

2015 No. 1754

SOCIAL SECURITY

**The Universal Credit and Miscellaneous Amendments
Regulations 2015**

Made - - - - *7th October 2015*

Laid before Parliament *14th October 2015*

Coming into force in accordance with regulation 1

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 1(1) and 5(1)(p) and (r) of the Social Security Administration Act 1992(a), sections 70(7), 135(1), (5) and (6), 137(1) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992(b), sections 4(5), 35(1) and 36(2) of the Jobseekers Act 1995(c), sections 2(3)(b) and (7), 17(1) and 19(1) of the State Pension Credit Act 2002(d), sections 4(2), 24(1), and 25(2) and (3) of the Welfare Reform Act 2007(e) and sections 6(1)(c) and (3), 7(3), 8(3), 9(2), 10(2) and (3), 11(4), 12(1), (3) and (4), 19(2)(d), (3)(b) and (4), 22(2), 24(1)(a), 26(8)(a) and (c), 27(9)(a) and (c), 28(2)(f), 32(1), (2) and (4), 37(4), 42(2) and (3) of, and paragraphs 3(2) and 4(1), (3)(a) and (4) of Schedule 1 to, the Welfare Reform Act 2012(f).

In accordance with section 173(1)(b) of the Social Security Administration Act 1992, the Social Security Advisory Committee has agreed that the proposals for these Regulations need not be referred to it.

In respect of provisions in these Regulations relating to housing benefit, in accordance with section 176(1) of the Social Security Administration Act 1992(g), the Secretary of State has consulted with organisations appearing to him to be representative of the authorities concerned.

Citation, commencement and application

1.—(1) These Regulations may be cited as the Universal Credit and Miscellaneous Amendments Regulations 2015 and come into force at the end of the period of 21 days beginning with the day on which they are laid, except as provided by paragraph (2).

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- (a) 1992 c. 5. Section 5(1)(r) was substituted by section 101(1) of the Welfare Reform Act 2012 (c. 5).
(b) 1992 c. 4. Section 137 is repealed by Part 1 of Schedule 14 to the Welfare Reform Act 2012 (c. 5) from a date to be appointed. Section 137(1) is an interpretation provision and is cited because of the meaning given to the word “prescribed”.
(c) 1995 c. 18. Section 35(1) is an interpretation provision and is cited because of the meaning given to the words “prescribed” and “regulations”.
(d) 2002 c. 16. Section 17(1) is an interpretation provision and is cited for the meaning of the word “prescribed” and “regulations”.
(e) 2007 c. 5. Section 24(1) is an interpretation provision and is cited because of the meaning given to the words “prescribed” and “regulations”.
(f) 2012 c. 5.
(g) Section 176(1) was amended by paragraph 23 of Schedule 9 to the Local Government Finance Act 1992 (c. 14), paragraph 3(4) of Schedule 13 to the Housing Act 1996 (c. 52) and section 69(6) of the Child Support, Pensions and Social Security Act 2000 (c. 19).

- (2) Regulation 6 comes into force on 11th April 2016.
- (3) Where any amendment made by these Regulations applies in respect of an existing award of universal credit, that amendment has effect for the purposes of that award—
- (a) on the date on which that amendment comes into force, if there is an assessment period for the award that begins on that day; or
 - (b) if sub-paragraph (a) does not apply, on the first day of the next assessment period for the award beginning after that day.
- (4) In this regulation—
- “assessment period” has the meaning given by section 7(2) of the Welfare Reform Act 2012; and
- “existing award of universal credit” means an award of universal credit that exists on the date on which the relevant amendment comes into force.

PART 1

UNIVERSAL CREDIT MISCELLANEOUS AMENDMENTS

Conversion of weekly earnings thresholds to monthly equivalents

- 2.—**(1) The Universal Credit Regulations 2013(a) are amended as follows.
- (2) In regulation 2 (interpretation), delete the definition of “weekly earnings” and insert in the appropriate place—
- ““monthly earnings” has the meaning in regulation 90(6);”.
- (3) In regulations 19A(4) (waiting days) and 28(2)(a) (period for which the LCW or LCWRA element is not to be included), for “weekly” substitute “monthly”.
- (4) In regulation 41 (when an assessment may be carried out)—
- (a) in paragraph (2), for “weekly” substitute “monthly”; and
 - (b) in paragraph (3), at the end insert “, converted to a monthly amount by multiplying by 52 and dividing by 12”.
- (5) In regulation 62(4) (minimum income floor)—
- (a) delete “monthly”; and
 - (b) delete sub-paragraph (a).
- (6) In regulation 90 (claimants subject to no work-related requirements – the earnings thresholds)—
- (a) in paragraph (1), for “weekly” substitute “monthly”;
 - (b) in paragraph (2), at the end insert as closing words “, converted to a monthly amount by multiplying by 52 and dividing by 12”;
 - (c) in paragraph (3)—
 - (i) for “weekly” substitute “monthly”; and
 - (ii) in sub-paragraph (b)(ii), at the end insert “, converted to a monthly amount by multiplying by 52 and dividing by 12”;
 - (d) in paragraph (4)—
 - (i) for “weekly” substitute “monthly”; and
 - (ii) at the end, insert “, converted to a monthly amount by multiplying by 52 and dividing by 12”; and

(a) S.I. 2013/376; relevant amending instruments are S.I. 2014/2888 and 2015/1362.

(e) in paragraph (6)—

- (i) for “A person’s weekly earnings are the person’s earned income taken as a weekly average by reference to”, substitute “A person’s monthly earnings are”;
- (ii) in sub-paragraph (a), for “the amount of that” substitute “the person’s”;
- (iii) in sub-paragraph (b), after “that income” insert “, calculated or estimated before any deduction for income tax, national insurance contributions or relievable pension contributions, taken as a monthly average”;
- (iv) in sub-paragraph (b)(ii), for “weekly” substitute “monthly”; and
- (v) at the end, insert as closing words—

“and the Secretary of State may, in order to enable monthly earnings to be determined more accurately, disregard earned income received in respect of an employment which has ceased”.

(7) For regulation 99(6) (circumstances in which requirements must not be imposed) substitute—

“(6) This paragraph applies where the claimant has monthly earnings or, if the claimant is a member of a couple, the couple has combined monthly earnings (excluding in either case any that are not employed earnings) that are equal to, or more than, the following amount multiplied by 52 and divided by 12—

- (a) in the case of a single claimant, £5 plus the applicable amount of the personal allowance in a jobseeker’s allowance for a single person aged 25 or over (as set out in Part 1 of Schedule 1 to the Jobseeker’s Allowance Regulations 1996); or
- (b) in the case of claimant who is a member of a couple, £10 plus the applicable amount of the personal allowance in a jobseeker’s allowance for a couple where both members are aged 18 or over (as set out in that Part).”.

(8) In regulation 109 (when a reduction is to be terminated)—

- (a) in paragraph (1)(a), for “26 weeks” substitute “six months”;
- (b) in paragraph (1)(b), for “weekly” substitute “monthly”; and
- (c) in paragraph (3), for “weekly” substitute “monthly” and delete “any week falling within”.

(9) In regulation 113(1)(g) (failures for which no reduction is applied)—

- (a) for “weekly”, in both places it occurs, substitute “monthly”; and
- (b) for “the level which the Secretary of State considers sufficient for the purposes of” substitute “the amount specified in”.

(10) In regulation 119(3) (recoverability of hardship payments)—

- (a) for “weekly”, in both places it occurs, substitute “monthly”; and
- (b) for “26 weeks” substitute “six months”.

3.—(1) The Universal Credit (Work-Related Requirements) In Work Pilot Scheme and Amendment Regulations 2015(a) are amended as follows.

(2) In regulation 2 (interpretation), delete the definition of “weekly earnings” and insert in the appropriate place—

““monthly earnings” has the meaning in regulation 90(6) of the Universal Credit Regulations (earnings thresholds);”.

(3) In regulations 4(2) and (5) (provision made for piloting purposes) and 7(b) (meaning of “qualifying claimant”), for “weekly”, in each place it occurs, substitute “monthly”.

(a) S.I. 2015/89.

Rounding of earnings thresholds

4. In regulation 6 (rounding) of the Universal Credit Regulations 2013, after paragraph (1) insert—

“(1A) Where the calculation of an amount for the purposes of the following regulations results in a fraction of a pound, that fraction is to be disregarded—

- (a) regulation 90 (claimants subject to no work-related requirements – the earnings thresholds); and
- (b) regulation 99(6) (circumstances in which requirements must not be imposed).”.

Waiting days – amendment of exemption for care leavers

5. In regulation 19A(3)(b)(iii) of the Universal Credit Regulations 2013(a), at the end insert “or a person under the age of 22 who is claiming universal credit for the first time and was a care leaver before reaching the age of 18”.

Amendment of the amount of childcare costs element

6.—(1) The Universal Credit Regulations 2013 are amended as follows.

(2) In regulation 34(1)(a) (amount of childcare costs element)(b), as it has effect both as amended by and apart from the amendment made by regulation 2(3) of the Universal Credit (Digital Service) Amendment Regulations 2014(c), for “70%” substitute “85%”.

(3) In regulation 36 (table showing amounts of elements), in the table—

- (a) in the row under “Childcare costs element” showing the maximum amount for one child, for “£532.29” substitute “£646.35”; and
- (b) in the row under “Childcare costs element” showing the maximum amount for two or more children, for “£912.50” substitute “£1,108.04”.

