
EXPLANATORY NOTE

(This note is not part of the Order)

1. Article 2, which extends to Great Britain and Northern Ireland, commences section 33(1)(f) of the Welfare Reform Act 2012 (c. 5) (“the Act”), which abolishes child tax credit and working tax credit (“tax credit”), and the repeal of Part 1 of the Tax Credits Act 2002 (c. 21) (but not Schedule 1 or 3), by Part 1 of Schedule 14 to the Act, on 1st February 2019, subject to the savings referred to below.
2. Article 3 contains a saving for existing awards of a tax credit – i.e. one that has effect for a period that includes 31st January 2019.
3. Persons aged over state pension credit qualifying age may claim state pension credit and, from 1st February 2019, by virtue of the State Pension Credit (Additional Amount for Child or Qualifying Young Person) (Amendment) Regulations 2018 (S.I. 2018/676) for Great Britain and the State Pension Credit (Additional Amount for Child or Qualifying Young Person) (Amendment) Regulations (Northern Ireland) (S.R. 2018/135) for Northern Ireland, state pension credit may include an additional amount where a person is responsible for a child or a qualifying young person.
4. Meanwhile, persons aged under state pension qualifying age may claim universal credit. Currently, mixed-age couples (where one member of a couple is aged over that age and one is aged below it) may claim universal credit or state pension credit but with effect from 15th May 2019, mixed-age couples will not be able to make new claims for state pension credit and must claim universal credit – see below for cases where a person may not claim universal credit.
5. Article 3, which extends to Great Britain and Northern Ireland, provides for savings in the following cases:
 - a) an award of child tax credit or working tax credit (“tax credit”) that has effect for a period that includes 31st January 2019 (paragraph (2));
 - b) an award of a tax credit where the period for which it has effect begins on or after 1st February 2019 and where the claim for the award is made by a single claimant, couple or polygamous unit (*see* S.I. 2003/742) where the single claimant, both members of the couple or all members of the polygamous unit could claim universal credit (“UC”) and meet the “UC age condition” (*see* below), ignoring any restrictions on claiming UC in relevant secondary legislation (paragraph (3)) (*see* below for details of the current restrictions);
 - c) an award of child tax credit or working tax credit where the period for which it has effect begins on or after 1st February 2019 and where the claim is made by a couple or a polygamous unit where only one member of the couple, or only some members of the polygamous unit, could claim UC and meet the UC age condition, and where the member or members who could claim UC and meet that condition cannot claim UC by virtue of restrictions in relevant secondary legislation (paragraph (4));
 - d) an award of child tax credit where the period for which it has effect begins on or after 1st February 2019 and where the claimant has an award of working tax credit on the date that the claim for that award is made (and vice versa) (paragraph (5)(a) and (b));
 - e) an award of child tax credit or working tax credit, where the period for which it has effect begins on or after 1st February 2019, and where the claimant had an award of the same type of tax credit for the previous tax year to the tax year for which the claim for the award is made (paragraph (5)(c));

- f) an award of a tax credit that had effect for a period that ended on or before 30th January 2019 (paragraph (9)).
6. In paragraph 5(b) above, the “age condition for UC” means the condition set out in section 4(1)(b) of the Act for Great Britain or Article 9(1)(b) of the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I.)) for Northern Ireland, subject to any exception in any instrument made under the Act or Order.
7. For claimants as referred to in paragraph 5(b) above, article 7 of the Welfare Reform Act 2012 (Commencement No. 23 and Transitional and Transitory Provisions) Order 2015 (S.I. 2015/634 (C. 32)) (“No. 23 Order”) for Great Britain, and article 24 of the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 8 and Transitional and Transitory Provisions) Order 2017 (S.R. 2017 No.190 (C. 11)) (“No. 8 Order”) prevent a person who is able to make a claim for UC from claiming a tax credit, subject to specified exceptions.
8. There are currently exceptions from the need to claim universal credit in the case of:
- a) a claimant who has recently had an award of certain benefits with a severe disability premium (see S.I. 2019/10 for Great Britain and S.R. 2019/2 for Northern Ireland), and, under article 4(11) of this Order for Great Britain, and article 2(11) of the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 14 and Savings and Transitional Provisions) Order 2019 (S.R. 2019/7 (C. 2)) (“2019 Order”) for Northern Ireland;
 - b) a claimant who is a “frontier worker” (e.g. a person who does not reside in Great Britain or Northern Ireland but who works there, for example in the exercise of rights under European Union law).

In these cases it will be possible for a claimant to make a claim for a tax credit.

9. Paragraphs (6) and (7) of article 3 contain provisions, for the purposes of paragraph (5) of that article, that treat a person as having, or having had, an award of a tax credit in circumstances where an award for the previous tax year is in the course of being finalised.

10. Article 4 of this Order, which extends to Great Britain only, commences the provisions (“UC provisions”) in Part 1 of the Act that relate to universal credit and the abolition of income-related employment and support allowance and income-based jobseeker’s allowance for the cases set out in that article.

11. Article 4(1) and (2) bring into force the provisions relating to universal credit (listed in Schedule 2 to the Welfare Reform 2012 (Commencement No 9 and Transitional and Transitory Provisions and Commencement No 8 and Savings and Transitional Provisions (Amendment)) Order 2013 (S.I. 2013/983 (C. 41)) (“No. 9 Order”) in relation to a claim for universal credit that is made on or after 1st February 2019 with respect to a period that begins on or after that date, where the claimant (in the case of joint claimants, either of them) resides outside Great Britain. This includes a crown servant or a member of Her Majesty’s forces posted overseas.

12. Article 4(5) and (6) brings into force the provisions of the Act relating to the abolition of income-related employment and support allowance and income-based jobseeker’s allowance in relation to a claim for universal credit, employment and support allowance or jobseeker’s allowance that is made on or after 1st February 2019 with respect to a period that begins on or after that date, where the claimant (in the case of joint claimants, either of them) resides outside Great Britain.

13. Article 4(10) applies provisions in article 7 of the No. 23 Order to the above commencement of the UC provisions such that a claim may not be made for housing benefit, income support or a tax credit where under this Order a claim may be made for UC, subject to the exceptions in the article.

14. Article 4(11) provides that a claim for universal credit may not be made by a single claimant or joint claimants where the claimant or each of the joint claimants is a “frontier worker”.

15. Article 5 of the Order, which extends to Great Britain only, makes changes, consequential on articles 2 to 4, to the No. 9 Order, the Commencement No. 21 and Transitional and Transitory Provisions) Order 2015 (S.I. 2015/33) (“No. 21 Order”) and the No. 23 Order in order to:

- (a) create an exception to the bar in the No. 21 and 23 Orders on a person claiming housing benefit, income support or a tax credit, in the case of a claim for one of these benefits by a “frontier worker”, consequent on the restriction on claiming UC in article 4(11) of this Order;
- (b) amend the No. 9 Order to enable a frontier worker to make a claim for income-related employment and support allowance or income-based jobseeker’s allowance, given the existence of that restriction on claiming universal credit;
- (c) remove the general exception, in the No. 21 and 23 Orders, that permitted claims for tax credits by mixed-age couples (where one member is aged over state pension credit qualifying age and the other aged below it) – this does not affect the exception in (a) above.

16. The 2019 Order (N.I.) contains like provision for Northern Ireland to that made by articles 4 and 5.