

## EXPLANATORY MEMORANDUM TO

### THE UNIVERSAL CREDIT AND EMPLOYMENT AND SUPPORT ALLOWANCE (CLAIMANT COMMITMENT EXCEPTIONS) (AMENDMENT) REGULATIONS 2022

2022 No. 60

#### 1. Introduction

- 1.1 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

- 2.1 This instrument amends the Universal Credit Regulations 2013 and the Employment and Support Allowance Regulations 2013 to add a further exception to the requirement to accept a claimant commitment for persons who are terminally ill. These changes to the regulations will create a streamlined and consistent process for people nearing the end of their life.

#### 3. Matters of special interest to Parliament

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

#### 4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is Great Britain.  
4.2 The territorial application of this instrument is Great Britain.

#### 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 Under existing regulations 16 of the Universal Credit Regulations 2013<sup>1</sup>; and regulation 45 of the Employment and Support Allowance Regulations 2013<sup>2</sup> provide that a person does not have to meet the requirement to accept a claimant commitment if the Secretary of State considers that the claimant lacks capacity to do so, or there are exceptional circumstances where it would be unreasonable to expect the person to accept a claimant commitment.
- 6.2 Currently Regulations define someone as being terminally ill when they are suffering from a progressive illness and expected to die within 6-months. The claimant commitment sets out what a claimant agrees to do in return for benefit. Terminally ill claimants are not subject to work-related requirements and the claimant commitment is usually limited to reporting changes in circumstances.

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<sup>1</sup> <https://www.legislation.gov.uk/uksi/2013/376/regulation/16/made>

<sup>2</sup> <https://www.legislation.gov.uk/ukdsi/2013/9780111531877/regulation/45>

- 6.3 The Statutory Instrument will amend regulation 16 of the Universal Credit Regulations 2013 and regulation 45 of the Employment and Support Allowance Regulations 2013 by creating a specific exemption for terminally ill claimants from accepting a claimant commitment.

## **7. Policy background**

### *What is being done and why?*

- 7.1 To be entitled to receive Universal Credit (UC) and New Style Employment and Support Allowance (NS ESA) a claimant is legally required (as per UC 2013 and ESA 2013 regulations) to accept a claimant commitment. The exemption to have an accepted claimant commitment was designed to allow for exceptional circumstances where it would not be appropriate to apply.
- 7.2 Terminal illness may qualify as an exceptional circumstance, but within the current parameters of the legislation, the decision to apply the exemption is left to the discretion of the work coach on a case by case basis, leaving the risk of some terminally ill claimants still being required to accept a claimant commitment.
- 7.3 This change will streamline and standardise the administrative process for terminally ill claimants when making a claim, or maintaining an existing claim, to UC and/or NS ESA, by removing the requirement to accept a claimant commitment.

## **8. European Union Withdrawal and Future Relationship**

- 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 Informal consolidated text of instruments is available to the public free of charge via the National Archive website: [www.legislation.gov.uk](http://www.legislation.gov.uk).

## **10. Consultation outcome**

- 10.1 A formal consultation has not been carried out on these regulations. Consultation was not considered necessary as this change does not negatively impact any claimants. The amendments add a minor addition to existing regulations, to reflect the policy intention and provide consistency within guidance.

## **11. Guidance**

- 11.1 Operational instructions will be updated to reflect the new process in line with the provisions in this statutory instrument. The amended guidance will be available from 15 February 2022 when the statutory instrument comes into force.

## **12. Impact**

- 12.1 We will communicate the change to businesses, charities and voluntary bodies to enable them to review and amend any guidance they provide to the public which references claimant commitments for terminally ill claimants.
- 12.2 There is no significant impact on the public sector.
- 12.3 A full Impact Assessment has not been prepared for this instrument because this change formalises a process which is already carried out in practice on a case by case

basis. This change will not have a monetary impact on the business because it is formalising an existing practice.

**13. Regulating small business**

13.1 The legislation does not apply to activities that are undertaken by small businesses.

**14. Monitoring & review**

14.1 We are adapting our delivery level quality assurance process to identify and capture any errors in delivery on an on-going basis.

**15. Contact**

15.1 Marcus Crossley at the Department for Work and Pensions, email: [marcus.crossley@dwp.gov.uk](mailto:marcus.crossley@dwp.gov.uk), can be contacted with any queries regarding the instrument.

15.2 Victoria Hogan, Deputy Director for Employment Policy, at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

15.3 Chloe Smith, Minister for Disabled People, Health and Work and Miriam Davies, Minister for Employment at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.