  - (d) section 9(2) and (3) (standard allowance);
  - (e) section 10(3) and (4) (children and young persons element);
  - (f) section 11 (housing costs element);
  - (g) section 12 (other needs and circumstances element);
  - (h) section 18(3) and (5) (work availability requirement);
  - (i) section 19(2)(d) (claimants subject to no work-related requirements);
  - (j) sections 26 and 27 (sanctions);
  - (k) section 28 (hardship payments);
  - (l) paragraph 4 of Schedule 1 (calculation of capital and income);
  - (m) paragraph 1(1) of Schedule 6 (migration), where making provision under paragraphs 4, 5 and 6 of that Schedule.

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- (4) A statutory instrument containing regulations made by the Secretary of State by virtue of section 41 (pilot schemes), alone or with other regulations, is subject to the affirmative resolution procedure.
- (5) A statutory instrument containing regulations made by the Secretary of State under this Part is subject to the affirmative resolution procedure if—
  - (a) it also contains regulations under another enactment, and
  - (b) an instrument containing those regulations would apart from this section be subject to the affirmative resolution procedure.
- (6) For the purposes of subsections (2) to (5)—
  - (a) a statutory instrument subject to the “negative resolution procedure” is subject to annulment in pursuance of a resolution of either House of Parliament;
  - (b) a statutory instrument subject to the “affirmative resolution procedure” may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.
- (7) A statutory instrument containing regulations made by the Welsh Ministers under section 32 may not be made unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales.