
STATUTORY INSTRUMENTS

2023 No. 1238

SOCIAL SECURITY

The Universal Credit (Transitional Provisions) (Amendment) Regulations 2023

Made - - - - *20th November 2023*
22nd November
Laid before Parliament *2023*
Coming into force - - *14th February 2024*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 42(1), (2) and (3) of, and paragraphs 1(1), 4(1)(b) and (2)(d) of Schedule 6 to, the Welfare Reform Act 2012⁽¹⁾.

In accordance with section 172(1) of the Social Security Administration Act 1992⁽²⁾ the Secretary of State has referred proposals in respect of these Regulations to the Social Security Advisory Committee.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Universal Credit (Transitional Provisions) (Amendment) Regulations 2023 and come into force on 14th February 2024.

(2) These Regulations extend to England and Wales and Scotland.

Amendment of the Universal Credit (Transitional Provisions) Regulations 2014

2.—(1) The Universal Credit (Transitional Provisions) Regulations 2014⁽³⁾ are amended as follows.

(2) In regulation 63 (claimants previously entitled to a severe disability premium) for “Schedule 2 contains” substitute “Schedules 2 and 3 contain”.

(3) After Schedule 2 (claimants previously entitled to a severe disability premium) insert—

(1) 2012 c. 5.

(2) 1992 c. 5.

(3) S.I. 2014/1230. Schedule 2 was substituted by S.I. 2021/4 and amended by S.I. 2023/340.

“SCHEDULE 3

Regulation 63

Additional amounts for claimants previously entitled to an enhanced disability premium, a disability premium, a disabled child premium or a disabled child element in addition to a severe disability premium

1. This Schedule applies to an award of universal credit where—
 - (a) in the first assessment period beginning on or after 14th February 2024 the award includes a transitional SDP element by virtue of Schedule 2 or a transitional SDP amount by virtue of that Schedule as saved by regulation 3 of the Universal Credit (Transitional Provisions) (Claimants previously entitled to a severe disability premium) Amendment Regulations 2021(4), or would have done had it not been eroded to nil by virtue of regulation 55 (the transitional element - initial amount and adjustment where other elements increase); and
 - (b) at least one of the conditions in paragraph 4 is satisfied.
2. This Schedule does not apply where the claim was a qualifying claim and the award is to include a transitional element.
3. Where this Schedule applies, in the assessment period described in paragraph 1—
 - (a) the transitional SDP element or, as the case may be, the transitional SDP amount, is to be increased by the additional amount specified in paragraph 5; and
 - (b) if the transitional SDP element or, as the case may be, the transitional SDP amount, has been reduced to nil by virtue of regulation 55, the additional amount is to be treated as if it were the initial amount of a transitional element calculated under regulation 55(1).
4. The conditions referred to in paragraph 1(b) above are that—
 - (a) within the month immediately preceding the first day of the award the claimant was entitled (or was a member of a couple the other member of which was entitled) to an award of income support, income-based jobseeker’s allowance or income-related employment and support allowance that included an enhanced disability premium, and continued to satisfy the conditions for eligibility for the enhanced disability premium up to and including the first day of the award of universal credit;
 - (b) within the month immediately preceding the first day of the award the claimant was entitled (or was a member of a couple the other member of which was entitled) to an award of income support or income-based jobseeker’s allowance that included a disability premium and continued to satisfy the conditions for eligibility for a disability premium up to and including the first day of the award of universal credit; and/or
 - (c) within the month immediately preceding the first day of the award the claimant was entitled to an award of income support or income-based jobseeker’s allowance that included a disabled child premium, or an award of child tax credit that included the disabled child element at the rate for a child or qualifying young person who is disabled but not severely disabled, and continued to satisfy the conditions for eligibility for the disabled child premium or the disabled child element up to and including the first day of the universal credit award and is entitled in the assessment period described in paragraph 1 to the lower rate of the disabled child addition in universal credit.
5. The additional amount is—
 - (a) in the case of a single claimant—
 - (i) £84 for a claimant meeting the condition in paragraph 4(a);
 - (ii) £172 for a claimant meeting the condition in paragraph 4(b); and

- (iii) £177 per disabled child or qualifying young person for a claimant meeting the condition in paragraph 4(c);
- (b) in the case of joint claimants—
 - (i) £120 for claimants meeting the condition in paragraph 4(a);
 - (ii) £246 for claimants meeting the condition in paragraph 4(b); and
 - (iii) £177 per disabled child or qualifying young person for claimants meeting the condition in paragraph 4(c).

6. The Secretary of State may, having regard to the efficient administration of universal credit, decide the time and manner in which the payments of the additional amount are to be paid to claimants already in receipt of universal credit on the date this Schedule comes into force.

7. In this Schedule—

“disability premium” means the premium in relation to income-based jobseeker’s allowance under paragraph 13 of Part III of Schedule 1 to the Jobseeker’s Allowance Regulations 1996⁽⁵⁾ or, as the case may be, the corresponding premium in relation to income support;

“disabled child element” has the meaning in section 9(2)(c) of the Tax Credits Act 2002⁽⁶⁾;

“disabled child premium” means the premium in relation to income-based jobseeker’s allowance under paragraph 16 of Part III of Schedule 1 to the Jobseeker’s Allowance Regulations 1996⁽⁷⁾, or, as the case may be, the corresponding premium in relation to income support;

“enhanced disability premium” means the premium in relation to income-related employment and support allowance under paragraph 7 of Part 2 of Schedule 4 to the Employment and Support Allowance Regulations 2008⁽⁸⁾ or, as the case may be, the corresponding premium in relation to income support or income-based jobseeker’s allowance.”

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

Tom Pursglove
Minister of State
Department for Work and Pensions

20th November 2023

(5) S.I. 1996/207. Paragraph 13 was substituted by S.I. 2007/719 and amended by S.I. 2009/1488.

(6) 2002 c. 21. Section 9(2)(c) was inserted by section 13(2)(b) of the Welfare Reform and Work Act 2016 (c. 7).

(7) S.I. 1996/207. Paragraph 16 was substituted by S.I. 2007/719 and amended by S.I. 2011/674, S.I. 2013/388, S.I. 2013/591 and S.I. 2014/2888.

(8) S.I. 2008/794, amended by S.I. 2013/388, S.I. 2013/591 and S.I. 2022/177; there are other amending instruments but none are relevant.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make further provision for transition to universal credit following the case of the Queen (on the application of) TP and AR (TP and AR No. 3) ([2022] EWHC 123 Admin), in which the court concluded that there was a difference in treatment between severe disability premium recipients who naturally migrated from legacy benefits to universal credit, by virtue of making a claim to universal credit as a result of a change in their circumstances, and those who remain on legacy benefits.

Regulation 2 inserts a new Schedule 3 into the Universal Credit (Transitional Provisions) Regulations 2014 (S.I. 2014/1230). The Schedule provides for an additional amount of universal credit to be payable to certain claimants who were previously entitled to certain types of disability premiums in connection with their legacy benefits.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.