

2024 No. 341

SOCIAL SECURITY

The Social Security and Universal Credit (Migration of Tax Credit Claimants and Miscellaneous Amendments) Regulations 2024

Made - - - - *8th March 2024*

Laid before Parliament *11th March 2024*

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 5(1)(r) and 189(1), (4) and (6) of the Social Security Administration Act 1992(a), sections 123(1)(a) and (d), 136(3) and (5)(b), 137(1) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992(b), sections 12(1) and (4)(b), 35(1) and 36(2) of the Jobseekers Act 1995(c), sections 17(1) and (3)(b), 24(1) and 25(2)(c) and (3) of the Welfare Reform Act 2007(d) and sections 4(2) and (6), 8(3), 11(4), 12(1) and (3), 19(2)(d), (3) and (4), 20(1)(b), 25(a), 26(6)(a), 27(4)(a), 40 and 42(1) to (3) of, paragraphs 4(1)(b) and (c), 4(2), 4(3)(a) and 5(1) of Schedule 1 to, and paragraphs 1(1) and 6 of Schedule 6 to, the Welfare Reform Act 2012(e).

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

In respect of the provisions in regulation 4, in accordance with section 176(1)(a) of the Social Security Administration Act 1992(f), the Secretary of State has consulted with organisations appearing to the Secretary of State to be representative of the authorities concerned.

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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). Section 189(1) was amended by paragraph 109(a) of Schedule 7, and Schedule 8, to the Social Security Act 1998 (c. 14), paragraph 57(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) and Schedule 6 to the Tax Credits Act 2002 (c. 21). Section 189(4) was amended by paragraph 109(c) of Schedule 7, and Schedule 8, to the Social Security Act 1998 and S.I. 2013/252. Section 189(6) was amended by S.I. 2013/252.
- (b) 1992 c. 4. Section 137 is cited for the meaning of “prescribed”. Section 175(1) was amended by paragraph 29(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999.
- (c) 1995 c. 18. Section 35(1) is cited for the meaning of “prescribed” and “regulations”. Section 35(1) was amended by paragraph 62 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999.
- (d) 2007 c. 5. Section 24(1) is cited for the meaning of “prescribed” and “regulations”.
- (e) 2012 c. 5. Section 40 is cited for the meaning of “prescribed”.
- (f) Section 176(1)(a) was amended by paragraph 23 of Schedule 9 to the Local Government Finance Act 1992 (c. 14) and was repealed, to the extent that it related to council tax benefit, by Part 1 of Schedule 14 to the Welfare Reform Act 2012 with effect from 1st April 2013 and is subject to savings and transitional provisions in articles 9 and 10 of S.I. 2013/358.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Social Security and Universal Credit (Migration of Tax Credit Claimants and Miscellaneous Amendments) Regulations 2024.

(2) Subject to paragraphs (3) and (4), these Regulations come into force on 1st April 2024.

(3) Regulation 8(2) comes into force on 6th April 2025.

(4) Regulation 8(3) and (4) comes into force on 6th April 2024.

(5) Any amendment made by these Regulations has the same extent as the provision amended.

(6) This regulation extends to England and Wales and Scotland.

Amendment of the Income Support (General) Regulations 1987

2. For regulation 66D of the Income Support (General) Regulations 1987 (treatment of special support loans)(a) and the heading of that regulation, substitute—

“Treatment of loans for specific purposes

66D. A loan under the Education (Student Support) Regulations 2011(b) or regulations made under section 73 of the Education (Scotland) Act 1980(c) that is intended to meet the cost of books, equipment, travel or childcare is to be disregarded as income.”.

Amendment of the Jobseeker’s Allowance Regulations 1996

3. For regulation 136C of the Jobseeker’s Allowance Regulations 1996 (treatment of special support loans)(d) and the heading of that regulation, substitute—

“Treatment of loans for specific purposes

136C. A loan under the Education (Student Support) Regulations 2011 or regulations made under section 73 of the Education (Scotland) Act 1980 that is intended to meet the cost of books, equipment, travel or childcare is to be disregarded as income.”.