Amendment of the earnings condition for budgeting advances

7. For regulation 13 (earnings condition for budgeting advances) of the Social Security (Payments on Account of Benefit) Regulations 2013(d) substitute—

“Earnings condition

13.—(1) The earnings condition is satisfied—

- (a) in a case where regulation 12(2) (expenses necessarily related to obtaining or retaining employment) does not apply, where paragraph (2) is satisfied;
- (b) in a case where regulation 12(2) does apply, where paragraph (4) is satisfied.

(2) This paragraph is satisfied where—

- (a) if B is not a member of a couple, B does not have earned income exceeding £2,600, or
- (b) if B is a member of a couple, B and their partner jointly do not have earned income exceeding £3,600,

over the relevant period.

(a) Regulation 19A was inserted by regulation 2(1)(a) of S.I. 2015/1362.

(b) Regulation 34(1) was amended by S.I. 2014/2887, subject to a saving provision which ensured that the amendment only applied to awards of universal credit administered on the DWP digital service system. The original version of Regulation 34(1) continued to apply to all other awards of universal credit.

(c) S.I. 2014/2887.

(d) S.I. 2013/383. Regulation 13 was amended by S.I. 2013/1508.

(3) In paragraph (2), “the relevant period” means the period covered by the six complete assessment periods preceding the date of the application for the budgeting advance.

(4) This paragraph is satisfied where—

- (a) if B is not a member of a couple, B does not have earned income, or
- (b) if B is a member of a couple, B and their partner jointly do not have earned income,

exceeding the permitted amount over the applicable period.

(5) In paragraph (4), “the permitted amount over the applicable period” is to be determined by the formula—

$$N \times \left(\frac{P}{6} \right)$$

where—

N is the number of complete assessment periods in the applicable period, and

P is—

- (i) where sub-paragraph (4)(a) applies, £2,600;
- (ii) where sub-paragraph (4)(b) applies, £3,600.

(6) For the purposes of paragraphs (4) and (5), “the applicable period” means—

- (a) if there are six or more complete assessment periods immediately preceding the date of the application for the budgeting advance, the period covered by the six complete assessment periods immediately preceding the date of the application for the budgeting advance;
- (b) if there are fewer than six complete assessment periods immediately preceding the date of the application for the budgeting advance, the number of complete assessment periods immediately preceding the date of the application for the budgeting advance.

(7) Earned income for each complete assessment period is to be calculated for the purposes of this regulation in accordance with Chapter 2 of Part 6 of the Universal Credit Regulations save that in relation to the earned income of a person who is in gainful self-employment for the purpose of regulation 64 of these Regulations, regulation 62 of those Regulations (minimum income floor) is to be disregarded.

(8) In this regulation, “assessment period” has the meaning given in regulation 21 of the Universal Credit Regulations.”.

Carry forward of surplus earnings - amendment of the nil UC threshold formula

8. In regulation 2(2) (carry forward of surplus earnings) of the Universal Credit (Surpluses and Self-employed Losses) (Digital Service) Amendment Regulations 2015(a), in the definition of “the nil UC threshold”, for the formula substitute “ $\frac{(M - U) \times 100}{65} + WA$ ”.

Deductions from benefit and direct payment to third parties - amendment of cross-reference

9. In paragraph 5(2)(j) of Schedule 6 (deductions from benefit and direct payment to third parties) to the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013(b), for “2012 Act” substitute “Administration Act”.

(a) S.I. 2015/345. Regulation 2(2) inserts a new regulation 54A into the Universal Credit Regulations 2013 with effect from 6th April 2016.

(b) S.I. 2013/380.

Up-rating of universal credit - transitional state pension

10.—(1) Section 151A (up-rating of transitional state pensions under Pensions Act 2014)(a) of the Social Security Administration Act 1992 is amended as follows.

(2) In subsection (5), at the beginning insert “Subject to subsection (5A),”.

(3) After subsection (5) insert—

“(5A) An order under this section must be framed so that any alteration to which the order relates comes into force, for the purposes of determining the amount of universal credit to which a person is entitled, on the relevant day.

(5B) In subsection (5A) “relevant day”, in relation to a person, means the first day of the first universal credit assessment period in respect of the person which begins on or after the Monday of the week specified in subsection (5).”.

PART 2

PREVENTION OF DUAL PROVISION OF BENEFIT FOR CARE

CHAPTER 1

The carer element of universal credit and carer’s allowance

11.—(1) Section 70 (carer’s allowance) of the Social Security Contributions and Benefits Act 1992 is amended as follows.

(2) In subsection (7)—

(a) for “be entitled for the same day to such an allowance” substitute “have a relevant entitlement for the same day”; and

(b) for “shall be entitled” substitute “shall have that entitlement”.

