

EXPLANATORY MEMORANDUM TO
THE UNIVERSAL CREDIT AND MISCELLANEOUS AMENDMENTS
REGULATIONS 2014

2014 No. 597

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 instrument

This instrument makes a number of amendments to the Regulations that were made in 2013 in connection with the introduction of Universal Credit and new versions of Jobseeker's Allowance and Employment and Support Allowance. The reasons for the amendments include the need to make minor changes to support the delivery of the new benefits and to ensure appropriate alignment with existing benefits.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None

4. Legislative Context

4.1 The Welfare Reform Act 2012¹ provided 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. Amendments were also made to the Jobseekers Act 1995² and the Welfare Reform Act 2007³ to enable the conversion of Jobseeker's Allowance and Employment and Support Allowance into contribution-based benefits only.

4.2 The legislation for Universal Credit currently applies only to certain categories of claimant in specified postcode areas. In other cases, including in all other areas, the previous legislation continues to apply, including the Regulations which allow for the calculation and payment of old style Jobseeker's Allowance and Employment and Support Allowance.

4.3 This instrument makes minor changes to Regulations that apply to Universal Credit and new style, contributory-only, Jobseeker's Allowance and Employment and Support Allowance. The amendments being introduced are to:

- The Universal Credit Regulations 2013 (SI 2013/376)⁴;
- The Jobseeker's Allowance Regulations 2013 (SI 2013/378)⁵;
- The Employment and Support Allowance Regulations 2013 (SI 2013/379)⁶;

¹ Welfare Reform Act 2012: <http://www.legislation.gov.uk/ukpga/2012/5/contents>

² Jobseekers Act 1995: <http://www.legislation.gov.uk/ukpga/1995/18/contents>

³ Welfare Reform Act 2007: <http://www.legislation.gov.uk/ukpga/2007/5/contents>

⁴ Universal Credit Regulations 2013: <http://www.legislation.gov.uk/uksi/2013/376/contents/made>

⁵ Jobseeker's Allowance Regulations 2013: <http://www.legislation.gov.uk/uksi/2013/378/contents/made>

- The Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013 (SI 2013/380)⁷; and
- The Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013 (SI 2013/381)⁸.

5. Territorial Extent and Application

This instrument applies 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

As this instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 This instrument will come into force on 28 April 2014. This is the same date as the Social Security (Miscellaneous Amendments) Regulations 2014. This is intentional because of a small overlap between the two sets of Regulations which both contain similar changes relating to the standard interest rate and to terminology used in the Employment and Support Allowance Regulations.

Amendments to the Universal Credit Regulations 2013 (SI 2013/376)

7.2 Regulation 2(2) inserts a definition of “enactment” into the Universal Credit Regulations. This term is used in a number of places to avoid the need to cross refer to specific pieces of primary legislation (thereby future-proofing the Universal Credit provisions). The definition ensures that Acts of the Scottish Parliament and the National Assembly of Wales are included in the Universal Credit Regulations.

7.3 Regulation 2(3) amends the Universal Credit Regulations to include the death of a non-dependent member of the household as one of the circumstances in which a bereavement run-on applies. The run-on rules already cover the death of a dependent child or partner (or a severely disabled person in respect of whom a Universal Credit claimant receives the carer element). The effect of the run-on is that the Universal Credit Maximum Amount continues to be calculated as if the person had not died for the assessment period in which the death occurs and the following two assessment periods. The amendment will mean that the housing element will similarly not be reassessed until the third assessment period – roughly three months - after the death of a non-dependant.

7.4 Regulation 2(4) amends provisions which enable a claimant who is considered to be a risk to themselves or others, or has a life threatening disease, to be treated as having

⁶ Employment and Support Allowance Regulations 2013:

<http://www.legislation.gov.uk/ukSI/2013/379/contents/made>

⁷ Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations: <http://www.legislation.gov.uk/ukSI/2013/380/contents>

⁸ Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Decision and Appeals) Regulations: <http://www.legislation.gov.uk/ukSI/2013/381/contents>

limited capability for work. A claimant with limited capability for work is entitled to the limited capability for work element of Universal Credit. The effect of the amendment is that, as in Employment and Support Allowance currently, a claimant can only be treated as having limited capability for work once a work capability assessment has been carried out, and a determination made that they do not satisfy the usual test of limited capability for work.

7.5 Regulation 2(5) makes the same amendment to provisions which enable a claimant who is considered to be a risk to themselves or others to be treated as having limited capability for work and work-related activity.

