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STATUTORY INSTRUMENTS

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**2013 No. 381**

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

**PART 3**

**SUPERSESIONS**

**CHAPTER 3**

**EFFECTIVE DATES FOR SUPERSESIONS**

**Effective dates: Secretary of State decisions**

**35.**—(1) Schedule 1 (effective dates for superseding decisions made on the ground of a change of circumstances) makes provision for the date from which a superseding decision takes effect where there has been, or it is anticipated that there will be, a relevant change of circumstances since the earlier decision took effect.

(2) This paragraph applies where the Secretary of State supersedes a decision—

- (a) on the ground that the decision was wrong in law, or was made in ignorance of, or was based on a mistake as to, some material fact, in accordance with regulation 24 (error of law, ignorance, mistake etc.); or
- (b) under regulation 25 (decisions against which no appeal lies).

(3) In a case where paragraph (2) applies and the superseding decision relates to a jobseeker's allowance or an employment and support allowance, the superseding decision takes effect from the first day of the benefit week in which the superseding decision, or where applicable, the application for supersession, was made.

(4) In a case where paragraph (2) applies and the superseding decision relates to universal credit, the superseding decision takes effect from the first day of the assessment period in which the superseding decision, or where applicable, the application for supersession, was made.

(5) A superseding decision made in consequence of a decision which is a relevant determination for the purposes of section 27 of the 1998 Act (restrictions on entitlement to benefit in certain cases of error)<sup>MI</sup> takes effect from the date of the relevant determination.

(6) In the case of an employment and support allowance, a superseding decision made in accordance with regulation 26(1) (medical evidence and limited capability for work etc.), following an application by the claimant, that embodies a determination that the claimant has limited capability for work-related activity, takes effect from the date of the application.

(7) In the case of an employment and support allowance, a superseding decision made on the Secretary of State's own initiative in accordance with regulation 26(1) that embodies a determination that the claimant has—

- (a) limited capability for work; or

- (b) limited capability for work-related activity; or
- (c) limited capability for work and limited capability for work-related activity,

takes effect from [F1the day after the last day of the relevant period as defined in regulation 5(4) of the Employment and Support Allowance Regulations 2013] where the determination is the first such determination.

(8) In the case of an employment and support allowance where regulation 6 of the Employment and Support Allowance Regulations 2013 (assessment phase – previous claimants) applies, a superseding decision made in accordance with regulation 26(1) of these Regulations that embodies a determination that the claimant has—

- (a) limited capability for work; or
- (b) limited capability for work-related activity; or
- (c) limited capability for work and limited capability for work-related activity,

takes effect from the beginning of the 14th week of the claimant's continuous period of limited capability for work.

(9) In the case of universal credit, a superseding decision made in accordance with regulation 26(1) that embodies a determination that the claimant has limited capability for work or limited capability for work and work-related activity takes effect—

- (a) in a case to which regulation 28(1) (period for which the LCW or LCWRA element is not to be included) of the Universal Credit Regulations applies, from the beginning of the assessment period specified in that paragraph; or
- (b) in any other case, from the beginning of the assessment period in which the decision (if made on the Secretary of State's own initiative) or the application for a supersession was made.

(10) A superseding decision to which regulation 27(1) (sanctions cases: reduction in an award) applies takes effect from the beginning of the period specified in—

- (a) regulation 54 of the Employment and Support Allowance Regulations 2013, where the decision relates to the start of a reduction in the amount of an employment and support allowance;
- (b) regulation 56 of the Employment and Support Allowance Regulations 2013, where the decision relates to ending the suspension of a such a reduction where a fraud penalty ceases to apply;
- (c) regulation 22 of the Jobseeker's Allowance Regulations 2013, where the decision relates to the start of a reduction in the amount of a jobseeker's allowance;
- (d) regulation 24 of the Jobseeker's Allowance Regulations 2013, where the decision relates to ending the suspension of such a reduction where a fraud penalty ceases to apply;
- (e) regulation 106 of the Universal Credit Regulations, where the decision relates to the start of a reduction in the amount of universal credit;
- (f) regulation 108 of the Universal Credit Regulations, where the decision relates to ending the suspension of such a reduction where a fraud penalty ceases to apply.

