
STATUTORY INSTRUMENTS

2013 No. 376

The Universal Credit Regulations 2013

PART 4

ELEMENTS OF AN AWARD

Particular needs or circumstances - childcare costs

Award to include childcare costs element

31. An award of universal credit is to include an amount in respect of childcare costs (“the childcare costs element”) in respect of an assessment period in which the claimant meets both—

- (a) the work condition (see regulation 32); and
- (b) the childcare costs condition (see regulation 33).

The work condition

32.—(1) The work condition is met in respect of an assessment period if —

- (a) the claimant is in paid work or has an offer of paid work that is due to start before the end of the next assessment period; and
- (b) if the claimant is a member of a couple (whether claiming jointly or as a single person), the other member is either in paid work or is unable to provide childcare because that person—
 - (i) has limited capability for work,
 - (ii) has regular and substantial caring responsibilities for a severely disabled person, or
 - (iii) is temporarily absent from the claimant's household.

(2) For the purposes of meeting the work condition in relation to an assessment period a claimant is to be treated as being in paid work if—

- (a) the claimant has ceased paid work—
 - (i) in that assessment period,
 - (ii) in the previous assessment period, or
 - (iii) if the assessment period in question is the first or second assessment period in relation to an award, in that assessment period or in the month immediately preceding the commencement of the award; or
- (b) the claimant is receiving statutory sick pay, statutory maternity pay, ordinary statutory paternity pay, additional statutory paternity pay, statutory adoption pay^{F1}, statutory shared parental pay] or a maternity allowance.

Status: Point in time view as at 03/03/2015.

Changes to legislation: There are currently no known outstanding effects for the The Universal Credit Regulations 2013, Cross Heading: Particular needs or circumstances - childcare costs. (See end of Document for details)

Textual Amendments

- F1** Words in reg. 32(2)(b) inserted (31.12.2014) by [The Shared Parental Leave and Statutory Shared Parental Pay \(Consequential Amendments to Subordinate Legislation\) Order 2014 \(S.I. 2014/3255\)](#), arts. 1(2), **28(3)(c)**

The childcare costs condition

- 33.—**(1) The childcare costs condition is met in respect of an assessment period if—
- [^{F2}(za) the claimant has paid charges for relevant childcare that are attributable to that assessment period (see regulation 34A) and those charges have been reported to the Secretary of State before the end of that assessment period;]
- (a) [^{F3}the charges are in respect of]—
- (i) a child, or
 - (ii) a qualifying young person who has not reached the 1st September following their 16th birthday,
- for whom the claimant is responsible; and
- (b) the charges are for childcare arrangements—
- (i) that are to enable the claimant to take up paid work or to continue in paid work, or
 - (ii) where the claimant is treated as being in paid work by virtue of regulation 32(2), that are to enable the claimant to maintain childcare arrangements that were in place when the claimant ceased paid work or began to receive those benefits.

[^{F4}(2) The late reporting of charges for relevant childcare may be accepted in the same circumstances as late notification of a change of circumstances may be accepted under regulation 36 of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013 and, in such cases, subject to regulation 34A below, all or part of any such charges may be taken into account in any assessment period to which they relate.]

Textual Amendments

- F2** Reg. 33(1)(za) inserted (26.11.2014) by [The Universal Credit \(Digital Service\) Amendment Regulations 2014 \(S.I. 2014/2887\)](#), regs. 1, **2(2)(a)** (with reg. 5)
- F3** Words in reg. 33(1)(a) substituted (26.11.2014) by [The Universal Credit \(Digital Service\) Amendment Regulations 2014 \(S.I. 2014/2887\)](#), regs. 1, **2(2)(b)** (with reg. 5)
- F4** Reg. 33(2) substituted (26.11.2014) by [The Universal Credit \(Digital Service\) Amendment Regulations 2014 \(S.I. 2014/2887\)](#), regs. 1, **2(2)(c)** (with reg. 5)

Amount of childcare costs element

- 34.—**(1) The amount of the childcare costs element for an assessment period is the lesser of—
- [^{F5}(a) 70% of the charges paid for relevant childcare that are attributable to that assessment period; or]
- (b) the maximum amount specified in the table in regulation 36.
- (2) In determining the amount of charges paid for relevant childcare, there is to be left out of account any amount—

- (a) that the Secretary of State considers excessive having regard to the extent to which the claimant (or, if the claimant is a member of a couple, the other member) is engaged in paid work; or
 - (b) that is met or reimbursed by an employer or some other person or is covered by other relevant support.
- (3) “Other relevant support” means payments out of funds provided by the Secretary of State or by Scottish or Welsh Ministers in connection with the claimant's participation in work-related activity or training.