(3) After subsection (7) insert—

“(7A) For the purposes of subsection (7) a person has a “relevant entitlement” if—

(a) the person is entitled to a carer’s allowance, or

(b) the person is entitled under section 12 of the Welfare Reform Act 2012 to the inclusion in an award of universal credit of an amount in respect of the fact that the person has regular and substantial caring responsibilities for a severely disabled person.”.

12.—(1) Regulation 7 (manner of electing the person entitled to a carer’s allowance in respect of a severely disabled person where, but for section 70(7) of the Contributions and Benefits Act, more than one person would be entitled to an invalid care allowance in respect of that severely disabled person) of the Social Security (Invalid Care Allowance) Regulations 1976(b) is amended as follows.

(2) In paragraph (1)—

(a) for “be entitled for the same day to a carer’s allowance” substitute “have a relevant entitlement for the same day”;

(b) for “shall be entitled” substitute “shall have that entitlement”;

(c) for “be entitled to a carer’s allowance” substitute “have a relevant entitlement”; and

(d) for “to be entitled” substitute “to have that entitlement”.

(3) In paragraph (2)—

(a) Section 151A was inserted by paragraph 21 of Schedule 12 to the Pensions Act 2014 (c. 19).

(b) S.I. 1976/409; relevant amending instruments are S.I. 1996/2744 and 2002/2497.

- (a) for “entitlement to carer’s allowance” substitute “a relevant entitlement”; and
- (b) for “a carer’s allowance” substitute “a carer’s allowance or the carer element of universal credit”.
- (4) After paragraph (2) insert—
 - “(3) In paragraph (2) “the carer element of universal credit” means an amount included in an award of universal credit in respect of the fact that a person has regular and substantial caring responsibilities for a severely disabled person.”.

13. In regulation 29 (award to include the carer element) of the Universal Credit Regulations 2013, at the end of paragraph (1) insert “and section 70(7) of the Contributions and Benefits Act (entitlement by different persons to the carer element and to carer’s allowance in respect of the same severely disabled person”.

CHAPTER 2

The carer element of universal credit and income support

14.—(1) Paragraph 13 (severe disability premium) of Schedule 2 (applicable amounts) to the Income Support (General) Regulations 1987(**a**) is amended as follows.

(2) In sub-paragraph (2)(a)(iii), after “the Contributions and Benefits Act” insert “or has an award of universal credit which includes the carer element”.

(3) In the closing words of sub-paragraph (2)(b)—

- (a) after “carer’s allowance” insert “or has an award of universal credit which includes the carer element”; and
- (b) after “such an allowance” insert “or has such an award of universal credit”.

(4) In sub-paragraph (3A)(b)—

- (a) after “carer’s allowance” insert “or having an award of universal credit which includes the carer element”; and
- (b) after “be so entitled and in receipt” insert “of carer’s allowance or have such an award of universal credit”.

(5) In sub-paragraph (3ZA), after “carer’s allowance” insert “or universal credit which includes the carer element”.

(6) In sub-paragraph (5)—

- (a) after “carer’s allowance” insert “or as having an award of universal credit which includes the carer element”; and
- (b) after “that allowance” insert “or had such an award”.

(7) After sub-paragraph (5) insert—

“(6) For the purposes of this paragraph, a person has an award of universal credit which includes the carer element if the person has an award of universal credit which includes an amount which is the carer element under regulation 29 of the Universal Credit Regulations 2013.”.

The carer element of universal credit and jobseeker’s allowance

15.—(1) Schedule 1 (applicable amounts) to the Jobseeker’s Allowance Regulations 1996(**b**) is amended as follows.

(2) In paragraph 15 (severe disability premium)—

(a) S.I. 1987/1967; relevant amending instruments are S.I. 1988/663, 1994/2139, 2000/681, 2002/490 and 2497, 2007/719 and 2010/1160.

(b) S.I. 1996/207; relevant amending instruments are S.I. 2000/681, 2002/490, 2003/511, 2007/719 and 2010/1160.

- (a) in sub-paragraph (1)(c), after “Benefits Act” insert “or has an award of universal credit which includes the carer element”;
 - (b) in sub-paragraph (2)(d), after “Benefits Act”, in both places it occurs, insert “or has an award of universal credit which includes the carer element”;
 - (c) in sub-paragraph (5)(b)—
 - (i) after “carer’s allowance” insert “or having an award of universal credit which includes the carer element”; and
 - (ii) after “be so entitled and in receipt” insert “of carer’s allowance or have such an award of universal credit”;
 - (d) in sub-paragraph (7), after “carer’s allowance” insert “or universal credit which includes the carer element”;
 - (e) in sub-paragraph (9)—
 - (i) after “carer’s allowance” insert “or as having an award of universal credit which includes the carer element”; and
 - (ii) after “that allowance” insert “or had such an award”; and
 - (f) after sub-paragraph (9) insert—