7.6 Regulation 2(6) amends the definition of 'registered social worker'. The former General Social Care Council has been disbanded and regulation of the social work profession, in England, has been transferred to the Health and Care Professions Council. This amendment (and equivalent amendments in Regulations 3(2) and 4(2)) reflects this revised regulatory framework.

7.7 Regulation 2(7) amends provisions which give flexibility to take account of temporary personal circumstances in setting work-related requirements. The amendments increase this flexibility by allowing the imposition of work availability requirements to be looked at separately from the imposition of worksearch requirements. Currently, for example, a Work Coach cannot set a work search requirement for a claimant which requires attendance at a job interview if they cannot also set other work availability requirements. In some cases, a claimant who cannot reasonably meet a requirement to be immediately available to take up paid work, cannot be set a requirement to search for work or attend a job interview, even though these may be helpful and feasible. Similarly, some claimants who could reasonably have a work availability requirement, cannot have such a requirement imposed if they could not reasonably also have a work search requirement. The amendment allows claimants to have a work search requirement without a work availability requirement and vice versa.

7.8 Regulation 2(8) to (11) removes an inconsistency in the detailed rules on escalating sanctions within Universal Credit under which the duration of fixed period sanctions (higher-level, medium-level and low-level) can increase (escalate) to a longer period each time a claimant fails to comply with a work-related requirement. In the old style Jobseeker's Allowance safeguards provide that where there are two failures within 14 days of each other a sanction will be imposed for each failure but the duration of the second sanction will not escalate. A further safeguard is a backstop so that in order to escalate, a failure must be within 365 days of the previous one. The Universal Credit Regulations contain the same safeguards, but with a 15 and 366 day period. Regulations 2(8) to (11) (and similar amendments in Regulations 3(3) to (6) and 4(3) to (4) for new style Jobseeker's Allowance and Employment and Support Allowance) amend the escalation safeguard periods to 14 days and 365 days so that they reflect those in the old style Employment and Support Allowance.

7.9 Regulation 2(12) makes it a condition that to receive a hardship payment a claimant's Universal Credit award must have been subject to the 100% daily reduction rate under a sanction. The amendment provides that claimants with a 40% reduction in place will not have access to a recoverable hardship payment. This aligns with the position in Income Support where with an equivalent 40% reduction are unable to apply for hardship payments.

7.10 Regulation 2(13) clarifies the way in which rent and service charge liabilities paid by renters are to be converted to monthly figures for the purpose of calculating monthly entitlement to Universal Credit. The amendments add a formula for the conversion of two-weekly rent and service charge liabilities to provisions which already specify how to convert rent and service charge sums which are payable by renters at other frequencies into monthly figures. The amendments also provide that, in cases where a renter has rent or service charge free weeks, the conversion to a monthly figure is done on the basis of a standard 52-week year. This aligns with the current conversion provisions which apply to cases where a renter does not have any rent or service charge free weeks, and ensures that the rental calculation provisions fit with overall Universal Credit design by avoiding the need to reassess cases on the limited occasions (which occur roughly every 5 to 6 years) when the day on which weekly rent or service charge payments are due occurs 53 times rather than 52 times.

7.11 Regulation 2(14)(e) makes parallel amendments in respect of owner-occupier service charges, thus ensuring consistency of treatment across all types of tenure.

7.12 Regulation 2(14)(a) to (c) clarify that the definition of “alternative finance arrangements”, which applies in Schedule 5 of the Universal Credit Regulations, is the same definition which appears elsewhere in those Regulations. They also move the definition of “relevant date” to the interpretation paragraph of Schedule 5 so that it applies to payments in respect of alternative finance arrangements as well as those in respect of ‘conventional’ mortgages. The “relevant date” is the date on which an amount of housing costs element calculated under Schedule 5 is first included in the Universal Credit award. The amendments also ensure that, where a claimant who is an owner-occupier who has entered into alternative finance arrangements as opposed to a conventional mortgage, the eligible capital figure used to calculate the claimant’s entitlement to housing costs not only takes account of any deposit paid by the claimant when the property was purchased, but also of any subsequent payments made by the claimant before the “relevant date” which reduced the amount owing under the alternative finance arrangements. This mirrors the existing provisions which apply to owner occupiers with conventional mortgages, which allow for the amount of capital then owing under the mortgage to be used as the starting point for the calculation. An annual review of housing costs in respect of alternative finance arrangements is also introduced to allow changes in the outstanding amount of capital owing under these products to be taken into account in the calculation of a claimant’s housing costs on an annual basis in the same way as already exists for conventional mortgages.

