

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (CORONAVIRUS) (FURTHER MEASURES)
REGULATIONS 2020

2020 No. 371

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by the Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 The purpose of this instrument is, to make provision for those who are making a new claim for or have been awarded Universal Credit (UC), Jobseeker's Allowance (JSA) or Housing Benefit (HB) to provide additional support which helps both individuals and the wider economy weather the financial impacts arising from the Covid-19 outbreak.
- 2.2 The changes are also designed to ensure financial support continues for certain claimants during the pandemic i.e. claimants receiving JSA, UC and Carer's Allowance (CA) so they are not penalised for following Government advice.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 These are emergency regulations in relation to the Government's response to Covid-19. These regulations will invoke the urgency provisions and will be made without first submitting to the Social Security Advisory Committee.
- 3.2 This SI will breach the 21-day rule as it will come into force on the day after it is made. This is so increased financial support can be made available as quickly as possible to provide additional support to claimants who are making a new claim or have been awarded UC and HB in order to help them manage the economic impacts of the Coronavirus pandemic.
- 3.3 It will also provide that those receiving old style JSA and who are unable to meet conditions of entitlement because they are following Government advice remain eligible for JSA. The SI also prevents work search and work availability requirements being imposed on claimants of UC and new style JSA. It also enables those who have an award of CA to retain their entitlement even if they are temporarily unable to provide the necessary level of care.
- 3.4 The regulations will also make provision regarding any period of permitted sickness where JSA claimants are diagnosed with or self-isolating due to Covid-19. If this provision was not brought into force immediately then it is possible that such claimants would reach the maximum permitted periods of sickness and lose eligibility to JSA and have to claim UC.

- 3.5 The Department is bringing the SI into force as soon as possible after it has been made and laid to ensure that it benefits as many people affected by Covid-19 as possible.
- 3.6 The impact of delaying the SI in order to comply with 21-day rule is that claimants will not receive the extra financial support made available to them and also faced being penalised, if they are in receipt of certain benefits, for adhering to Government advice.
- 3.7 Regulations 2, 6, 7, 8 and 9 will expire by virtue of regulation 10, so the expiry date coincides with that of the Employment and Support Allowance and Universal Credit (Coronavirus disease) Regulations 2020¹. This ensures these ‘Covid-related’ regulations are coordinated to end at the same time. As with these previous regulations, the current regulations also include an explicit requirement for the Secretary of State to keep the operation of the regulations under review. This commitment, allows for flexibility in the current fast-changing environment.
- 3.8 The increase in the amount of the UC Standard Allowance and increasing the HB additional earnings disregard do not fall under regulation 10 as the amounts will only apply to the 2020/ 2021 tax year. As a result, they have an inbuilt end date. The increase in Local Housing Allowance (LHA) rates for private renters is also not subject to regulation 10. This is because the legislation is usually linked to the rent officer order which lasts a year and will need amendment in the Autumn for the year beginning April 2021.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.9 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England, Wales and Scotland only. The changes to Carer’s Allowance apply only to England and Wales, as Carer’s Allowance is devolved in Scotland.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 The instrument makes provision to cover a number of claimants groups who will be impacted by the Covid-19 pandemic. In some cases, this will mean providing extra financial support so claimants can ‘weather’ the wider economic effects and for others ensure they are not penalised for following Government advice.

¹ <http://www.legislation.gov.uk/uksi/2020/289/contents/made>

7. Policy background

What is being done and why?

- 7.1 As part of the Government's strategy of supporting people affected by Covid-19, the below changes are being made:
- temporarily increasing the UC Standard Allowances for the 20-21 tax year to provide extra financial support during the pandemic. The new UC Standard Allowance rates are detailed below in **table 1**.

Table 1

	2019-20 rates	Previous 2020-21 rates	New 2020-21 rates
	per month	per month	per month
	UC Standard Allowance		
Single claimant, under 25	£251.77	£256.05	£342.72
Single claimant, 25+	£317.82	£323.22	£409.89
Couple, both under 25	£395.20	£401.92	£488.59
Couple, at least one 25+	£498.89	£507.37	£594.04

Provision has also been made to ensure that the calculation of any Transitional Protection that is awarded to a claimant as part of managed migration² is not reduced because of the temporary rate. By doing so it ensures that any claimant who has moved to UC as part of managed migration will also benefit from this extra financial support;

- enabling the relaxation of the application of the Minimum Income Floor³ (MIF) for all self-employed UC claimants affected by the economic impact of Covid-19 for the duration of the outbreak. This goes further than the previous Budget announcement to temporarily relax the MIF only for claimants who are sick or self-isolating in line with government Covid-19 guidance. It ensures that the self-employed are supported by the benefit system so that they can follow Public Health England guidance on social distancing and self-isolation. However, current UC entitlement rules for example, relating to capital and unearned income will still apply;

² Managed migration is where a claimant is moved to UC by the Department by the issuing of a 'migration notice' rather than as a result of a relevant change of circumstances.

³ The MIF is an assumed level of income that is designed to encourage individuals to increase their earnings by developing their self-employment. It is determined by multiplying the number of hours claimants can reasonably be expected to work or be looking for work by the relevant national minimum wage or National Living Wage for their age, minus notional income tax and National Insurance contributions that would be payable on actual earnings at that level, to produce a net figure.

- c. providing increased support to renters for the fiscal year 2020-21 by increasing LHA rates (including Shared Accommodation Rates) for private renters claiming the UC Housing Costs Element or HB, to the 30th percentile. Rates will be set in line with the 30th percentile of market rents in a local area for each bedroom size up to a maximum of four bedrooms. National maximum caps will still apply to London and will be based on the maximum LHA rates for outer London, plus an additional 20%. This increase to LHA rates will ensure that financial support better reflects housing costs;
- d. providing that work search and work availability requirements must not be imposed on claimants receiving UC or new style JSA and treating those in receipt of old style JSA as being available for work and actively seeking work so that they do not lose entitlement to JSA. This will initially be for three months but will be reviewed and may be extended by the Secretary of State if the easement is still required;
- e. treating a person who is infected, self-isolating or caring for a child who is infected or self-isolating as having limited capability for work for the purposes of entitlement conditions to jobseeker's allowance and excluding any such period from the calculation of the maximum permitted number of sickness periods applicable to a person whilst in receipt of old style JSA or new style JSA. Currently, claimants awarded JSA can have:

- two short periods of sickness of up to 2 weeks in any jobseeking period, within each successive 12-month period, if their jobseeking period lasts longer than 12 months, or
- a third or longer period of sickness of up to 13 weeks in a fixed 12-month period starting from the first date of their sickness.

before they lose entitlement to JSA. By effectively disapplying these provisions for periods of sickness related to Covid-19 it means that no one will lose entitlement to JSA because of Covid-19.;

- f. treat a person who is in receipt of Carer's Allowance and has only temporarily ceased providing care for the severely disabled person because either they or the cared for person are infected with Covid-19 or self-isolating, as continuing to meet the conditions. Where an alternative carer claims benefit for providing the necessary care and meets the qualifying conditions, they will receive the carer benefit instead and the original carer will be advised to claim another benefit, such as UC;
- g. increasing the HB additional earnings disregard from £17.10 to £37.10 per week to ensure that the increase in the maximum rate of the basic element of Working Tax Credit (WTC) of approximately £20 per week is not clawed back where a person claims or is entitled to HB – the change will also apply to persons who are not entitled to WTC but who comply with certain conditions with respect to minimum hours of work as set out in the regulations relating to HB.
- h. modifying provision contained in The Employment and Support Allowance and Universal Credit (Coronavirus Disease) Regulations 2020 so that UC claimants who have Covid-19, are in isolation or who are looking after a child/qualifying young person who is infected or in isolation will not automatically be treated as having Limited Capability for Work.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 As this is a temporary measure consolidation is not being undertaken.

10. Consultation outcome

- 10.1 Given the urgency of these regulations, no consultation has been undertaken.

11. Guidance

- 11.1 Guidance will be issued to DWP staff urgently to reflect the changes in the statutory instrument.

12. Impact

- 12.1 This change does not negatively impact claimants. A full Impact Assessment has not been produced for this instrument as no, or no significant, impact on business, or the private, voluntary or public sector, is foreseen.
- 12.2 It is estimated that 2.5m households on UC will benefit straight away from the increase to the UC Standard Allowance, as well as new claimants who become unemployed or whose earnings or work hours decrease because of the outbreak. This additional increase means claimants will be up to £1,040 better off.

13. Regulating small business

- 13.1 The legislation may apply to small business, where they are self-employed and come to UC, as outlined above. However, the changes are beneficial for claimants.

14. Monitoring & review

- 14.1 The Department is firmly committed to evaluating and monitoring the impact of its policies. To do this the Department will constantly consider whether further changes are required in line with CMO guidance while the Covid-19 outbreak continues.

15. Contact

- 15.1 Beatrice Fannon at the Department for Work and Pensions Telephone: 020 8970 7245 or email: beatrice.fannon@dwp.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Kerstin Parker at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Thérèse Coffey, Secretary of State at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.