Textual Amendments

F5 Reg. 34(1)(a) substituted (26.11.2014) by [The Universal Credit \(Digital Service\) Amendment Regulations 2014 \(S.I. 2014/2887\)](#), regs. 1, **2(3)** (with reg. 5)

Modifications etc. (not altering text)

C1 Reg. 34(1)(a) percentage maintained (coming into force in accordance with art. 1(2)(l) of the amending S.I.) by [The Social Security Benefits Up-rating Order 2015 \(S.I. 2015/457\)](#), arts. 1(2)(l), **24(1)**

[^{F6}Charges attributable to an assessment period

34A.—(1) Charges paid for relevant childcare are attributable to an assessment period where—

- (a) those charges are paid in that assessment period for relevant childcare in respect of that assessment period; or
- (b) those charges are paid in that assessment period for relevant childcare in respect of a previous assessment period; or
- (c) those charges were paid in either of the two previous assessment periods for relevant childcare in respect of that assessment period.

(2) For the purposes of paragraph (1)(c), where a claimant pays charges for relevant childcare in advance, the amount which they have paid in respect of any assessment period is to be calculated as follows: *Step 1* Take the total amount of the advance payment (leaving out of account any amount referred to in regulation 34(2)). *Step 2* Apply the formula—

$$(P A D) \times A P$$

Where—

PA is the amount resulting from step 1;

D is the total number of days covered by the payment referred to in step 1, and

AP is the number of days covered by the payment which also fall within the assessment period in question.

(3) In this regulation, a reference to an assessment period in which charges are paid, or in respect of which charges are paid, includes any month preceding the commencement of the award that begins on the same day as each assessment period in relation to a claimant's current award.]

Textual Amendments

F6 Reg. 34A inserted (26.11.2014) by [The Universal Credit \(Digital Service\) Amendment Regulations 2014 \(S.I. 2014/2887\)](#), regs. 1, **2(4)** (with reg. 5)

Status: Point in time view as at 03/03/2015.

Changes to legislation: There are currently no known outstanding effects for the The Universal Credit Regulations 2013, Cross Heading: Particular needs or circumstances - childcare costs. (See end of Document for details)

Modifications etc. (not altering text)

C2 Reg. 34A(2) sums maintained (coming into force in accordance with art. 1(2)(l) of the amending S.I.) by The Social Security Benefits Up-rating Order 2015 (S.I. 2015/457), arts. 1(2)(l), 24(4), Sch. 17

Meaning of “relevant childcare”

35.—(1) “Relevant childcare” means any of the care described in paragraphs (2) to (5) other than care excluded by paragraph (7) or (8).

(2) Care provided in England for a child—

(a) by a person registered under Part 3 of the Childcare Act 2006 ^{M1}; or

[^{F7}(b) by or under the direction of the proprietor of a school as part of the school's activities—

(i) out of school hours, where a child has reached compulsory school age, or

(ii) at any time, where a child has not yet reached compulsory school age; or]

[^{F8}(c) by a domiciliary care provider registered with the Care Quality Commission in accordance with the requirements of the Health and Social Care Act 2008 ^{M2}.]