“(10) For the purposes of this paragraph, a person has an award of universal credit which includes the carer element if the person has an award of universal credit which includes an amount which is the carer element under regulation 29 of the Universal Credit Regulations 2013.”.
- (3) In paragraph 20I (severe disability premium – joint claim couples)—
- (a) in sub-paragraph (1)(d), after “Benefits Act”, in both places it occurs, insert “or has an award of universal credit which includes the carer element”;
 - (b) in sub-paragraph (4)(b)—
 - (i) after “carer’s allowance” insert “or having an award of universal credit which includes the carer element”; and
 - (ii) after “be so entitled and in receipt” insert “of carer’s allowance or have such an award of universal credit”;
 - (c) in sub-paragraph (6), after “carer’s allowance” insert “or universal credit which includes the carer element”;
 - (d) in sub-paragraph (7)—
 - (i) after “carer’s allowance” insert “or as having an award of universal credit which includes the carer element”; and
 - (ii) after “that allowance” insert “or had such an award”; and
 - (e) after sub-paragraph (7) insert—

“(8) For the purposes of this paragraph, a person has an award of universal credit which includes the carer element if the person has an award of universal credit which includes an amount which is the carer element under regulation 29 of the Universal Credit Regulations 2013.”.

The carer element of universal credit and state pension credit

16.—(1) The State Pension Credit Regulations 2002^(a) are amended as follows.

(2) In regulation 6(5)(b) (amount of the guarantee credit), after the words “1992 Act” insert “, or has an award of universal credit which includes the carer element under regulation 29 of the Universal Credit Regulations 2013.”.

(a) S.I. 2002/1792; relevant amending instruments are S.I. 2003/2274, 2007/719 and 2015/457.

(3) In paragraph 1 of Part 1 of Schedule 1 (circumstances in which persons are treated as being or not being severely disabled)—

- (a) in sub-paragraph (1)(a)(iii), after the words “(carer’s allowance)” insert “, or has an award of universal credit which includes the carer element,”;
- (b) in the closing words of sub-paragraph (1)(b)—
 - (i) after the words “under section 70 of the 1992 Act” insert “, or has an award of universal credit which includes the carer element,”; and
 - (ii) after the words “such an allowance” insert “under section 70, or has an award of universal credit which includes the carer element,”;
- (c) in sub-paragraph (1)(c)(iv), after the words “1992 Act” insert “, or has an award of universal credit which includes the carer element, in”;
- (d) in sub-paragraph (2)(c), after the words “1992 Act” insert “, or as having an award of universal credit which includes the carer element,”; and
- (e) after sub-paragraph (3) insert—

“(4) For the purposes of this paragraph, a person has an award of universal credit which includes the carer element if the person has an award of universal credit which includes an amount which is the carer element under regulation 29 of the Universal Credit Regulations 2013.”.

The carer element of universal credit and housing benefit

17.—(1) Schedule 3 (applicable amounts) to the Housing Benefit Regulations 2006(a) is amended as follows.

(2) In paragraph 14 (severe disability premium)—

- (a) in sub-paragraph (2)(a)(iii), after “section 70 of the Act” insert “or has an award of universal credit which includes the carer element under regulation 29 of the Universal Credit Regulations 2013”;
- (b) in the closing words of sub-paragraph (2)(b)—
 - (i) after “carer’s allowance” insert “or has an award of universal credit which includes the carer element”; and
 - (ii) after “such an allowance” insert “or has such an award of universal credit”;
- (c) in sub-paragraph (5)(b)—
 - (i) after “carer’s allowance” insert “or having an award of universal credit which includes the carer element”; and
 - (ii) after “be so entitled and in receipt” insert “or have such an award of universal credit”;
- (d) in sub-paragraph (6), after “carer’s allowance” insert “or universal credit which includes the carer element”; and
- (e) in sub-paragraph (7)—
 - (i) after “carer’s allowance” insert “or as having an award of universal credit which includes the carer element”; and
 - (ii) after “that allowance” insert “or had such an award of universal credit”.

(3) In paragraph 20 (amounts of premiums specified in Part 3)—

- (a) in sub-paragraph (6)(b)(i), after “carer’s allowance” insert “or who has an award of universal credit which includes the carer element under regulation 29 of the Universal Credit Regulations 2013”; and

(a) S.I. 2006/213; relevant amending instruments are S.I. 2007/719, 2009/583 and 2010/1160.

- (b) in sub-paragraph (6)(b)(ii), after “such an allowance” insert “or such an award of universal credit”.

18.—(1) Schedule 3 (applicable amounts) to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(a) is amended as follows.