Amendment of the Housing Benefit Regulations 2006

4. For regulation 64B of the Housing Benefit Regulations 2006 (treatment of special support loans)(e) and the heading of that regulation, substitute—

“Treatment of loans for specific purposes

64B. A loan under the Education (Student Support) Regulations 2011 or regulations made under section 73 of the Education (Scotland) Act 1980 that is intended to meet the cost of books, equipment, travel or childcare is to be disregarded as income.”.

Amendment of the Employment and Support Allowance Regulations 2008

5. For regulation 139A of the Employment and Support Allowance Regulations 2008 (treatment of special support loans)(f) and the heading of that regulation, substitute—

(a) S.I. 1987/1967; regulation 66D was inserted by S.I. 2016/743.

(b) S.I. 2011/1986.

(c) 1980 c. 44. Section 73 was amended by section 73 of the Self-Governing Schools etc. (Scotland) Act 1989 (c. 39), section 29(1) of the Teaching and Higher Education Act 1998 (c. 30) and section 3(2) of the Education (Graduate Endowment and Student Support) (Scotland) Act 2001 (asp 6).

(d) S.I. 1996/207; regulation 136C was inserted by S.I. 2016/743.

(e) S.I. 2006/213; regulation 64B was inserted by S.I. 2016/743.

(f) S.I. 2008/794; regulation 139A was inserted by S.I. 2016/743.

“Treatment of loans for specific purposes

139A. A loan under the Education (Student Support) Regulations 2011 or regulations made under section 73 of the Education (Scotland) Act 1980 that is intended to meet the cost of books, equipment, travel or childcare is to be disregarded as income.”.

Amendment of the Social Security (Payments on Account of Benefit) Regulations 2013

6. In the Social Security (Payments on Account of Benefit) Regulations 2013(a), in regulation 5(1) (payment on account of benefit where there is no award of benefit)—

- (a) at the end of sub-paragraph (b) omit “and”;
- (b) at the end of sub-paragraph (c) omit “.” and insert “; and”;
- (c) after sub-paragraph (c) insert—

“(d) where the payment on account of benefit is to be on account of universal credit, A has been allocated a national insurance number.”.

Amendment of the Universal Credit Regulations 2013

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

(2) In regulation 2 (interpretation), in the definition of “foster parent”—

- (a) for “the Fostering Services Regulations 2011” substitute “the Care Planning, Placement and Case Review (England) Regulations 2010(c)”;
- (b) for “the Fostering Services (Wales) Regulations 2003” substitute “the Care Planning, Placement and Case Review (Wales) Regulations 2015(d)”.

(3) In regulation 4A(1) (responsibility for children looked after by a local authority)—

- (a) at the end of sub-paragraph (b) omit “.” and insert “;”;
- (b) after sub-paragraph (b) insert—

“(c) any period during which the child or qualifying young person is placed for adoption under the Adoption and Children Act 2002(e) or the Adoption and Children (Scotland) Act 2007(f)”.

(4) In regulation 68(7) (person treated as having student income), in the definition of “student loan” omit “and includes, in Scotland, a young student's bursary paid under regulation 4(1)(c) of the Students' Allowances (Scotland) Regulation 2007”.

(5) In regulation 71 (calculation of student income - amount for an assessment period) at the end of “Step 2” insert—

“But where the first day of the person’s universal credit award is on a date later than the first day of the year of the course, or period of the course, in question, each period of one month beginning on the same day as the assessment periods for, and preceding the commencement of, that award is to be treated as an assessment period when determining the number of assessment periods for which the person is to be treated as having student income.”.

(a) S.I. 2013/383; regulation 5(1)(b) was amended by S.I. 2014/2888.

(b) S.I. 2013/376; regulation 4A was inserted by S.I. 2013/1508. There are other amending instruments but none are relevant.

(c) S.I. 2010/959.

(d) S.I. 2015/1818 (W. 261).

(e) 2002 c. 38.

(f) 2007 asp 4.

Amendment of the Universal Credit (Transitional Provisions) Regulations 2014

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

(2) In regulation 6A (restriction on claims for housing benefit, income support or a tax credit)—

- (a) in paragraph (1), for “(7)” substitute “(5)”;
- (b) omit paragraph (6);
- (c) omit paragraph (7);
- (d) in paragraph (8), omit the words after sub-paragraph (b).