(11) A superseding decision to which regulation 27(2) (sanctions cases: suspension and termination of a reduction) applies takes effect from the beginning of the period specified in—

- (a) regulation 56 of the Employment and Support Allowance Regulations 2013, where the decision relates to the start of a suspension where a fraud penalty applies;
- (b) regulation 57 of the Employment and Support Allowance Regulations 2013, where the decision relates to the termination of a reduction in the amount of an employment and support allowance;

- (c) regulation 24 of the Jobseeker's Allowance Regulations 2013, where the decision relates to the start of a suspension where a fraud penalty applies;
  - (d) regulation 25 of the Jobseeker's Allowance Regulations 2013, where the decision relates to the termination of a reduction in the amount of a jobseeker's allowance;
  - (e) regulation 108 of the Universal Credit Regulations, where the decision relates to the start of a suspension where a fraud penalty applies;
  - (f) regulation 109 of the Universal Credit Regulations, where the decision relates to the termination of a reduction in the amount of an award of universal credit.
- (12) A superseding decision to which regulation 28 (loss of benefit provisions) applies takes effect from the date prescribed for the purposes of section 6B or 7 of the Fraud Act <sup>M2</sup>.
- (13) Where a decision is superseded in accordance with regulation 29 (contributions cases), the superseding decision takes effect from the date referred to in regulation 29(a), (b) or (c) on which the late or unpaid contribution is treated as paid.
- (14) A superseding decision made in consequence of a redetermination in accordance with regulation 30 (housing costs: universal credit) takes effect on the first day of the first assessment period following the day on which that redetermination is received by Secretary of State.

**F1** Words in reg. 35(7) substituted (30.3.2015) by [The Jobseeker's Allowance \(Extended Period of Sickness\) Amendment Regulations 2015 \(S.I. 2015/339\)](#), regs. 1, **8(3)**

**Modifications etc. (not altering text)**

**C1** Reg. 35(6)-(9) applied (with modifications) (temp.) (13.3.2020) by [The Employment and Support Allowance and Universal Credit \(Coronavirus Disease\) Regulations 2020 \(S.I. 2020/289\)](#), regs. 1(1), **3** (with reg. 5) (as amended (30.3.2020) by [The Social Security \(Coronavirus\) \(Further Measures\) Regulations 2020 \(S.I. 2020/371\)](#), regs. 1(1), **10(3)**)

**Marginal Citations**

**M1** 1998 c. 14. Section 27(1) and (3) was amended by [S.I. 2008/2833](#). Section 27(7) was amended by the 2002 Act, section 11, Schedule 1, Part 2, by the [Constitutional Reform Act 2005 \(c. 4\)](#), **section 40(4)** and Schedule 9, paragraph 64, by the 2007 Act, section 28 and by Schedule 3, paragraph 17, by the 2012 Act, sections 31 and 91 and Schedule 2, paragraphs 43 and 47, Schedule 9, paragraphs 37 and 41 and by [S.I. 2011/1043](#). Section 27(10) was amended by [S.I. 2008/2833](#).

**M2** Section 6B was inserted by section 24(1) of the 2009 Act. Section 6B is amended by section 113(8) of the 2012 Act and by the 2009 and 2012 Acts, from a date to be appointed. Section 7 was amended by paragraph 45 of Schedule 2 to the 2002 Act, by Schedule 6 to the Tax Credits, by section 49 of, and paragraph 23 to Schedule 3 to, the 2007 Act and by paragraph 2 of Schedule 4 to the 2009 Act. Section 7(4A) was inserted by paragraph 45(2) of Schedule 2 to the 2002 Act. Section 7(4B) was inserted by paragraph 23(2) of Schedule 3 to the 2007 Act.

**Changes to legislation:**

There are currently no known outstanding effects for the The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013, Section 35.