(2) In paragraph 6 (severe disability premium)—

- (a) in sub-paragraph (2)(a)(iii), after “carer’s allowance” insert “under section 70 of the Act or has an award of universal credit which includes the carer element under regulation 29 of the Universal Credit Regulations 2013”;
- (b) in the closing words of sub-paragraph (2)(b)—
 - (i) after “carer’s allowance” insert “or has an award of universal credit that includes the carer element”; and
 - (ii) after “such an allowance” insert “or has such an award of universal credit”;
- (c) in sub-paragraph (7)(b)—
 - (i) after “carer’s allowance” insert “or having an award of universal credit which includes the carer element”; and
 - (ii) after “be so entitled and in receipt” insert “or have such an award of universal credit”;
- (d) in sub-paragraph (8)(a), after “carer’s allowance” insert “or an award of universal credit which includes the carer element”; and
- (e) in sub-paragraph (8)(b)—
 - (i) after “carer’s allowance” insert “or as having an award of universal credit which includes the carer element”; and
 - (ii) after “that allowance” insert “or had such an award of universal credit”.

(3) In paragraph 12 (amount of premiums specified in Part 3)—

- (a) in sub-paragraph (1)(b)(i), after “carer’s allowance” insert “or who has an award of universal credit which includes the carer element under regulation 29 of the Universal Credit Regulations 2013,”; and
- (b) in sub-paragraph (1)(b)(ii), after “such an allowance” insert “or such an award of universal credit”.

The carer element of universal credit and employment and support allowance

19.—(1) Paragraph 6 (severe disability premium) of Schedule 4 (amounts) to the Employment and Support Allowance Regulations 2008(b) is amended as follows.

(2) In sub-paragraph (2)(a)(iii), for “a carer’s allowance under section 70 of the Contributions and Benefits Act” substitute “a carer’s allowance or has an award of universal credit which includes the carer element”.

(3) In the closing words of sub-paragraph (2)(b)—

- (a) after “carer’s allowance” insert “or has an award of universal credit which includes the carer element”; and
- (b) after “such an allowance” insert “or has such an award of universal credit”.

(4) In sub-paragraph (5)(b)—

- (a) after “carer’s allowance” insert “or having an award of universal credit which includes the carer element”; and
- (b) after “be so entitled and in receipt” insert “of carer’s allowance or have such an award of universal credit”.

(a) S.I. 2006/214; relevant amending instruments are S.I. 2007/719 and 2010/1160.

(b) S.I. 2008/794; relevant amending instruments are S.I. 2010/1160 and 2014/2888.

(5) In sub-paragraph (6), after “carer’s allowance” insert “or universal credit which includes the carer element”.

(6) In sub-paragraph (8)—

- (a) after “carer’s allowance” insert “or as having an award of universal credit which includes the carer element”; and
- (b) after “that allowance” insert “or had such an award”.

(7) In sub-paragraph (9)—

- (a) the existing provision becomes new sub-paragraph (9)(a); and
- (b) after new paragraph (a) insert—

“(b) A person has an award of universal credit which includes the carer element if the person has an award of universal credit which includes an amount which is the carer element under regulation 29 of the Universal Credit Regulations 2013.”.

PART 3

UNIVERSAL CREDIT DIGITAL SERVICE

Transfer of universal credit awards from live to digital service

20. For regulation 5 (saving) of the Universal Credit (Digital Service) Amendment Regulations 2014 substitute—

“Saving

5.—(1) The amendments made by these Regulations do not apply to an award of universal credit unless it is—

- (a) an award to which a person has become entitled by reference to residence in a digital service area (whether or not the person is still living in that area);
- (b) an award to which a person who is living in a digital service area is entitled (whether or not the person was living in that area at the time that person became entitled);
- (c) an award, not falling within sub-paragraph (a) or (b), to which a person who has lived in a digital service area at any time after it became a digital service area is entitled but only if that award has been administered on the digital service computer system;
- (d) an award not falling within sub-paragraphs (a) to (c)—
 - (i) which is made to members of a couple jointly as a consequence of a previous award having ended when the couple formed, or
 - (ii) which is made to a single claimant as a consequence of a previous award having ended when the claimant ceased to be a member of a couple,where that previous award was administered on the digital service computer system.

(2) Where the date on which these Regulations first apply to an existing award of universal credit by virtue of paragraph (1)(b) is not the first day of an assessment period, they are not to have effect in relation to that award until the first day of the next assessment period.

(3) In this regulation—

“a digital service area” means—

- (a) postcode districts SM5 2, SM6 7 and SM6 8; and

- (b) an area in respect of which no restrictions have been imposed in order for the universal credit provisions to come into force on a claim for universal credit (apart from with respect to residence and the date on which, or period in respect of which, universal credit is claimed) by an order under section 150 of the Welfare Reform Act 2012 or an area (apart from that referred to in (a)) in respect of which such restrictions have been, but are no longer, imposed;

“the digital service computer system” is the computer system operated by the Secretary of State in digital service areas;

“universal credit provisions” means the provisions listed in Schedule 2 to the Welfare Reform Act 2012 (Commencement No. 9 and Transitional and Transitory Provisions and Commencement No. 8 and Savings and Transitional Provisions (Amendment)) Order 2013(a).”.