(3) In regulation 12A(1) (modification of tax credits legislation: finalisation of tax credits)—

- (a) in sub-paragraph (a), after “having been made” insert “, or a migration notice is issued and the notified person fails to make a claim on or before the deadline day”;
- (b) in sub-paragraph (b), after “treated as made” insert “or in which the deadline day falls”.

(4) In Schedule 1 (modification of tax credits legislation: finalisation of tax credits), in paragraph 16 (modifications to the Tax Credits (Definition and Calculation of Income) Regulations 2002(b)), for sub-paragraph (c) substitute—

“(c) after paragraph (1) insert—

“(2) Actual or estimated taxable profits attributable to the part tax year (“the relevant trading income”) is to be calculated by reference to the basis period (determined by reference to paragraph 63 or paragraph 65 of Schedule 1 to the Finance Act 2022(c), whichever applies) ending with 5th April 2024.

(3) The relevant trading income is to be calculated by—

- (a) taking the figure for the actual or estimated taxable income earned in the basis period referred to in paragraph (2);
- (b) dividing that figure by the number of days in that period to give the daily figure; and
- (c) multiplying the daily figure by the number of days in the part tax year on which the trade, profession or vocation was carried on.”.

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

8th March 2024

Jo Churchill
Minister of State
Department for Work and Pensions

(a) S.I. 2014/1230; regulation 6A was inserted by S.I. 2022/752, regulation 12A was inserted by S.I. 2014/1626 and amended by S.I. 2022/752, Schedule 1 was inserted by S.I. 2014/1626 and amended by S.I. 2019/1152.
(b) S.I. 2002/2006; regulation 6 was substituted by S.I. 2020/941 and amended by S.I. 2023/179.
(c) 2022 c. 3.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments and modifications to various social security regulations.

Regulations 2, 3, 4 and 5 make amendments to the Income Support (General) Regulations 1987 (S.I. 1987/1967), the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207), the Housing Benefit Regulations 2006 (S.I. 2006/213) and the Employment and Support Allowance Regulations 2008 (S.I. 2008/794) to enable a loan for specific purposes paid in Scotland to be disregarded as student income when calculating entitlement to benefits in the same way as a special support loan is disregarded in England.

Regulation 6 makes amendments to regulation 5 of the Social Security (Payments on Account of Benefit) Regulations 2013 (S.I. 2013/383), which contains provisions setting out the circumstances in which the Secretary of State may make a payment on account of benefit to a person, where their claim for benefit has been made but not yet determined, or where no claim is required but an award has not yet been made. The amendments add an additional requirement to the cumulative circumstances in which the Secretary of State may make a payment on account of benefit (also known as an "advance") where such a payment is on account of universal credit. The additional requirement is that the person has been allocated a national insurance number.

Regulation 7 makes amendments to the Universal Credit Regulations 2013 (S.I. 2013/376). The amendments to regulation 2 update the definition of a foster parent as a result of changes to the legislative framework governing the placement of children. The amendment to regulation 4A ensures that a child element of universal credit can be paid where a child is placed for adoption with a claimant. The amendment to regulation 68 removes a young student's bursary payable in Scotland from the definition of a student loan. The amendment to regulation 71 enables student income to be averaged across a year, or a period of study if shorter, even in circumstances where the claimant was not entitled to universal credit for part of that year or period of study, when calculating the amount of student income that is to be attributed to a claimant for a particular assessment period.

Regulation 8 makes amendments to the Universal Credit (Transitional Provisions) Regulations 2014 (S.I. 2014/1230) ('the 2014 Regulations'). Regulation 8(2) revokes paragraphs (6) and (7) of regulation 6A, which allow claimants to claim and renew tax credits, from 6th April 2025, and amends paragraphs (1) and (8) accordingly. Regulation 8(3) amends regulation 12A to allow tax credit awards to be in year finalised where a claimant who has been invited to claim universal credit has not done so by their deadline date. Regulation 8(4) amends paragraph 16 of Schedule 1 following reform of the "basis period" for tax purposes in relation to trades, professions and vocations, under the Finance Act 2022 (c. 3).

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

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