

WELFARE REFORM ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Universal credit

Schedule 1: Universal credit: supplementary regulation-making powers

118. *Paragraph 1* enables regulations to provide for circumstances in which a couple may be entitled to universal credit without both members of the couple meeting the basic entitlement conditions.
119. *Paragraph 2* allows for two periods of entitlement separated by a short gap to be treated as a single continuous period. This may be used, for example, to prevent a person having to go through a second qualifying period for an additional element. Regulations will prescribe the number of days allowable between periods of entitlement for linking rules to apply.
120. *Paragraph 3* makes provision relating to couples. Regulations under *sub-paragraph (1)* may provide for circumstances in which a joint claim may be treated as a claim by either or both members of a couple as single people and where claims made individually by members of a couple may be treated as a joint claim.
121. *Paragraph 3(2)* provides regulation-making powers relating to claimants becoming or ceasing to be members of a couple. This provides that a joint award may be converted into one or two single awards, or a joint award with someone else, when a couple separate, without a new claim having to be made. It also enables a joint award to be made without a claim when a single claimant becomes a member of a couple. This may be used in cases where it is administratively simpler to continue the award and treat a couple separating or entering into a new relationship as a change of circumstance rather than requiring either party to make a new claim. Under *sub-paragraph (2)(c)*, regulations may set out the procedure to be followed when an award is converted and the information that a claimant may be required to provide.
122. *Paragraph 4* provides for regulations to set out how the income and capital of a claimant or joint claimants is to be calculated for the purposes of universal credit. The first regulations made under this paragraph will be subject to the affirmative resolution procedure.
123. The intention is that the treatment of capital will be similar to that under income support currently. Capital below a certain level will be fully disregarded. Where a claimant has capital above a certain level, they will not meet the financial conditions and will not be entitled to universal credit. If they have capital between the lower and upper limits a nominal income from this will be calculated and taken into account as unearned income, reducing the universal credit award accordingly. Earned income will reduce a claimant's award at a constant rate for each extra pound earned, as set out in section 8.

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(c.5) which received Royal Assent on 8 March 2012*

124. *Sub-paragraph (2)* provides that regulations may allow income and capital to be calculated by reference to an average over a certain period. This could be used in cases where a claimant's income fluctuates and cannot easily be taken into account otherwise.
125. Under *sub-paragraph (3)(a)* regulations may set out when a person is to be treated as having or not having capital or income. This may be used, for example, if a person deliberately disposes of capital to increase their entitlement to universal credit. *Sub-paragraph (3)(b)* provides for income to be treated as capital or capital as income. This allows for one-off payments to be dealt with in the most appropriate way. For example, a payment such as royalties would be considered capital but under this power could be treated as income. *Sub-paragraph (3)(c)* enables unearned income to be treated as earned or earned income as unearned, for example to allow for certain other benefits to be treated as earned income and taken into account with the earned income taper when calculating the amount of an award.
126. *Sub-paragraph (3)(d)* allows for regulations to prescribe an assumed level of income from a person's capital. This will be used to reduce a claimant's award of universal credit if they have capital above a certain level and below an upper limit. *Sub-paragraph (3)(e)* enables the capital or income of one member of a couple to be treated as being the other member's.
127. Regulations may be made under *sub-paragraph (4)* specifying groups of people who may be regarded as having a certain level of income.
128. *Sub-paragraph (5)* provides that where there are joint claimants the income and capital of both will be taken into account, although under *sub-paragraph (6)* regulations may specify circumstances in which the income and capital of either member may be disregarded.
129. *Paragraph 5* allows for regulations to specify when a person is to be regarded as responsible or not responsible for a child or qualifying young person, and makes provision in relation to a couple nominating which member is the responsible carer for a child (see section 19(6)(b)(ii)).
130. *Paragraph 6* allows for regulations to provide for liability to pay all or part of an award to be discharged by the provision of a voucher. In such cases, entitlement to the amount of universal credit in relation to which the voucher is provided is extinguished.
131. Regulations may only provide for payment by voucher in cases where the calculation of the award includes an amount in respect of particular costs which the claimant may incur (referred to here as claimant costs). The amount of the award to be paid as a voucher may be determined in regulations but must not be more than the amount included in the calculation of the award in respect of claimant costs.
132. Vouchers under this paragraph may include not only physical documents but also any electronic code, authorisation or other non-cash means by which a claimant may meet claimant costs of a particular description.
133. A voucher may be limited in relation to the particular people who will accept it (such as authorised providers of services), the particular costs in relation to which it may be used and the period for which it will remain valid.
134. *Paragraph 7* allows for regulations to provide that claimants who have a right to reside in the UK under EU treaties, and who would otherwise fall within sections 19, 20 or 21, may be treated as not falling into such groups, with the consequence that they will fall within section 22.
135. *Paragraph 8* provides for regulations to set out the circumstances in which there is or is not to be good reason and the factors which must or must not be considered when determining whether or not a person had good reason for a particular act or omission, such as failing to meet a requirement placed upon them. A determination as to whether

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a claimant has good reason is not appealable, as is the case under the current benefits system.