21. For regulation 4 (savings) of the Universal Credit (Surpluses and Self-employed Losses) (Digital Service) Amendment Regulations 2015 substitute—

“Saving

4.—(1) The amendments made by these Regulations do not apply to an award of universal credit unless it is—

- (a) an award to which a person has become entitled by reference to residence in a digital service area (whether or not the person is still living in that area);
- (b) an award to which a person who is living in a digital service area is entitled (whether or not the person was living in that area at the time that person became entitled);
- (c) an award, not falling within sub-paragraph (a) or (b), to which a person who has lived in a digital service area at any time after it became a digital service area is entitled but only if that award has been administered on the digital service computer system;
- (d) an award not falling within sub-paragraphs (a) to (c)—
 - (i) which is made to members of a couple jointly as a consequence of a previous award having ended when the couple formed, or
 - (ii) which is made to a single claimant as a consequence of a previous award having ended when the claimant ceased to be a member of a couple,
 where that previous award was administered on the digital service computer system.

(2) Where the date on which these Regulations first apply to an existing award of universal credit by virtue of paragraph (1)(b) is not the first day of an assessment period, they are not to have effect in relation to that award until the first day of the next assessment period.

(3) In this regulation—

“a digital service area” means—

- (a) postcode districts SM5 2, SM6 7 and SM6 8; and
- (b) an area in respect of which no restrictions have been imposed in order for the universal credit provisions to come into force on a claim for universal credit (apart from with respect to residence and the date on which, or period in respect of which, universal credit is claimed) by an order under section 150 of the Welfare Reform Act 2012 or an area (apart from that referred to in (a)) in respect of which such restrictions have been, but are no longer, imposed;

(a) S.I. 2013/983 (c. 41).

“the digital service computer system” is the computer system operated by the Secretary of State in digital service areas;

“universal credit provisions” means the provisions listed in Schedule 2 to the Welfare Reform Act 2012 (Commencement No. 9 and Transitional and Transitory Provisions and Commencement No. 8 and Savings and Transitional Provisions (Amendment)) Order 2013.

(4) In regulation 54A of the Universal Credit Regulations 2013 (as inserted by regulation 2(2)), “the old award” does not include an award the last day of which fell before 6th April 2016 and, in regulation 57A (as inserted by regulation 3(4)), “unused loss” does not include the loss from an assessment period that ended before that date.”.

Signed by authority of the Secretary of State for Work and Pensions

7th October 2015

Freud
Minister of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 1 of these Regulations contains various miscellaneous amendments relating to universal credit.

Regulations 2 and 3 amend various provisions of the Universal Credit Regulations 2013 (S.I. 2013/376) (the “Universal Credit Regulations”) and the Universal Credit (Work-Related Requirements) In Work Pilot Scheme and Amendment Regulations 2015 (S.I. 2015/89) (the “In Work Pilot Scheme Regulations”) respectively. They provide that where various earnings thresholds (calculated for the purposes of determining the work-related requirements, sanctions and recoverability of hardship payments in relation to a claimant) were determined as weekly amounts, these are to be converted into equivalent monthly amounts. The earnings to be measured against such thresholds are a person’s average monthly earnings, rather than average weekly earnings.

Regulation 2(6)(e)(iii) clarifies that where a person’s earned income fluctuates, such income is to be taken into account (for the purpose of calculating their average monthly earnings) as a gross amount, in the same way as when the earned income is static. Regulation 2(6)(e)(v) also clarifies that when considering a person’s earnings for the purposes of calculating their average monthly earnings, the Secretary of State may disregard earnings received in respect of a job that has ended where this would result in a more accurate average and in turn mean that work-related requirements could be imposed on the person which are more appropriate to their circumstances.

Regulation 2(9)(b) amends regulation 113(1)(g) of the Universal Credit Regulations to replace the reference to the Secretary of State’s discretion in regulation 99(6) with a reference instead to the amount now specified in that regulation. This is consequential to regulation 3 of the In Work Pilot Scheme Regulations, which amended regulation 99(6) of the Universal Credit Regulations by replacing the Secretary of State’s discretion to suspend certain work related requirements where the claimant is in paid work with provision for those requirements to be suspended where the claimant, or the claimant and their partner, have earnings from employment of a specified amount.

Regulation 4 amends regulation 6 (rounding) of the Universal Credit Regulations to provide that, when calculating the amounts of various earnings thresholds (for the purposes of determining the applicability of work-related requirements), such amounts are to be rounded down to the nearest whole pound.