7.13 Regulation 2(14)(d) amends the Universal Credit Regulations to clarify when the standard interest rate (SIR), which is used to calculate owner-occupiers’ housing costs entitlement, should be amended, based on changes in the Average Mortgage Rate (AMR) published by the Bank of England. The existing SIR is based on the AMR published in August 2010. The intention is that any subsequent changes to the SIR will only occur when the AMR differs by 0.5 percentage points or more from it. Currently the legislation refers to a difference of 0.5% or more from the SIR, rather than 0.5 percentage points. The figure of 0.5% differs in meaning from 0.5 percentage points because a percentage change refers to a relative change, whereas a percentage point change is the arithmetic difference between two percentages. The amendment provides that the SIR will only be adjusted when the Bank of England published AMR goes up or down by at least 0.5 percentage points from the current SIR.

Amendments to the Jobseeker's Allowance Regulations 2013 (SI 2013/378)

7.14 Regulation 3(2) - see paragraph 7.6.

7.15 Regulation 3(3) to (6) – see paragraph 7.8.

7.16 Regulation 3(7) relates to the treatment of training bounties awarded to reserve forces personnel on completion of their annual training obligation. These bounties may also be payable to part-time fire-fighters, coastguards and lifeboat crew. Currently, in old style Jobseeker's Allowance and Employment and Support Allowance, bounties payable for these occupations at intervals of at least one year are treated as capital and ignored. However, in the Jobseeker's Allowance Regulations 2013 bounty payments may fall to be treated as earnings. This amendment excludes these payments from the definition of "earnings". As a result, bounty payments do not affect new style Jobseeker's Allowance. Regulation 4(5)(b) makes a similar amendment to the Employment and Support Allowance Regulations 2013.

Amendments to the Employment and Support Allowance Regulations (SI 2013/379)

7.17 Regulation 4(2) - see paragraph 7.6.

7.18 Regulation 4(3) and (4) - see paragraph 7.8.

7.19 Regulation 4(5)(a) is a minor amendment to replace 'and' with 'or' to ensure consistency between the Employment and Support Allowance Regulations 2013 and matching provisions in old style income-related benefits.

7.20 Regulation 4(5)(b) – see paragraph 7.16.

Amendments to the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013 (SI 2013/380)

7.21 Regulation 5 makes amendments to remove restrictions on deductions being made for an Eligible loan (from eligible lenders such as Credit Unions, Charities and Community Enterprises) or Integration loan (made to refugees, those granted humanitarian protection, and their respective dependents, to purchase goods and services to assist their integration into the UK). The restrictions currently apply where a Social Fund loan or overpayment is already in recovery but the rules have other safeguards (including a maximum deduction rate) which protect claimants from excessive deductions in these circumstances.

Amendments to the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013 (SI 2013/381)

7.22 Regulation 6 makes an amendment to regulation 26(1) of the Decisions and Appeals Regulations to correct an omission. The provision allows the Secretary of State to supersede a Universal Credit decision where he determines that a claimant can be treated as having limited capability for work. The amendment substitutes sub-paragraph (b) to provide for the supersession of a Universal Credit decision where the Secretary of State

has determined that a claimant can be treated as having limited capability for work or limited capability for work-related activity.

Consolidation

7.23 Informal consolidation of these instruments will be provided in due course with other informal consolidated text of instruments which are available to the public free of charge via ‘The Law Relating to Social Security’ (Blue Volumes) on the Department for Work and Pensions website at <http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/> or the National Archive website legislation.gov.uk. An explanation as to which instruments are maintained on each site is available [here](#).”

8. Consultation outcome

These amending Regulations were subject to statutory consideration by the Social Security Advisory Committee. The Committee considered the amendments over two separate meetings on 4 December 2013 and 30 January 2014⁹ and decided it did not wish to have the Regulations formally referred.

9. Guidance

Guidance is being developed for advisers and decision makers who administer Universal Credit and new style Jobseeker’s Allowance and Employment and Support Allowance. The Department will issue a Memo for the Advice for Decision Making guide to ensure that staff are aware of the changes.

10. Impact

10.1 There is no impact on business, civil society organisations or the public sector.

10.2 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 published¹⁰. This also covers information concerning the Department’s obligations regarding its Equality Duty.

11. Regulating small business

These Regulations do not apply to small business regulation.

12. Monitoring & review

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. A high level evaluation strategy was published by the Department for Work and Pensions on 10 December 2012¹¹.

⁹ <http://ssac.independent.gov.uk/meetings/>

¹⁰ <https://www.gov.uk/government/publications/universal-credit-impact-assessment>

¹¹ <https://www.gov.uk/government/publications/universal-credit-evaluation-framework>

13. Contact

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