(3) Care provided in Scotland for a child—

(a) by a person in circumstances in which the care service provided by the person consists of child minding or of day care of children within the meaning of [^{F9} schedule 12 to the Public Services Reform (Scotland) Act 2010 ^{M3} and is registered under Part 5 of that Act; or]

(b) by a childcare agency where the care service consists of or includes supplying, or introducing to persons who use the service, childcarers within the meaning of [^{F10} paragraph 5 of schedule 12 to the Public Services Reform (Scotland) Act 2010; or]

(c) by a local authority in circumstances in which the care service provided by the local authority consists of child minding or of day care of children within the meaning of [^{F11} schedule 12 to the Public Services Reform (Scotland) Act 2010 and is registered under Part 5 of that Act]

(4) Care provided in Wales for a child—

(a) by a person registered under Part 2 of the Children and Families (Wales) Measure 2010 ^{M4};

(b) in circumstances in which, but for article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010 ^{M5}, the care would be day care for the purposes of Part 2 of the Children and Families (Wales) Measure 2010;

(c) by a childcare provider approved in accordance with a scheme made by the National Assembly for Wales under section 12(5) of the Tax Credits Act 2002 ^{M6};

[^{F12}(d) out of school hours, by a school on school premises or by a local authority;]

(e) by a domiciliary care worker under the Domiciliary Care Agencies (Wales) Regulations 2004 ^{M7}; or

(f) by a foster parent in relation to the child (other than one whom the foster parent is fostering) in circumstances in which the care would be child minding or day care for the purposes of Part 2 of the Children and Families (Wales) Measure 2010 but for the fact that the child is over the age of the children to whom that Measure applies.

(5) Care provided anywhere outside Great Britain by a childcare provider approved by an organisation accredited by the Secretary of State.

[^{F13}(5A) In paragraph (2)(b), “school” means a school that Her Majesty's Chief Inspector of Education, Children's Services and Skills is, or may be, required to inspect.]

- (6) In paragraphs (2)(b) and (4)(d)—
- (a) “proprietor”, in relation to a school, means—
- (i) the governing body incorporated under section 19 of the Education Act 2002^{M8}, or
 - (ii) if there is no such governing body, the person or body of persons responsible for the management of the school; and
- (b) “school premises” means premises that may be inspected as part of an inspection of the school.
- (7) The following are not relevant childcare—
- (a) care provided for a child by a close relative of the child, wholly or mainly in the child's home; and
- (b) care provided by a person who is a foster parent of the child.
- (8) Care is not within paragraph (2)(a) if it is provided in breach of a requirement to register under Part 3 of the Childcare Act 2006.
- (9) In this regulation “child” includes a qualifying young person mentioned in regulation 33(1)(a)(ii).

Textual Amendments

- F7** Reg. 35(2)(b) substituted (29.7.2013) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2013 \(S.I. 2013/1508\)](#), regs. 1(2)(a), **3(6)(a)**
- F8** Reg. 35(2)(c) inserted (29.7.2013) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2013 \(S.I. 2013/1508\)](#), regs. 1(2)(a), **3(6)(b)**
- F9** Words in reg. 35(3)(a) substituted (29.7.2013) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2013 \(S.I. 2013/1508\)](#), regs. 1(2)(a), **3(6)(c)**
- F10** Words in reg. 35(3)(b) substituted (29.7.2013) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2013 \(S.I. 2013/1508\)](#), regs. 1(2)(a), **3(6)(d)**
- F11** Words in reg. 35(3)(c) substituted (29.7.2013) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2013 \(S.I. 2013/1508\)](#), regs. 1(2)(a), **3(6)(e)**
- F12** Reg. 35(4)(d) substituted (29.7.2013) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2013 \(S.I. 2013/1508\)](#), regs. 1(2)(a), **3(6)(f)**
- F13** Reg. 35(5A) inserted (29.7.2013) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2013 \(S.I. 2013/1508\)](#), regs. 1(2)(a), **3(6)(g)**

Marginal Citations

- M1** 2006 c.21.
- M2** 2008 c.14.
- M3** 2010 asp.8.
- M4** 2010 nawm. 1.
- M5** [S.I. 2010/2839 \(W 233\)](#).
- M6** 2002 c.21.
- M7** [S.I. 2004/219 \(W 23\)](#).
- M8** 2002 c. 32. Section 19 has been amended by [S.I. 2010/1158](#).

Status:

Point in time view as at 03/03/2015.

Changes to legislation:

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Cross Heading: Particular needs or circumstances - childcare costs.