Regulation 5 amends regulation 19A(3)(b)(iii) of the Universal Credit Regulations to expand the exemption from waiting days in respect of care leavers to include young people aged between 18 and 22 who have been in care and are claiming universal credit for the first time.

Regulation 6 amends the Universal Credit Regulations and increases the maximum support available for childcare costs within universal credit from 70% to 85% of eligible childcare costs. It also provides for the caps which apply to childcare costs to be increased accordingly. These changes will come into effect from 11th April 2016.

Regulation 7 substitutes a new regulation 13 into the Social Security (Payments on Account of Benefit) Regulations 2013 (S.I. 2013/383), which sets out the earnings conditions to be met by claimants (and where appropriate their partners) who are applying for a budgeting advance. The substituted regulation provides for earnings calculations in circumstances where the claimant (and where appropriate their partner) has been in receipt of benefit for a continuous period of at least 6 months on the date of the application for the budgeting advance and also for periods of less than 6 months of receipt of benefit.

Regulation 8 amends regulation 2(2) of the Universal Credit (Surpluses and Self-employed Losses) (Digital Service) Amendment Regulations 2015 (S.I. 2015/345) (the “Surpluses and Self-Employed Losses Regulations”), which amend the Universal Credit Regulations with effect from 6th April 2016. Regulation 2(2) provides for the calculation of earnings which may be taken into account when calculating a claimant’s award of universal credit, where such earnings were received in an earlier period during which the claimant was not entitled to universal credit because of excess of earnings. The regulation uses the term “the nil UC threshold” for this purpose and provides a definition for it. Regulation 8 of these Regulations amends this definition so that it correctly reflects that an amount equal to 65% of relevant earnings is deducted from a universal credit award (the single taper rate).

Regulation 9 amends paragraph 5 of Schedule 6 to the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013 (S.I. 2013/380), which incorrectly refers to the Welfare Reform Act 2012 (c. 5). The reference is amended to refer to the Social Security Administration Act 1992 (c. 5).

Regulation 10 amends the up-rating order provisions of the Social Security Administration Act 1992, inserted by the Pensions Act 2014, so that an increase of the transitional state pension comes into force for the purpose of calculating an award of universal credit in line with the coming into force of the up-rating of universal credit and other benefits or income, including the basic pension, for the same purpose.

Part 2 contains amendments concerning the prevention of dual provision of benefit for care being paid to multiple carers for the same severely disabled person (Chapter 1) and to both carer and the severely disabled person for whom they care (Chapter 2).

Regulation 11 amends section 70 of the Social Security Contributions and Benefits Act 1992 (c. 4) to ensure that, where a carer is entitled to a carer’s allowance in respect of a severely disabled person, a different carer is not entitled to the carer element of universal credit in respect of the same severely disabled person for the same day. It also provides that, in each case, it is first for the carers to elect who between them shall receive the relevant benefit, then in default of such election the matter is for the Secretary of State to determine. Regulation 12 makes a consequential amendment to the Social Security (Invalid Care Allowance) Regulations 1976 (S.I. 1976/409), detailing the process for a determination of the carer to receive benefit. Regulation 13 makes a consequential amendment to the Universal Credit Regulations to refer to the amended section 70(7) of the Social Security Contributions and Benefits Act 1992.

Regulations 14 to 19 amend the Income Support (General) Regulations 1987 (S.I. 1987/1967), the Jobseeker’s Allowance Regulations 1996 (S.I. 1996/207), the State Pension Credit Regulations 2002 (S.I. 2002/1792), the Housing Benefit Regulations 2006 (S.I. 2006/213), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/214) and the Employment and Support Allowance Regulations 2008 (S.I. 2008/794)

respectively. The amendments provide that, where a carer for a severely disabled person has an award of universal credit which includes the carer element, that severely disabled person will not be entitled to an additional amount for care in their award of income-related benefit.

Part 3 contains amendments to regulations which relate to the continuing phased commencement of universal credit.

Regulations 20 and 21 replace the saving provisions in two sets of regulations: regulation 5 of the Universal Credit (Digital Service) Amendment Regulations 2014 (S.I. 2014/2887) and regulation 4 of the Surpluses and Self-employed Losses Regulations. The saving provisions have the effect that those Regulations only apply to awards of universal credit that are being administered on the computer system developed for areas where the digital service is operating (that is areas where there are no restrictions on the persons who may claim universal credit). The substituted savings provisions simplify the existing provisions and also provide for those Regulations to apply to existing universal credit awards in areas which are converted to digital service areas. Regulation 4(4) of the Surpluses and Self-employed Losses Regulations, which ensures those Regulations do not affect awards ending before 6th April 2016, is not amended and is reproduced in the substituted provision.

An impact assessment has not been produced for this instrument as it has no impact on business or on civil society organisations. This instrument has no impact on the public sector.

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